

STATE OF NEW YORK

5139

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. BLAKE, BICHOTTE, COOK, JOYNER, MOSLEY, ORTIZ, SEAWRIGHT -- Multi-Sponsored by -- M. of A. THIELE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the state finance law, in relation to encouraging the participation of minority and women-owned business enterprises in state contracts

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

1 Section 1. Paragraphs (h) and (i) of subdivision 2-a of section 313 of
2 the executive law, as added by chapter 175 of the laws of 2010 are
3 amended and a new paragraph (j) is added to read as follows:

4 (h) provide for the collection of statistical data by each agency
5 concerning actual minority and women-owned business enterprise partic-
6 ipation; ~~and~~

7 (i) require each agency to consult the most current disparity study
8 when calculating agency-wide and contract specific participation goals
9 pursuant to this article~~[-]~~; and

10 (j) require that each state contract avoids unnecessary and unjusti-
11 fied bundling of contract requirements that precludes minority and
12 women-owned business enterprises' participation in procurements as prime
13 contractors.

14 § 2. Section 139-g of the state finance law is amended by adding a new
15 subdivision (e) to read as follows:

16 (e) require that each state contract avoids unnecessary and unjusti-
17 fied bundling of contract requirements that precludes small and certi-
18 fied women and minority-owned business' participation in procurements as
19 prime contractors.

20 § 3. Subdivision 4 of section 313 of the executive law, as amended by
21 chapter 175 of the laws of 2010, is amended to read as follows:

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

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1 4. In the implementation of this section, the contracting agency shall
2 (a) consult the findings contained within the disparity study evidencing
3 relevant industry specific availability of certified businesses;

4 (b) implement a program that will enable the agency to evaluate each
5 contract to determine the appropriateness of the goal pursuant to subdi-
6 vision one of this section; **and**

7 (c) [~~consider where practicable, the severability of construction~~
8 ~~projects and other bundled contracts; and~~

9 ~~(d)~~] consider compliance with the requirements of any federal law
10 concerning opportunities for minority and women-owned business enter-
11 prises which effectuates the purpose of this section. The contracting
12 agency shall determine whether the imposition of the requirements of any
13 such law duplicate or conflict with the provisions hereof and if such
14 duplication or conflict exists, the contracting agency shall waive the
15 applicability of this section to the extent of such duplication or
16 conflict.

17 § 4. This act shall take effect immediately; provided however, that
18 the amendments to section 313 of the executive law made by sections one
19 and three of this act shall not affect the expiration of such section
20 and shall be deemed to expire therewith.