

8757--A

I N A S S E M B L Y

February 12, 2014

Introduced by M. of A. ABBATE, COLTON, WEPRIN -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, the state finance law and the general municipal law, in relation to labor performed under certain public work contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 220 of the labor law is amended by
2 adding a new paragraph m to read as follows:
3 M. "JOB ORDER CONTRACT" SHALL MEAN A COMPETITIVE BID, INDEFINITE QUAN-
4 TITY, FIXED PRICE, MULTI-TASK CONTRACT, WHERE A BASE CONTRACT IS AWARDED
5 WITH PRE-ESTABLISHED TASKS AND PRICES, SPECIFICATIONS AND GENERAL
6 CONTRACT CONDITIONS. CONTRACTORS ARE PERMITTED TO BID BY SUBMITTING A
7 COEFFICIENT OR COEFFICIENTS FOR A JOB ORDER CONTRACT BASED ON A UNIT
8 PRICE BOOK, WHICH CONTAINS A LIST OF ALL TASKS THAT MAY BE PERFORMED AS
9 PART OF THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT. IF THE STATE
10 OR A PUBLIC BENEFIT CORPORATION OR A MUNICIPAL CORPORATION OR A COMMIS-
11 SION APPOINTED PURSUANT TO LAW IS A PARTY TO A JOB ORDER CONTRACT, SUCH
12 ENTITY MUST MAKE ALL INFORMATION ASSOCIATED WITH THE CONTRACT, INCLUDING
13 SUBCONTRACTS, AVAILABLE TO THE DEPARTMENT PURSUANT TO A REQUEST BY THE
14 COMMISSIONER, AND TO THE PUBLIC IN COMPLIANCE WITH THE FREEDOM OF INFOR-
15 MATION LAW PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.
16 S 2. The state finance law is amended by adding a new section 148 to
17 read as follows:
18 S 148. JOB ORDER CONTRACTS. 1. "JOB ORDER CONTRACT" SHALL HAVE THE
19 SAME MEANING AS SET FORTH IN PARAGRAPH M OF SUBDIVISION FIVE OF SECTION
20 TWO HUNDRED TWENTY OF THE LABOR LAW. "PROJECT" SHALL MEAN AN INDIVIDUAL
21 JOB ORDER PERFORMED UNDER THE CONTRACT.
22 2. THE JOB ORDER CONTRACT MUST BE IN COMPLIANCE WITH SECTION ONE
23 HUNDRED THIRTY-FIVE OF THIS ARTICLE, HAVE A DEFINED SCOPE OF WORK AND
24 INCLUDE A DESCRIPTION OF THE TYPE OF WORK TO BE PERFORMED UNDER THE BASE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 CONTRACT, INCLUDING IDENTIFICATION OF TRADES WHICH WILL BE UTILIZED ON
2 PROJECTS ASSOCIATED WITH THE CONTRACT.

3 3. THE COST OF A JOB ORDER CONTRACT MAY NOT EXCEED ONE MILLION FIVE
4 HUNDRED THOUSAND DOLLARS PER TWELVE MONTHS. NO PROJECT PERFORMED UNDER
5 THE JOB ORDER CONTRACT MAY EXCEED FIVE HUNDRED THOUSAND DOLLARS. THE
6 RESTRICTIONS IN THIS SUBDIVISION SHALL NOT APPLY WHERE THE PUBLIC OWNER
7 REQUIRES A PROJECT LABOR AGREEMENT CONSISTENT WITH PROVISIONS OF SECTION
8 TWO HUNDRED TWENTY-TWO OF THE LABOR LAW.

9 4. THE JOB ORDER CONTRACT MUST COMPLY WITH THE REQUIREMENTS FOR MINOR-
10 ITY AND WOMEN'S BUSINESS DEVELOPMENT PURSUANT TO ARTICLE FIFTEEN-A OF
11 THE EXECUTIVE LAW.

12 5. THESE REQUIREMENTS APPLY TO ALL JOB ORDER CONTRACTS ISSUED BY A
13 STATE AGENCY, AS DEFINED BY SUBDIVISION THREE OF SECTION TWO-A OF THIS
14 CHAPTER, A COVERED AUTHORITY, AS DEFINED BY SUBDIVISION SIX OF SECTION
15 TWO-A OF THIS CHAPTER, THE NEW YORK CITY HOUSING AUTHORITY, ESTABLISHED
16 UNDER TITLE ONE OF ARTICLE THIRTEEN OF THE PUBLIC HOUSING LAW, AND THE
17 NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY, ESTABLISHED UNDER TITLE SIX
18 OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW.

19 6. IF AN ENTITY DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION SEEKS A
20 THIRD PARTY CONSULTANT TO ASSIST, IN ANY MANNER, WITH THE BIDDING AND/OR
21 IMPLEMENTATION OF A JOB ORDER CONTRACT, SUCH THIRD PARTY CONSULTANT MUST
22 BE SELECTED PURSUANT TO A COMPETITIVE BID PROCESS. UPON WINNING SUCH JOB
23 ORDER CONTRACT, THE ENTITY DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION
24 SHALL ONLY COMPENSATE SUCH THIRD PARTY CONSULTANT BASED ON A
25 FIXED-PRICE.

