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I N   S E N A T E

February 14, 2014

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Introduced by Sens. SAVINO, BONACIC, BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- reported favorably from said committee and committed to the Committee on Finance -- 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.