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:

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

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

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

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considerations in determining the lowest responsible bidder for state contracts.

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

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

1. is located within the state;

2. hires a majority of employees who are residents of the state;

3. hires subcontractors who are located within the state and whose employees are residents of the state; and

4. creates tax revenue and ancillary economic activity for the state.

§ 3. This act shall take effect immediately.