

STATE OF NEW YORK

7266

2021-2022 Regular Sessions

IN ASSEMBLY

April 29, 2021

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

AN ACT to amend the insurance law, the New York city charter and the New York city public works investment act, in relation to insurance in certain public construction contracts, opportunities for businesses owned by women and minorities and considering contractor diversity practices in making award determinations

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

1 Section 1. Subparagraphs (A) and (B) of paragraph 2 of subsection (a)
2 of section 2504 of the insurance law, are amended and a new subparagraph
3 (C) to subsection (a) and a new subsection (d) are added to read as
4 follows:

5 (A) a public corporation or public authority created pursuant to
6 agreement or compact with another state~~[, or]~~;

7 (B) the city of New York, a public corporation or public authority, in
8 connection with the construction of electrical generating and trans-
9 mission facilities or construction, extensions and additions of light
10 rail or heavy rail rapid transit and commuter railroads~~[-]~~; or

11 (C) the city of New York, a public corporation or public authority,
12 operating primarily within the city of New York in connection with
13 contracts that: (i) include participation requirements for businesses
14 certified as minority or women-owned business enterprises pursuant to
15 article fifteen-A of the executive law, those certified as minority or
16 women-owned business enterprises or emerging business enterprises pursu-
17 ant to section thirteen hundred four of the New York city charter, or
18 those certified as disadvantaged business enterprises pursuant to part
19 26 of title 49 of the code of federal regulations, or any successor
20 provisions; or (ii) are awarded to businesses certified as minority or
21 women-owned business enterprises pursuant to article fifteen-A of the
22 executive law or those certified as minority or women-owned business

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

LBD10927-01-1

enterprises or emerging business enterprises pursuant to section thirteen hundred four of the New York city charter; or (iii) include projects ranging from streets, highways, sewers and water mains to public safety, health and human service facilities, as well as cultural institutions and libraries.

(d) The city of New York shall utilize various forms of an alternative risk transfer, including, but not limited to, the potential utilization of a captive insurance company.

§ 2. Paragraphs 1 and 2 of subdivision i of section 311 of the New York city charter, paragraph 1 as amended by chapter 98 of the laws of 2019, paragraph 2 as amended by chapter 19 of the laws of 2018, are amended to read as follows:

1. agencies may make procurements of goods, services and construction for amounts not exceeding [~~five hundred thousand~~] one million dollars from businesses certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter without a formal competitive process.

2. agencies may award contracts for goods and services on the basis of best value to the bidder [~~or offerer~~] which optimizes quality, cost and efficiency, among responsive and responsible bidders [~~or offerers~~]. Such basis shall reflect, wherever possible, objective and quantifiable analysis and may include the [~~prospective~~] bidder's record of complying with existing labor standards, maintaining harmonious labor relations, implementing sound diversity practices and protecting the health and safety of workers. Such basis may also identify a quantitative factor for awarding of contracts for bidders [~~or offerers~~] that are businesses certified as minority or women-owned business enterprises pursuant to article [~~fifteen-a~~] fifteen-A of the executive law and section thirteen hundred four of the charter. Where an agency identifies a quantitative factor pursuant to this paragraph, the agency must specify that businesses certified as minority or women-owned business enterprises pursuant to article [~~fifteen-a~~] fifteen-A of the executive law as well as those certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter are eligible to qualify for such factor. Nothing in this paragraph shall be construed as a requirement that such businesses be concurrently certified as minority or women-owned business enterprises under both article [~~fifteen-a~~] fifteen-A of the executive law and section thirteen hundred four of the charter to qualify for such quantitative factor.

§ 3. Paragraph 3 of subdivision i of section 311 of the New York city charter, as amended by chapter 19 of the laws of 2018, is amended to read as follows:

3. agencies awarding construction contracts on the basis of competitive sealed bidding pursuant to section three hundred thirteen of the charter may identify a quantitative factor for bidders that are businesses certified as minority or women-owned business enterprises pursuant to article fifteen-A of the executive law and section thirteen hundred four of the charter. Where an agency identifies a quantitative factor pursuant to this paragraph, the agency must specify that businesses certified as minority or women-owned business enterprises pursuant to article fifteen-A of the executive law as well as those certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter are eligible to qualify for such factor. Nothing in this paragraph shall be construed as a requirement that such businesses be concurrently certified as minority or women-owned business enterprises under both article fifteen-A of the executive

1 law and section thirteen hundred four of the charter to qualify for such
2 quantitative factor. Agencies may also identify a quantitative factor
3 for awarding of such construction contracts based on each bidder's
4 record of implementing sound diversity practices. Such basis shall
5 reflect, wherever possible, objective and quantifiable analysis.

6 4. the rule or rules promulgated to implement paragraph one of this
7 subdivision shall provide that the city shall, commencing on the first
8 of October of the first full calendar year following the adoption of
9 such rule or rules, submit an annual report to the governor and the
10 state legislature of the total number and total dollar value of procure-
11 ments of goods and services for amounts not exceeding [~~one hundred fifty~~
12 ~~thousand dollars~~] the dollar threshold for making procurements without a
13 formal competitive process, as established by rule pursuant to paragraph
14 one of this subdivision, from:

15 (i) businesses certified as minority or women-owned business enter-
16 prises pursuant to section thirteen hundred four of the charter;

17 (ii) all other businesses; and

18 (iii) information about the number of businesses certified as minority
19 or women-owned business enterprises pursuant to section thirteen hundred
20 four of this charter able to perform the specific type and scale of work
21 involved in each procurement.

22 § 4. Paragraph 13 of subdivision b of section 2 of chapter 749 of the
23 laws of 2019, constituting the New York city public works investment
24 act, is amended to read as follows:

25 (13) The proposer's record of complying with existing labor standards,
26 maintaining harmonious labor relations, and protecting the health and
27 safety of workers and payment of wages above any locally-defined living
28 wage; [~~and~~]

29 § 5. Paragraph 14 of subdivision b of section 2 of chapter 749 of the
30 laws of 2019, constituting the New York city public works investment
31 act, is renumbered paragraph 15 and a new paragraph 14 is added to read
32 as follows:

33 (14) The proposer's record of implementing sound diversity practices;
34 and

35 § 6. This act shall take effect immediately, provided, however, that
36 the amendments to paragraphs 13 and 14 of subdivision b of section 2 of
37 chapter 749 of the laws of 2019, constituting the New York city public
38 works investment act, made by sections four and five of this act shall
39 not affect the repeal of such paragraphs pursuant to section 14 of chap-
40 ter 749 of the laws of 2019, as amended, and shall be deemed repealed
41 therewith.