

2029--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 15, 2015

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Paragraph c of subdivision 9 of section 163 of the state
2 finance law, as amended by chapter 137 of the laws of 2008, is amended
3 to read as follows:
4 c. (I) Where provided in the solicitation, state agencies may require
5 clarification from offerers for purposes of assuring a full understand-
6 ing of responsiveness to the solicitation requirements. Where provided
7 for in the solicitation, revisions may be permitted from all offerers
8 determined to be susceptible of being selected for contract award, prior
9 to award. Offerers shall be accorded fair and equal treatment with
10 respect to their opportunity for discussion and revision of offers. [A]
11 (II) WITHIN FIFTEEN DAYS OF THE SELECTION OF A WINNING BID BY A STATE
12 AGENCY AND PRIOR TO THE SUBMISSION FOR APPROVAL OF A CONTRACT TO THE
13 OFFICE OF THE STATE COMPTROLLER, ALL BIDDERS SHALL BE ADVISED OF THE
14 COMPLETION OF THE SELECTION PROCESS.
15 (III) THE OPPORTUNITY FOR AN UNSUCCESSFUL BIDDER TO SEEK A DEBRIEFING
16 SHALL BE STATED IN THE SOLICITATION, WHICH SHALL PROVIDE A REASONABLE
17 TIME FOR REQUESTING A DEBRIEFING.
18 (IV) IN RELATION TO THE AWARD OF ANY CONTRACT WITH A TOTAL VALUE OF
19 LESS THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS, A state agency shall,
20 upon request, provide a debriefing to any unsuccessful offerer that
21 responded to a request for proposal or an invitation for bids, regarding
22 the reasons that the proposal or bid submitted by the unsuccessful
23 offerer was not selected for an award. [The opportunity for an unsuc-

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

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1 cessful offerer to seek a debriefing shall be stated in the solicita-
2 tion, which shall provide a reasonable time for requesting a debrief-
3 ing.]

4 (V) IN RELATION TO THE AWARD OF A CONTRACT WITH A TOTAL VALUE OF SEVEN
5 HUNDRED FIFTY THOUSAND OR MORE DOLLARS, A STATE AGENCY SHALL, UPON
6 REQUEST, PROVIDE A DEBRIEFING TO ANY UNSUCCESSFUL OFFERER THAT RESPONDED
7 TO A REQUEST FOR PROPOSAL OR INVITATION FOR BIDS. SUCH DEBRIEFING, SHALL
8 INCLUDE, BUT NEED NOT BE LIMITED TO, THOROUGH WRITTEN EXPLANATIONS OF:

9 (A) THE REASONS THAT THE PROPOSAL OR BID SUBMITTED BY THE UNSUCCESSFUL
10 OFFERER WAS NOT SELECTED FOR AWARD; (B) THE QUALITATIVE AND QUANTITATIVE
11 ANALYSIS EMPLOYED BY THE AGENCY IN ASSESSING THE RELATIVE MERITS OF EACH
12 BID; (C) THE APPLICATION OF EACH OF THE SELECTION CRITERIA TO EACH BID;
13 AND (D) WHY THE WINNING BID WAS SELECTED.

14 (VI) AFTER THE WRITTEN EXPLANATIONS DESCRIBED IN SUBPARAGRAPH (V) OF
15 THIS PARAGRAPH HAVE BEEN PROVIDED, THE STATE AGENCY, UPON THE TIMELY
16 REQUEST OF AN UNSUCCESSFUL OFFERER, SHALL PROVIDE A REASONABLE OPPORTU-
17 NITY FOR A DISCUSSION WITH AGENCY PERSONNEL WHO WERE INVOLVED IN AND ARE
18 KNOWLEDGEABLE ABOUT THE BID EVALUATION PROCESS CONCERNING THE WRITTEN
19 EXPLANATIONS. SUCH PERSONNEL SHALL ALSO PROVIDE, TO THE EXTENT PRACTICA-
20 BLE, ADVICE AND GUIDANCE TO THE UNSUCCESSFUL OFFERER CONCERNING METHODS
21 OF IMPROVING BIDS BY SUCH OFFERER.

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