

STATE OF NEW YORK

3852

2023-2024 Regular Sessions

IN ASSEMBLY

February 8, 2023

Introduced by M. of A. JACKSON -- 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. Subdivision 2-a of section 313 of the executive law is
2 amended by adding a new paragraph (k) to read as follows:

3 (k) require that each state contract avoids unnecessary and unjusti-
4 fied bundling of contract requirements that precludes minority and
5 women-owned business enterprises' participation in procurements as prime
6 contractors. For purposes of this paragraph, "unnecessary and unjusti-
7 fied" shall mean not required, not needed and with no legitimate reason.

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

10 (e) require that each state contract avoids unnecessary and unjusti-
11 fied bundling of contract requirements that precludes small and certi-
12 fied women and minority-owned business' participation in procurements as
13 prime contractors. For purposes of this subdivision, "unnecessary and
14 unjustified" shall mean not required, not needed and with no legitimate
15 reason.

16 § 3. Subdivision 4 of section 313 of the executive law, as amended by
17 chapter 96 of the laws of 2019, is amended to read as follows:

18 4. In the implementation of this section, the contracting agency shall
19 (a) consult the findings contained within the disparity study evidencing
20 relevant industry specific disparities in the utilization of minority
21 and women-owned businesses relative to their availability;

22 (b) implement a program that will enable the agency to evaluate each
23 contract to determine the appropriate goal for participation by minori-
24 ty-owned business enterprises and women-owned business enterprises; and

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

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

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

§ 4. This act shall take effect immediately; provided however, that the amendments to section 313 of the executive law made by sections one and three of this act shall not affect the repeal of such article and shall be deemed repealed therewith.