STATE OF NEW YORK

9753

IN ASSEMBLY

April 3, 2024

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to the debriefing of certain contracts

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

Section 1. Paragraph c of subdivision 9 of section 163 of the state finance law, as amended by section 2-b of part F of chapter 57 of the laws of 2016, is amended to read as follows:

c. Where provided in the solicitation, state agencies may require clarification from offerers for purposes of assuring a full understanding of responsiveness to the solicitation requirements. Where provided for in the solicitation, revisions may be permitted from all offerers determined to be susceptible of being selected for contract award, prior to award. Offerers shall be accorded fair and equal treatment with respect to their opportunity for discussion and revision of offers. A state agency shall, upon request, provide a debriefing to any unsuccessful offerer that responded to a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. The opportunity for an unsuccessful offerer to seek a debriefing**, and the availability of a written explanation,** shall be stated in the solicitation.

(i) A debriefing shall be requested by the unsuccessful offerer within [~~fifteen~~] **thirty** calendar days of release by the state agency of a notice in writing or electronically that the offerer's offer is unsuccessful.

(ii) Such notice shall be provided to all unsuccessful offerers by the state agency for the specific procurement.

(iii) The state agency, upon a request made within [~~fifteen~~] **thirty** days of release of the written or electronic notice from the unsuccessful offerer for a debriefing, shall schedule the debriefing to occur within a reasonable time of such request. Debriefings shall be conducted by the state agency with the unsuccessful offerer in-person, provided, however, the parties may mutually agree to utilize other means such as,

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

LBD14018-03-4

but not limited to, by telephone, video-conferencing or other types of electronic communications. State agency personnel participating in the debriefing discussion shall have been involved with and knowledgeable about the procurement and the evaluation and selection of the successful offerer or offerers.

(iv) Such debriefing shall include, but need not be limited to: (A) the reasons that the proposal, bid or offer submitted by the unsuccessful offerer was not selected for award; (B) the qualitative and quantitative analysis employed by the agency in assessing the relative merits of the proposals, bids or offers; (C) the application of the selection criteria to the unsuccessful offerer's proposal; and (D) when the debriefing is held after the final award, the reasons for the selection of the winning proposal, bid or offer. The debriefing shall also provide, to the extent practicable, general advice and guidance to the unsuccessful offerer concerning potential ways that their future proposals, bids or offers could be more responsive. **Provided, however, that an unsuccessful offerer may additionally request a written explanation comparable to such debriefing to be provided by mail or electronic mail, which the state agency shall provide within sixty days of the offerer's request for a written explanation.**

§ 2. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the amendments to subdivision 9 of section 163 of the state finance law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.