S T A T E O F N E W Y O R K

3450--C

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2015-2016 Regular Sessions

I N S E N A T E

February 9, 2015

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the state finance law, in relation to requiring state agencies to provide certain information to unsuccessful bidders during the debriefing process

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

Section 1. Paragraph c of subdivision 9 of section 163 of the state finance law, as amended by chapter 137 of the laws of 2008, is amended to read as follows:

c. (I) Where provided in the solicitation, state agencies may require clarification from offerers for purposes of assuring a full understanding of responsiveness to the solicitation requirements. Where provided for in the solicitation, revisions may be permitted from all offerers determined to be susceptible of being selected for contract award, prior to award. Offerers shall be accorded fair and equal treatment with respect to their opportunity for discussion and revision of offers. [A]

(II) WITHIN FIFTEEN DAYS OF THE SELECTION OF A WINNING BID BY A STATE AGENCY AND PRIOR TO THE SUBMISSION FOR APPROVAL OF A CONTRACT TO THE OFFICE OF THE STATE COMPTROLLER, ALL BIDDERS SHALL BE ADVISED OF THE COMPLETION OF THE SELECTION PROCESS.

(III) FOR ANY CONTRACT ESTABLISHED AS A CENTRALIZED CONTRACT BY THE OFFICE OF GENERAL SERVICES, WITHIN FIFTEEN DAYS OF SELECTION OF THE WINNING BID BY THE OFFICE OF GENERAL SERVICES, ALL BIDDERS SHALL BE ADVISED OF THE COMPLETION OF THE SELECTION PROCESS.

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

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(IV) THE OPPORTUNITY FOR AN UNSUCCESSFUL BIDDER TO SEEK A DEBRIEFING SHALL BE STATED IN THE SOLICITATION, WHICH SHALL PROVIDE A REASONABLE TIME FOR REQUESTING A DEBRIEFING.

(V) IN RELATION TO THE AWARD OF ANY CONTRACT WITH A TOTAL VALUE OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS, A state agency shall, upon request, provide [a] AN IN-PERSON OR, IF NECESSARY, A VIDEO-CONFERENCED debriefing to any unsuccessful offerer that responded to a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. [The opportunity for an unsuccessful offerer to seek a debriefing shall be stated in the solicitation, which shall provide a reasonable time for requesting a debriefing.]

(VI) IN RELATION TO THE AWARD OF A CONTRACT WITH A TOTAL VALUE OF FIVE HUNDRED THOUSAND OR MORE DOLLARS, A STATE AGENCY SHALL, UPON REQUEST, PROVIDE AN IN-PERSON OR, IF NECESSARY, A VIDEO-CONFERENCED DEBRIEFING TO ANY UNSUCCESSFUL OFFERER THAT RESPONDED TO A REQUEST FOR PROPOSAL OR INVITATION FOR BIDS. SUCH DEBRIEFING, SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THOROUGH WRITTEN EXPLANATIONS OF: (A) THE REASONS THAT THE PROPOSAL OR BID SUBMITTED BY THE UNSUCCESSFUL OFFERER WAS NOT SELECTED FOR AWARD; (B) THE QUALITATIVE AND QUANTITATIVE ANALYSIS EMPLOYED BY THE AGENCY IN ASSESSING THE RELATIVE MERITS OF EACH BID; (C) THE APPLICATION OF EACH OF THE SELECTION CRITERIA TO EACH BID; AND (D) WHY THE WINNING BID WAS SELECTED.

(VII) AFTER THE WRITTEN EXPLANATIONS DESCRIBED IN SUBPARAGRAPH (VI) OF THIS PARAGRAPH HAVE BEEN PROVIDED, THE STATE AGENCY, UPON THE WRITTEN REQUEST OF AN UNSUCCESSFUL OFFERER, AND WITHIN FIFTEEN DAYS OF THE WRITTEN EXPLANATION, SHALL PROVIDE A REASONABLE OPPORTUNITY FOR SUCH UNSUCCESSFUL BIDDER TO DISCUSS WITH AGENCY PERSONNEL WHO WERE INVOLVED IN AND ARE KNOWLEDGEABLE ABOUT THE BID EVALUATION PROCESS CONCERNING THE WRITTEN EXPLANATIONS. SUCH PERSONNEL SHALL ALSO PROVIDE, TO THE EXTENT PRACTICABLE, ADVICE AND GUIDANCE TO THE UNSUCCESSFUL OFFERER CONCERNING METHODS OF IMPROVING BIDS BY SUCH OFFERER.

S 2. This act shall take effect immediately; provided that the amendments to section 163 of the state finance law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.