26 7. THIS SECTION SHALL NOT APPLY NOR RESTRICT THE USE OF JOB ORDER
27 CONTRACTS:

28 (A) IN ANY RECONSTRUCTION, REPAIR, REHABILITATION, OR MAINTENANCE
29 EFFORTS ASSOCIATED WITH DAMAGES FROM THE TWO THOUSAND TWELVE STORM,
30 COMMONLY KNOWN AS HURRICANE SANDY, OR

31 (B) DURING ANY "STATE DISASTER EMERGENCY" THE RECONSTRUCTION, REPAIR,
32 REHABILITATION, OR MAINTENANCE EFFORTS RESULTING FROM A NATURAL OR MAN-
33 MADE "DISASTER" AS SUCH TERMS ARE DEFINED UNDER SUBDIVISION TWO OF
34 SECTION TWENTY OF THE EXECUTIVE LAW.

35 S 3. The general municipal law is amended by adding a new section
36 103-h to read as follows:

37 S 103-H. JOB ORDER CONTRACTS. 1. "JOB ORDER CONTRACT" SHALL HAVE THE
38 SAME MEANING AS SET FORTH IN PARAGRAPH M OF SUBDIVISION FIVE OF SECTION
39 TWO HUNDRED TWENTY OF THE LABOR LAW. "PROJECT" SHALL MEAN AN INDIVIDUAL
40 JOB ORDER PERFORMED UNDER THE CONTRACT.

41 2. THE JOB ORDER CONTRACT MUST BE IN COMPLIANCE WITH SECTION ONE
42 HUNDRED ONE OF THIS ARTICLE, HAVE A DEFINED SCOPE OF WORK AND INCLUDE A
43 DESCRIPTION OF THE TYPE OF WORK TO BE PERFORMED UNDER THE BASE CONTRACT,
44 INCLUDING IDENTIFICATION OF TRADES WHICH WILL BE UTILIZED ON PROJECTS
45 ASSOCIATED WITH THE CONTRACT.

46 3. THE COST OF A JOB ORDER CONTRACT MAY NOT EXCEED ONE MILLION FIVE
47 HUNDRED THOUSAND DOLLARS PER TWELVE MONTHS. NO PROJECT PERFORMED UNDER
48 THE JOB ORDER CONTRACT MAY EXCEED FIVE HUNDRED THOUSAND DOLLARS. THE
49 RESTRICTIONS IN THIS SUBDIVISION SHALL NOT APPLY WHERE THE PUBLIC OWNER
50 REQUIRES A PROJECT LABOR AGREEMENT CONSISTENT WITH PROVISIONS OF SECTION
51 TWO HUNDRED TWENTY-TWO OF THE LABOR LAW.

52 4. THE JOB ORDER CONTRACT MUST COMPLY WITH THE REQUIREMENTS FOR MINOR-
53 ITY AND WOMEN'S BUSINESS DEVELOPMENT PURSUANT TO ARTICLE FIFTEEN-A OF
54 THE EXECUTIVE LAW.

55 5. THESE REQUIREMENTS APPLY TO ALL POLITICAL SUBDIVISIONS.

1 6. IF A POLITICAL SUBDIVISION SEEKS A THIRD PARTY CONSULTANT TO
2 ASSIST, IN ANY MANNER, WITH THE BIDDING AND/OR IMPLEMENTATION OF A JOB
3 ORDER CONTRACT, SUCH THIRD PARTY CONSULTANT MUST BE SELECTED PURSUANT TO
4 A COMPETITIVE BID PROCESS. UPON WINNING SUCH JOB ORDER CONTRACT, THE
5 POLITICAL SUBDIVISION SHALL ONLY COMPENSATE SUCH THIRD PARTY CONSULTANT
6 BASED ON A FIXED-PRICE.

7 7. THIS SECTION SHALL NOT APPLY NOR RESTRICT THE USE OF JOB ORDER
8 CONTRACTS:

9 A. IN ANY RECONSTRUCTION, REPAIR, REHABILITATION, OR MAINTENANCE
10 EFFORTS ASSOCIATED WITH DAMAGES FROM THE TWO THOUSAND TWELVE STORM,
11 COMMONLY KNOWN AS HURRICANE SANDY, OR

12 B. DURING ANY "STATE DISASTER EMERGENCY" THE RECONSTRUCTION, REPAIR,
13 REHABILITATION, OR MAINTENANCE EFFORTS RESULTING FROM A NATURAL OR MAN-
14 MADE "DISASTER" AS SUCH TERMS ARE DEFINED UNDER SUBDIVISION TWO OF
15 SECTION TWENTY OF THE EXECUTIVE LAW.

16 S 4. This act shall take effect on the one hundred twentieth day after
17 it shall have become a law and shall apply to all job order contracts
18 solicited or renewed on or after such effective date.