

STATE OF NEW YORK

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IN ASSEMBLY

March 4, 2020

Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

AN ACT to amend the local finance law, in relation to the electronic open auction public bond sale pilot program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 58.10 of the local finance law, as added by chapter 643 of the laws of 2019, is amended to read as follows:

§ 58.10 Electronic open auction public bond sale pilot program. a. As used in this section:

1. "Municipality" means a county with a population of four hundred thousand or more, or a city or town with a population of one hundred thousand or more that has issued at least twenty-five million dollars in bonds within at least one of the preceding three years.

2. "Nationally recognized electronic securities bidding service" means a bidding service that is approved by the ~~[state-comptroller]~~ superintendent pursuant to subdivision b of this section.

3. "Open auction" means a bond sale procedure that allows a bidder to receive information with respect to the ranking of its bids prior to the conclusion of the bidding period in accordance with the municipality's notice of such bond sale circulated in accordance with applicable requirements of this chapter.

4. "Program" means the electronic open auction public bond sale pilot program established pursuant to this section.

5. "Superintendent" means the superintendent of financial services.

b. 1. There is hereby established an electronic open auction bond sale pilot program authorizing municipalities to conduct open auction public bond sales through any nationally recognized electronic securities bidding service approved by the ~~[state-comptroller]~~ superintendent. Nationally recognized electronic securities bidding services desiring to operate an electronic open auction shall apply to the ~~[state-comptroller]~~ superintendent for authorization to do so by filing an application with the ~~[state-comptroller]~~ superintendent. The ~~[state-comptroller]~~ superintendent shall make available an application form that

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

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1 provides the [~~state-comptroller~~] superintendent with information regard-
2 ing the technology and security practices maintained by the nationally
3 recognized electronic securities bidding service, the requirements to be
4 established for bidding by bidders, the methods by which auction sales
5 are conducted, the experience of the nationally recognized electronic
6 securities bidding service in conducting electronic open auctions of
7 bonds, and other information the [~~state-comptroller~~] superintendent may
8 deem relevant.

9 2. If the [~~state-comptroller~~] superintendent determines that the
10 requirements and conditions of the open auction are in accordance with
11 the provisions of this chapter and the bidding service provides a
12 secure, open and competitive opportunity for qualified bidders to submit
13 proposals, the application shall be deemed approved.

14 3. The [~~state-comptroller~~] superintendent shall post information
15 regarding the nationally recognized electronic securities bidding
16 services that have been approved for use by municipalities on the [~~state~~
17 ~~comptroller~~] department of financial services website.

18 c. If the chief fiscal officer of the municipality has authorized the
19 receipt of bids in an electronic open auction format, such electronic
20 bids may be submitted in the form of open auctions conducted through a
21 nationally recognized electronic securities bidding service which entity
22 shall be deemed to be the designated receiving device pursuant to
23 section 58.00 of this title. Notice of any bond sale shall provide for
24 the manner in which the bidding period may be extended and the basis for
25 determination of the winning bidder.

26 d. Notwithstanding the provisions of subdivision one of section three
27 hundred five of the state technology law, if the notice of sale for the
28 open auction public bond contains a provision that bids will only be
29 accepted electronically in the manner provided in such notice of sale,
30 the municipality shall not be required to accept non-electronic bids in
31 any form.

32 e. The municipality's chief fiscal officer shall administer the
33 program and shall publish its policies and procedures for the procure-
34 ment of nationally recognized electronic securities bidding services on
35 the municipality's internet website. Such policies and procedures shall
36 include policies to prevent fraud. Except as modified by this section,
37 the municipal program shall comply with this chapter and all other
38 applicable laws, rules and regulations related to the sale of bonds.

39 f. The municipality's chief fiscal officer shall review the electronic
40 open auction bidding process to ensure that the bond sale was completed
41 in a timely fashion; the sale was completed without errors; and the
42 process was favorable as compared to the method currently used by the
43 municipality.

44 g. The municipality shall conduct evaluations of the program annually
45 with a summary evaluation at the end of the two year program. The muni-
46 cipality shall submit the evaluations to the [~~state-comptroller~~] super-
47 intendent, the temporary president of the senate and the speaker of the
48 assembly. Such report shall include, but not be limited to, any demon-
49 strated evidence that sale of public bonds using electronic open
50 auctions is comparable to the cost of issuing public bonds through the
51 current sealed bid process, the fees associated with nationally recog-
52 nized electronic securities bidding services, whether the use of elec-
53 tronic open auctions resulted in an increased number of bidders and
54 whether the process was favorable as compared to the method currently
55 used by the municipality.

1 § 2. This act shall take effect immediately; provided, that the amend-
2 ments to section 58.10 of the local finance law made by section one of
3 this act shall not affect the repeal of such section and shall be deemed
4 to repeal therewith.