

3450--C

Cal. No. 913

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:

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) FOR ANY CONTRACT ESTABLISHED AS A CENTRALIZED CONTRACT BY THE
16 OFFICE OF GENERAL SERVICES, WITHIN FIFTEEN DAYS OF SELECTION OF THE
17 WINNING BID BY THE OFFICE OF GENERAL SERVICES, ALL BIDDERS SHALL BE
18 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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1 (IV) THE OPPORTUNITY FOR AN UNSUCCESSFUL BIDDER TO SEEK A DEBRIEFING
2 SHALL BE STATED IN THE SOLICITATION, WHICH SHALL PROVIDE A REASONABLE
3 TIME FOR REQUESTING A DEBRIEFING.

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

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

24 (VII) AFTER THE WRITTEN EXPLANATIONS DESCRIBED IN SUBPARAGRAPH (VI) OF
25 THIS PARAGRAPH HAVE BEEN PROVIDED, THE STATE AGENCY, UPON THE WRITTEN
26 REQUEST OF AN UNSUCCESSFUL OFFERER, AND WITHIN FIFTEEN DAYS OF THE WRIT-
27 TEN EXPLANATION, SHALL PROVIDE A REASONABLE OPPORTUNITY FOR SUCH UNSUC-
28 CESSFUL BIDDER TO DISCUSS WITH AGENCY PERSONNEL WHO WERE INVOLVED IN AND
29 ARE KNOWLEDGEABLE ABOUT THE BID EVALUATION PROCESS CONCERNING THE WRIT-
30 TEN EXPLANATIONS. SUCH PERSONNEL SHALL ALSO PROVIDE, TO THE EXTENT PRAC-
31 TICABLE, ADVICE AND GUIDANCE TO THE UNSUCCESSFUL OFFERER CONCERNING
32 METHODS OF IMPROVING BIDS BY SUCH OFFERER.

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