

STATE OF NEW YORK

2511

2023-2024 Regular Sessions

IN ASSEMBLY

January 26, 2023

Introduced by M. of A. ANGELINO, DeSTEFANO, LEMONDES, McDONOUGH, MIKULIN, MILLER, MORINELLO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to establishing a method for determining the lowest responsible bidder when negotiating state contracts

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

1 Section 1. Article 9 of the state finance law is amended by adding a
2 new section 134 to read as follows:

3 § 134. Declaration of policy. 1. It is hereby declared to be the poli-
4 cy of this state that this article shall be construed in the negotiation
5 of contracts for public works and public purchases to which the state is
6 a party so as to assure the prudent and economical use of public moneys
7 for the benefit of all the inhabitants of the state and to facilitate
8 the acquisition of facilities and commodities of maximum quality at the
9 lowest possible cost. The state also recognizes that the lowest respon-
10 sible bid for public contracts may not simply be a monetary amount but
11 should also incorporate quantifiable fiscal benefits to the state and
12 that quantifiable fiscal benefits to the state should be subtracted from
13 the actual bid amount to determine the lowest responsible bidder.

14 2. The comptroller shall establish, in consultation with the heads of
15 state agencies, a method for determining the lowest responsible bidder
16 when negotiating state contracts that would incorporate quantifiable
17 fiscal benefits including, but not be limited to, consideration of where
18 sub-contractors used by contractors to fulfill a state contract are
19 located, how many jobs in the state, if any, will be created by the
20 awarding of such a contract, and the estimated tax revenue and ancillary
21 economic activity that would be generated in the state through the
22 awarding of such contracts and subsequent subcontracts. The comptroller
23 shall promulgate rules and regulations to ensure the inclusion of these

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

LBD06601-01-3

1 considerations in determining the lowest responsible bidder for state
2 contracts.

3 § 2. The state finance law is amended by adding a new section 136-e to
4 read as follows:

5 § 136-e. In-state contractor preference. Notwithstanding any other
6 provision of law to the contrary, any contract or contracts made by the
7 state which requires the submission of a bid shall, when determining the
8 low bid, reduce any bid submitted by an in-state contractor by five
9 percent. For the purposes of this section, an "in-state contractor"
10 shall be a contractor which:

- 11 1. is located within the state;
12 2. hires a majority of employees who are residents of the state;
13 3. hires subcontractors who are located within the state and whose
14 employees are residents of the state; and
15 4. creates tax revenue and ancillary economic activity for the state.

16 § 3. This act shall take effect immediately.