§ 151. Authority construction contracts, cancellation of contracts, disqualification to contract with authority, statement of non-collusion in bids or proposals. 1. Contracts of an authority for demolition, excavation, construction, alteration, renovation or for purchase of materials or supplies shall be in such form and contain such combination of work or trades and such terms and provisions as may be deemed advisable by the authority. All such contracts, except contracts for the purchase of materials or supplies, in excess of fifty thousand dollars shall be made on sealed bids, in compliance with a public notice advertised at least once, not less than twenty days before the date set for the receipt of bids, in the official publication of the municipality, or if none exists, in a newspaper circulating in the municipality. With respect to contracts for the purchase of materials or supplies in excess of twenty-five thousand dollars, the period of advertisement shall be not less than ten days before the date set for the receipt of bids. If the authority shall deem it to its best interest or necessary or desirable to effectuate the purposes of this chapter or the economy and efficiency in construction and operation of a project, the authority by majority vote of its members may either reject all bids or readvertise for bids or by unanimous vote of its members may accept a bid other than the lowest bid. In any such contract there may be inserted in the discretion of the authority, a provision that additional work may be done or materials and supplies furnished or that work or materials may be omitted for the purpose of completing such contract in accordance with any changes, omissions or additions in the specifications of any such contract. Each contract shall provide that in the case of default by the contractor the authority may adopt on behalf of the authority all subcontracts made by such contractor and all such subcontractors shall be bound by such adoption if made, and the authority may relet, with or without public advertisement, the work specified in the original contract, exclusive of so much thereof as shall be provided in any subcontracts so adopted. An authority may make rules and regulations governing the qualifications of bidders, the submission of combined bids by two or more contractors, the award and execution of the contract, security, if any, for execution and performance of the contract, and any other matters relating to the contract. The bidding may be restricted to those who shall have

qualified prior to the receipt of bids according to standards fixed by the authority, provided that notice or notices for the submission of qualifications shall be published in the official publication of the municipality, or if none exists, in a newspaper circulating in the municipality, at least once, not less than ten days prior to the date fixed for the filing of qualifications. Nothing in this section shall be construed to limit the power of the authority to carry out a project or any part thereof directly by the officers, agencies and employees of the authority, or by any government, or to purchase or acquire materials or supplies through the purchasing officer, department or agency of a government.

2. A clause shall be inserted in all specifications or contracts hereafter made or awarded by any municipal housing authority or by any official of any municipal housing authority, for work or services performed or to be performed or goods sold or to be sold, to provide that upon the refusal by a person who directly or indirectly derives a monetary benefit which is traceable to such a specification or contract, when called before a grand jury to testify concerning any transaction or contract had with the state or of any political subdivision thereof, a public authority, a municipal housing authority or with any public department, agency or official of the state or of any political subdivision thereof or of any public authority or of a municipal housing authority or subcontract thereunder, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction, contract or subcontract.

(a) Such person and any firm, partnership or corporation of which he is a member, partner, director or officer, shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal housing authority or official thereof or any subcontract thereunder, or sub-contracting with any person, firm, partnership or corporation who or which has entered into any such contract or contracts, in relation to such contract or contracts, for goods, work or services, for a period of five years after such refusal. No person, firm, partnership or corporation who or which has entered into any contract or contracts with the state, or any political subdivision thereof, a public authority, a municipal housing

authority, or with any public department, agency or official of the state or any political subdivision thereof or of any public authority, or of a municipal housing authority, for goods, work or services, shall enter into a sub-contract thereon with any person, firm or corporation which is disqualified to contract as provided herein. Such clause shall also provide that

(b) Any and all contracts made with any municipal housing authority or official thereof or any subcontract thereunder, since the effective date of this law, by such person and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the municipal housing authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the municipal housing authority or by a contractor or subcontractor thereunder for goods delivered or work done prior to the cancellation or termination shall be paid.

3. (a) Any person who, when called before a grand jury to testify concerning any transaction or contract had with the state, any political subdivision thereof, a public authority, a municipal housing authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority or of a municipal housing authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal housing authority or any official of any municipal housing authority created by the state or any political subdivision, or sub-contracting with any person, firm, partnership or corporation who or which has entered into any such contract or contracts, in relation to such contract or contracts, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the applicable provisions of law. No person, firm, partnership or corporation who or which has entered into any contract or contracts with the state, or any political subdivision thereof, a public authority, a municipal housing authority, or with any public department,

agency or official of the state or any political subdivision thereof or of any public authority, or of a municipal housing authority, for goods, work or services, shall enter into a sub-contract thereon with any person, firm or corporation which is disqualified to contract as provided herein.

(b) It shall be the duty of the officer conducting the investigation before the grand jury before which the refusal occurs to send notice of such refusal, together with the names of any firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the superintendent of public works of the state of New York and the appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the person so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract.

4. (a) Any firm, partnership or corporation which has become subject to the cancellation or termination of a contract or subcontract or disqualification to contract or subcontract on account of the refusal of a member, partner, director or officer thereof to waive immunity when called to testify, as provided in subdivisions two and three of this section, may, upon ten days' notice to the attorney general and to the officer who conducted the investigation before the grand jury in which the refusal occurred, make an application at a special term of the supreme court held within the judicial district in which the refusal occurred for an order discontinuing the disqualification. Such application shall be in the form of a petition setting forth grounds, including that the cooperation by petitioner with the grand jury at the time of the refusal was such, and the amount and degree of control and financial interest, if any, in the petitioning firm, partnership or corporation by the member, partner, officer or director who refused to waive immunity is such that it will not be in the public interest to cancel or terminate petitioner's contracts or subcontracts or to continue the disqualification, as provided in subdivisions two and three of this section.

A copy of the petition and accompanying papers shall be served with

the notices to be given pursuant to this subdivision.

(b) Upon the filing of such petition the court may stay as to petitioner, pending a decision upon the petition, the cancellation or termination of any contracts or subcontracts resulting from such refusal upon such terms as to notice or otherwise as may be just.

(c) At least two days prior to the return day, the officer who conducted the investigation before the grand jury and the attorney general may file answers to the petition or apply for an order dismissing the petition as a matter of law. On or before the return day the petitioner may file a reply to the answer.

(d) Upon the return day the court may, upon the petition and answer and other papers filed, forthwith render such final order as the case requires, or if a triable issue of fact is duly raised, it shall forthwith be tried before a court sitting without a jury or before a referee. The provisions of statute or rule governing references in an action shall apply to a reference under this subdivision.

(e) The court shall render a final order dismissing the petition on the merits or discontinuing the disqualification upon the ground that the public interest would be served by its discontinuance, and granting such other relief as to the cancellation or termination of contracts or subcontracts as may be appropriate, but without costs to petitioner.

5. (a) Every bid or proposal hereafter made to a municipal housing authority where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: Non-collusive bidding certification.

(1) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(i) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(ii) Unless otherwise required by law, the prices which have been

quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(iii) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(2) A bid shall not be considered for award nor shall any award be made where (1) (i) (ii) and (iii) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (1) (i) (ii) and (iii) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the municipal housing authority to which the bid is made determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph (a) of this subdivision.

(b) Any bid hereafter made to any municipal housing authority by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in paragraph (a) of this subdivision, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

6. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded pursuant to this section by a municipal housing authority created under article thirteen of the public housing law shall be in accordance with sections one hundred six, one

hundred six-a and one hundred six-b of the general municipal law.