

STATE OF NEW YORK

8569

IN SENATE

March 15, 2022

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the public authorities law, in relation to procurements conducted by the New York city transit authority and the metropolitan transportation authority; and to repeal certain provisions of the public authorities law relating thereto; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Subdivisions 1, 2, 3, 4, 5 and 6 of section 1209 of the public authorities law are REPEALED.

§ 2. Paragraphs (a) and (b) of subdivision 8 of section 1209 of the public authorities law, paragraph (a) as amended by chapter 725 of the laws of 1993 and paragraph (b) as added by chapter 929 of the laws of 1986, are amended to read as follows:

(a) Advertisement for bids, when required by this section, shall be published at least once in [~~a newspaper of general circulation in the area served by the authority and in~~] the procurement opportunities newsletter published pursuant to article four-C of the economic development law provided that, notwithstanding the provisions of article four-C of the economic development law, an advertisement shall only be required when required by this section. Publication in [~~a newspaper of general circulation in the area served or in~~] the procurement opportunities newsletter shall not be required if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision eleven of this section. Any such advertisement shall contain a statement of: (i) the time and place where bids received pursuant to any notice requesting sealed bids will be publicly opened and read; (ii) the name of the contracting agency; (iii) the contract identification number; (iv) a brief description of the public work, supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term;

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

LBD11398-03-1

(v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (ix) any other information deemed useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. At least fifteen business days for public work contracts and at least ten business days for purchase contracts shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids.

(b) The authority may designate any officer or employee to open the bids at the time and place bids are to be opened and may designate an officer to award the contract to the lowest responsible bidder. Such designee shall make a record of all bids in such form and detail as the authority shall prescribe. All sealed bids received shall be received either through an electronic bidding platform and electronically posted for public view, or publicly opened and read, in either case at the time ~~[and]~~, place and in the manner specified in the advertisement or specified at the time of solicitation, or to which the opening and reading or posting have been adjourned by the authority. All bidders shall be notified of the time and place of any such adjournment.

§ 3. Paragraph (e) of subdivision 9 of section 1209 of the public authorities law, as added by chapter 929 of the laws of 1986, is amended to read as follows:

(e) the item is available through an existing contract between a vendor and ~~[(i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contract or (ii) the state of New York or the city of New York]~~ any department, agency or instrumentality of the United States government and/or any department, agency, office, political subdivision or instrumentality of any state or states provided that in any case when the authority under this paragraph determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

§ 4. Subdivision 10 of section 1209 of the public authorities law, as added by chapter 929 of the laws of 1986, is amended to read as follows:

10. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than ~~[twice]~~ once a year for the purpose of making modifications thereto. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invi-

1 tation to bid to all vendors of the particular item on the qualified
2 products list.

3 § 5. Subdivision 1 of section 1265-a of the public authorities law is
4 REPEALED.

5 § 6. Paragraphs (a) and (b) of subdivision 3 of section 1265-a of the
6 public authorities law, paragraph (a) as amended by chapter 494 of the
7 laws of 1990 and paragraph (b) as added by chapter 929 of the laws of
8 1986, are amended to read as follows:

9 (a) Advertisement for bids, when required by this section, shall be
10 published at least once in [~~a newspaper of general circulation in the~~
11 ~~area served by the authority and in~~] the procurement opportunities news-
12 letter published pursuant to article four-C of the economic development
13 law provided that, notwithstanding the provisions of article four-C of
14 the economic development law, an advertisement shall only be required
15 for a purchase contract for supplies, materials or equipment when
16 required by this section. Publication in [~~a newspaper of general circu-~~
17 ~~lation in the area served or in~~] the procurement opportunities newslet-
18 ter shall not be required if bids for contracts for supplies, materials
19 or equipment are of a type regularly purchased by the authority and are
20 to be solicited from a list of potential suppliers, if such list is or
21 has been developed consistent with the provisions of subdivision six of
22 this section. Any such advertisement shall contain a statement of: (i)
23 the time and place where bids received pursuant to any notice requesting
24 sealed bids will be publicly opened and read; (ii) the name of the
25 contracting agency; (iii) the contract identification number; (iv) a
26 brief description of the public work, supplies, materials, or equipment
27 sought, the location where work is to be performed, goods are to be
28 delivered or services provided and the contract term; (v) the address
29 where bids or proposals are to be submitted; (vi) the date when bids or
30 proposals are due; (vii) a description of any eligibility or qualifica-
31 tion requirement or preference; (viii) a statement as to whether the
32 contract requirements may be fulfilled by a subcontracting, joint
33 venture, or co-production arrangement; (ix) any other information deemed
34 useful to potential contractors; and (x) the name, address, and tele-
35 phone number of the person to be contacted for additional information.
36 At least fifteen business days for public work contracts and at least
37 ten business days for purchase contracts shall elapse between the first
38 publication of such advertisement or the solicitation of bids, as the
39 case may be, and the date of opening and reading of bids.

40 (b) The authority may designate any officer or employee to open the
41 bids at the time and place bids are to be opened and may designate an
42 officer to award the contract to the lowest responsible bidder. Such
43 designee shall make a record of all bids in such form and detail as the
44 authority shall prescribe. All sealed bids received shall be received
45 either through an electronic bidding platform and electronically posted
46 for public view, or publicly opened and read, in either case at the
47 time, ~~and~~ place and in the manner specified in the advertisement or at
48 the time of solicitation, or to which the opening and reading or posting
49 have been adjourned by the authority. All bidders shall be notified of
50 the time and place of any such adjournment.

51 § 7. Paragraph (e) of subdivision 4 of section 1265-a of the public
52 authorities law, as added by chapter 929 of the laws of 1986, is amended
53 to read as follows:

54 (e) the item is available through an existing contract between a
55 vendor and [~~(i) another public authority provided that such other~~
56 ~~authority utilized a process of competitive bidding or a process of~~

~~competitive requests for proposals to award such contracts or (ii) Nassau county, or (iii) the state of New York or (iv) the city of New York]~~ any department, agency or instrumentality of the United States government and/or any department, agency, office, political subdivision or instrumentality of any state or states, provided that in any case when under this paragraph the authority determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

§ 8. Subdivision 5 of section 1265-a of the public authorities law, as added by chapter 929 of the laws of 1986, is amended to read as follows:

5. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than ~~twice~~ once a year for the purpose of making such modifications. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invitation to bid to all vendors of the particular item on the qualified products list.

§ 9. This act shall take effect immediately, provided, however, that sections two, three, four, six, seven and eight of this act shall expire and be deemed repealed April 1, 2024.