

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:

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

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

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

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

18 (1) Step one. Generation of a list of responding entities that have
19 demonstrated the general capability to perform the design-build
20 contract. Such list shall consist of a specified number of responding
21 entities, as determined by an authorized entity, and shall be generated
22 based upon the authorized entity's review of responses to a publicly
23 advertised request for qualifications. The authorized entity's request
24 for qualifications shall include a general description of the public
25 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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1 list, the selection criteria to be used and the relative weight of each
2 criteria in generating the list. Such selection criteria shall include
3 the qualifications and experience of the design and construction team,
4 organization, demonstrated responsibility, ability of the team or of a
5 member or members of the team to comply with applicable requirements,
6 including the provisions of articles 145, 147 and 148 of the education
7 law, past record of compliance with the labor law, and such other quali-
8 fications the authorized entity deems appropriate, which may include but
9 are not limited to project understanding, financial capability and
10 record of past performance. The authorized entity shall evaluate and
11 rate all responding entities to the request for qualifications. Based
12 upon such ratings, the authorized entity shall list the responding enti-
13 ties that shall receive a request for proposals in accordance with para-
14 graph two of this subdivision. To the extent consistent with applicable
15 federal law, the authorized entity shall consider, when awarding any
16 contract pursuant to this section, the participation of (i) responding
17 entities that are certified as minority- or women-owned business enter-
18 prises pursuant to article 15-A of the executive law, or certified
19 pursuant to local law as minority- or women-owned business enterprises,
20 or, where the New York city school construction authority acts as the
21 authorized entity, certified pursuant to section 1743 of the public
22 authorities law; and (ii) small business concerns identified pursuant to
23 subdivision (b) of section 139-g of the state finance law. In addition,
24 nothing in this section shall be deemed to supersede any pre-qualifica-
25 tion guidelines or requirements otherwise authorized by law for an
26 authorized entity. If the authorized entity is utilizing a one-step
27 selection, such selection shall be made on criteria set forth in the
28 request for qualifications and award shall be made to the best-qualified
29 contractor. The parties may enter into one contract with two phases or a
30 separate contract for each of the two phases of work.

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