

4091

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. MILLMAN, DESTITO, PEOPLES -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BENJAMIN, BRODSKY, CLARK, COOK, FIELDS, GREENE, JACOBS, PERRY, P. RIVERA, ROBINSON, WALKER, WEPRIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to establishing a mentor-protege program for small and minority and women-owned business concerns

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The state finance law is amended by adding a new section  
2 147 to read as follows:

3 S 147. MENTOR-PROTEGE PROGRAM. 1. IN EVERY STATE AGENCY, DEPARTMENT  
4 AND AUTHORITY WHICH HAS LET MORE THAN TEN MILLION DOLLARS IN SERVICE AND  
5 CONSTRUCTION CONTRACTS IN THE PRIOR FISCAL YEAR, THE CHIEF EXECUTIVE  
6 OFFICER OF THAT AGENCY, DEPARTMENT OR AUTHORITY SHALL DEVELOP A MENTOR-  
7 PROTEGE PROGRAM TO FOSTER LONG-TERM RELATIONSHIPS BETWEEN APPROVED  
8 MENTOR FIRMS, AND SMALL BUSINESS CONCERNS AND MINORITY AND WOMEN-OWNED  
9 BUSINESSES CERTIFIED PURSUANT TO ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW,  
10 IN ORDER TO ENHANCE THE CAPABILITIES OF SMALL AND MINORITY AND  
11 WOMEN-OWNED BUSINESS CONCERNS, IMPROVE THEIR SUCCESS IN CONTRACTING WITH  
12 THE STATE OR RECEIVING SUBCONTRACTS UNDER A STATE CONTRACT, AND TO  
13 CREATE SOURCES OF RELIABLE CONTRACTORS AND SUBCONTRACTORS READY TO  
14 PERFORM LARGER JOBS AND RESPONSIBILITIES. PARTICIPATION IN THE PROGRAM  
15 SHALL BE VOLUNTARY FOR BOTH THE MENTOR FIRM AND THE PROTEGE FIRM.

16 2. THE CHIEF EXECUTIVE OFFICER OF EACH AGENCY, DEPARTMENT OR AUTHORI-  
17 TY, IN CONSULTATION WITH THE DIVISION OF MINORITY AND WOMEN'S BUSINESS  
18 DEVELOPMENT AND THE DIVISION FOR SMALL-BUSINESS SHALL DEVELOP REQUIRE-  
19 MENTS FOR:

20 (A) APPROVAL OF CONTRACTORS PARTICIPATING IN THE PROGRAM ESTABLISHED  
21 PURSUANT TO SUBDIVISION ONE OF THIS SECTION, TO BE KNOWN, FOR THE  
22 PURPOSES OF SUCH PROGRAM, AS "MENTOR FIRMS". MENTOR FIRMS MUST DEMON-

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

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1 STRATE COMMITMENT AND ABILITY TO ASSIST PROTEGE FIRMS, INCLUDING FAVORA-  
2 BLE FINANCIAL HEALTH, GOOD CHARACTER, AND EXPERIENCE IN CONTRACTING WITH  
3 THE STATE. ONCE APPROVED, A MENTOR FIRM MUST ANNUALLY CERTIFY THAT IT  
4 CONTINUES TO POSSESS GOOD CHARACTER AND A FAVORABLE FINANCIAL POSITION.  
5 INCENTIVES FOR MENTOR FIRMS TO PARTICIPATE IN THE PROGRAM MAY INCLUDE:  
6 (I) WHERE CONTRACTS ARE AWARDED BY BEST VALUE, ADDITIONAL EVALUATION  
7 POINTS AS SPECIFIED IN THE REQUEST FOR PROPOSAL; AND (II) WHERE PROTEGE  
8 FIRMS ARE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESSES, CREDIT TOWARDS  
9 FULFILLMENT OF MINORITY AND WOMEN-OWNED BUSINESS PARTICIPATION REQUIRE-  
10 MENTS, INCLUDING WITHOUT LIMITATION ADDITIONAL CREDIT TOWARDS FULFILL-  
11 MENT OF MINORITY AND WOMEN-OWNED BUSINESS SUBCONTRACTING PARTICIPATION  
12 GOALS BASED ON COSTS INCURRED BY A MENTOR FIRM IN PROVIDING ASSISTANCE  
13 TO A CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS PROTEGE FIRM.

14 (B) APPROVAL FOR SMALL AND CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS  
15 CONCERNS RECEIVING ASSISTANCE UNDER THE PROGRAM ESTABLISHED PURSUANT TO  
16 SUBDIVISION ONE OF THIS SECTION, TO BE KNOWN, FOR THE PURPOSES OF SUCH  
17 PROGRAM, AS "PROTEGE FIRMS". A PROTEGE FIRM MAY HAVE ONLY ONE MENTOR AT  
18 A TIME AND MAY PARTICIPATE IN THE MENTOR-PROTEGE PROGRAM FOR A MAXIMUM  
19 OF FIVE YEARS.

20 (C) A PROCESS BY WHICH EACH MENTOR FIRM, BEFORE PROVIDING ASSISTANCE  
21 TO A PROTEGE FIRM UNDER THE PROGRAM, SHALL ENTER INTO A MENTOR-PROTEGE  
22 AGREEMENT REGARDING THE ASSISTANCE TO BE PROVIDED BY THE MENTOR FIRM,  
23 FOR A PERIOD AS DETERMINED BY THE CHIEF EXECUTIVE OFFICER OF THE AGENCY,  
24 DEPARTMENT OR AUTHORITY. A MENTOR FIRM MAY PROVIDE A PROTEGE FIRM WITH  
25 ASSISTANCE AND TRAINING IN GENERAL BUSINESS MANAGEMENT; FINANCIAL  
26 MANAGEMENT, ENGINEERING, SAFETY AND TECHNICAL MATTERS; BONDING ASSIST-  
27 ANCE OR BONDING WAIVERS; SUBCONTRACTS; RENT-FREE USE OF FACILITIES  
28 AND/OR EQUIPMENT; JOINT VENTURE ARRANGEMENTS; AND ANY OTHER ASSISTANCE  
29 AS DETERMINED BY THE CHIEF EXECUTIVE OFFICER OF THE AGENCY, DEPARTMENT  
30 OR AUTHORITY. MENTOR-PROTEGE AGREEMENTS SHALL BE APPROVED BY THE CHIEF  
31 EXECUTIVE OFFICER OF THE AGENCY, DEPARTMENT OR AUTHORITY, AND SHALL  
32 PROVIDE THAT EITHER PARTY MAY TERMINATE THE AGREEMENT WITH THIRTY DAYS  
33 ADVANCE NOTICE AND NOTICE TO THE CHIEF EXECUTIVE OFFICER. NO DETERMI-  
34 NATION OF AFFILIATION OR CONTROL MAY BE FOUND BETWEEN A PROTEGE FIRM AND  
35 ITS MENTOR FIRM BASED ON THE MENTOR-PROTEGE AGREEMENT OR ANY ASSISTANCE  
36 PROVIDED PURSUANT TO SUCH AGREEMENT.

37 S 2. This act shall take effect immediately.