STATE OF NEW YORK

1449

2019-2020 Regular Sessions

IN ASSEMBLY

January 15, 2019

Introduced by M. of A. BICHOTTE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York city charter and the public authorities law, in relation to opportunities for minority and women-owned business enterprises in a city having a population of more than one million persons

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

Section 1. Subdivision i of section 311 of the New York city charter, as added by chapter 19 of the laws of 2018, is amended to read as follows:

i. In addition to other rules authorized by this section, the board may provide by rule that:

1. agencies may make procurements of goods and services for amounts not exceeding [~~one~~] four hundred [~~fifty~~] thousand dollars from businesses certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter without a formal competitive process.

2. agencies may award contracts for goods and services on the basis of best value to the bidder or offerer which optimizes quality, cost and efficiency, among responsive and responsible bidders or offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis and may include the prospective bidder's record of complying with existing labor standards, maintaining harmonious labor relations, and protecting the health and safety of workers. Such basis may also identify a quantitative factor for awarding of contracts for bidders or offerers that are businesses certified as minority or women-owned business enterprises pursuant to article fifteen-a of the executive law and section thirteen hundred four of the charter. Where an agency identifies a quantitative factor pursuant to this paragraph, the agency must specify that businesses certified as minority or women-owned business enter-

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

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prises pursuant to article fifteen-a of the executive law as well as those certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter are eligible to qualify for such factor. Nothing in this paragraph shall be construed as a requirement that such businesses be concurrently certified as minority or women-owned business enterprises under both article fifteen-a of the executive law and section thirteen hundred four of the charter to qualify for such quantitative factor.

3. the rule or rules promulgated to implement paragraph one of this subdivision shall provide that the city shall, commencing on the first of October of the first full calendar year following the adoption of such rule or rules, submit an annual report to the governor and the state legislature of the total number and total dollar value of procurements of goods and services for amounts not exceeding [~~one~~] **four** hundred [~~fifty~~] thousand dollars from:

(i) businesses certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter;

(ii) all other businesses; and

(iii) information about the number of businesses certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of this charter able to perform the specific type and scale of work involved in each procurement.

§ 2. Subdivisions 2 and 8 of section 1734 of the public authorities law, as added by chapter 738 of the laws of 1988, are amended to read as follows:

2. a. Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of ten thousand dollars and all contracts for public work involving an estimated expenditure in excess of fifty thousand dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth**, provided however that the authority may enter into contracts for supplies, materials, equipment or public work for amounts not exceeding four hundred thousand dollars from businesses certified as minority or women-owned business enterprises pursuant to section seventeen hundred forty-three of this title or from locally based enterprises with bidders or offerers that are not the lowest responsible bidder or offerer, and without obtaining sealed bids in the manner hereinafter set forth**. For purposes hereof, contracts for public work shall exclude contracts for personal, engineering and architectural, or professional services.

b. The authority may reject all bids and obtain new bids in the manner provided by this section when it deems it in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing herein shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, [~~and~~] inspection services**, or best value to the authority which optimizes quality, cost, and efficiency** so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings**, or best value. Such best value evaluation may identify a quantitative factor for the awarding of contracts to bidders or offerers that are locally based enterprises or businesses certified as minority or women-owned business enterprises pursuant to section seventeen**

hundred forty-three of this title. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

8. [~~The~~] **Except for contracts not exceeding four hundred thousand dollars awarded to businesses certified as minority or women-owned business enterprises pursuant to section seventeen hundred forty-three of this title, the** authority shall be subject to the provisions of section twenty-eight hundred seventy-nine of this chapter in awarding contracts for personal services.

§ 3. This act shall take effect immediately and shall apply to procurements occurring on or after such effective date.