STATE OF NEW YORK

9147

IN ASSEMBLY

February 8, 2024

Introduced by M. of A. SIMONE, ARDILA, TAYLOR, GIBBS -- read once and referred to the Committee on Cities

AN ACT to amend chapter 749 of the laws of 2019, authorizing, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts, in relation to requiring qualification-based criteria for awarding certain contracts for services

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

Section 1. Section 2 of chapter 749 of the laws of 2019, authorizing, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts, is amended by adding a new subdivision (f) to read as follows:

(f) "Qualifications-based" shall mean the basis for awarding a contract for services to an entity that submits a statement of qualifications in response to a request for qualifications when an authorized entity utilizes a one-step method.

§ 2. The opening paragraph and paragraph 1 of subdivision (a) of section 4 of chapter 749 of the laws of 2019, authorizing, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts, are amended to read as follows:

A contractor selected by such an authorized entity to enter into a design-build contract shall be selected through a **one-step or** two-step method, as follows:

(1) Step one. Generation of a list of responding entities that have demonstrated the general capability to perform the design-build contract. Such list shall consist of a specified number of responding entities, as determined by an authorized entity, and shall be generated based upon the authorized entity's review of responses to a publicly advertised request for qualifications. The authorized entity's request for qualifications shall include a general description of the public work, the maximum number of responding entities to be included on the

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

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list, the selection criteria to be used and the relative weight of each criteria in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized entity deems appropriate, which may include but are not limited to project understanding, financial capability and record of past performance. The authorized entity shall evaluate and rate all responding entities to the request for qualifications. Based upon such ratings, the authorized entity shall list the responding entities that shall receive a request for proposals in accordance with paragraph two of this subdivision. To the extent consistent with applicable federal law, the authorized entity shall consider, when awarding any contract pursuant to this section, the participation of (i) responding entities that are certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law, or certified pursuant to local law as minority- or women-owned business enterprises, or, where the New York city school construction authority acts as the authorized entity, certified pursuant to section 1743 of the public authorities law; and (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law. In addition, nothing in this section shall be deemed to supersede any pre-qualification guidelines or requirements otherwise authorized by law for an authorized entity. **If the authorized entity is utilizing a one-step selection, such selection shall be made on criteria set forth in the request for qualifications and award shall be made to the best-qualified contractor. The parties may enter into one contract with two phases or a separate contract for each of the two phases of work.**

§ 3. This act shall take effect immediately; provided, however that the amendments to chapter 749 of the laws of 2019 made by sections one and two of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith.