STATE OF NEW YORK

7522

2023-2024 Regular Sessions

IN SENATE

June 2, 2023

Introduced by Sen. COONEY -- (at request of the Office of General Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public buildings law and the state finance law, in relation to work done by special order and bonds to secure payment of certain claims arising from a public improvement

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

Section 1. The second undesignated paragraph of section 6 of the public buildings law, as amended by section 1 of part N of chapter 55 of the laws of 2015, is amended to read as follows:

Notwithstanding any inconsistent provisions of law, the commissioner of general services may by rules delegate to the agency or department having custody of any public building full responsibility for the preparation of plans and specifications and the supervision of minor, routine or uncomplicated construction, reconstruction, alteration, improvement or repair of any such building, providing the value of such work shall not exceed [~~one~~] two hundred [~~fifty~~] thousand dollars.

§ 2. Section 20 of the public buildings law, as amended by section 12 of part FF of chapter 56 of the laws of 2010, is amended to read as follows:

§ 20. Work done by special order. The commissioner of general services shall determine when minor work of construction, reconstruction, alteration or repair of any state building may be done by special order. Special orders for such work shall be short-form contracts approved by the attorney general and by the comptroller. No work shall be done by special order in an amount in excess of [~~one~~] two hundred thousand dollars and a bond shall not be required for special orders. No work shall be done by special order unless the commissioner has presented to the comptroller evidence that he has made a diligent effort to obtain competition sufficient to protect the interests of the state prior to

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

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selecting the contractor to perform the work. Notwithstanding the provisions of subdivision two of section eight of this chapter, work done by special order under this section may be advertised solely through the regular public notification service of the office of general services. At least five days shall elapse between the first publication of such public notice and the date so specified for the public opening of bids. All payments on special orders shall be made on the certificate of the commissioner of general services and audited and approved by the state comptroller. All special orders shall contain a clause that the special order shall only be deemed executory to the extent of the moneys available and no liability shall be incurred by the state beyond the moneys available for the purpose.

§ 3. Subdivision 1 of section 137 of the state finance law, as separately amended by section 17 of part MM of chapter 57 and chapter 619 of the laws of 2008, is amended to read as follows:

1. In addition to other bond or bonds, if any, required by law for the completion of a work specified in a contract for the prosecution of a public improvement for the state of New York a municipal corporation, a public benefit corporation or a commission appointed pursuant to law, or in the absence of any such requirement, the comptroller may or the other appropriate official, respectively, shall nevertheless require prior to the approval of any such contract a bond guaranteeing prompt payment of moneys due to all persons furnishing labor or materials to the contractor or any subcontractors in the prosecution of the work provided for in such contract. Whenever a municipal corporation issues a permit subject to compliance with section two hundred twenty of the labor law, such permittee or its contractor or subcontractors furnishing workers shall post a payment bond subject to this section. Provided, however, that all performance bonds and payment bonds may, at the discretion of the head of the state agency, public benefit corporation or commission, or his or her designee, be dispensed with for the completion of a work specified in a contract for the prosecution of a public improvement for the state of New York for which bids are solicited [~~where the aggregate amount of the contract is under one hundred thousand dollars and provided further, that in a case where~~], for all contracts, whether the contract is or is not subject to the multiple contract award requirements of section one hundred thirty-five of this article, such requirements may be dispensed with where the head of the state agency, public benefit corporation or commission finds it to be in the public interest and where the aggregate amount of the contract awarded or to be awarded is less than two hundred thousand dollars. Provided further, that in a case where a performance or payment bond is dispensed with, twenty per centum may be retained from each progress payment or estimate until the entire contract work has been completed and accepted, at which time the head of the state agency, public benefit corporation or commission shall, pending the payment of the final estimate, pay not to exceed seventy-five per centum of the amount of the retained percentage.

§ 4. This act shall take effect immediately.