S T A T E O F N E W Y O R K

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:

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

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

2. THE CHIEF EXECUTIVE OFFICER OF EACH AGENCY, DEPARTMENT OR AUTHORITY, IN CONSULTATION WITH THE DIVISION OF MINORITY AND WOMEN'S BUSINESS DEVELOPMENT AND THE DIVISION FOR SMALL-BUSINESS SHALL DEVELOP REQUIREMENTS FOR:

(A) APPROVAL OF CONTRACTORS PARTICIPATING IN THE PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, TO BE KNOWN, FOR THE 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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STRATE COMMITMENT AND ABILITY TO ASSIST PROTEGE FIRMS, INCLUDING FAVORABLE FINANCIAL HEALTH, GOOD CHARACTER, AND EXPERIENCE IN CONTRACTING WITH THE STATE. ONCE APPROVED, A MENTOR FIRM MUST ANNUALLY CERTIFY THAT IT CONTINUES TO POSSESS GOOD CHARACTER AND A FAVORABLE FINANCIAL POSITION. INCENTIVES FOR MENTOR FIRMS TO PARTICIPATE IN THE PROGRAM MAY INCLUDE: (I) WHERE CONTRACTS ARE AWARDED BY BEST VALUE, ADDITIONAL EVALUATION POINTS AS SPECIFIED IN THE REQUEST FOR PROPOSAL; AND (II) WHERE PROTEGE FIRMS ARE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESSES, CREDIT TOWARDS FULFILLMENT OF MINORITY AND WOMEN-OWNED BUSINESS PARTICIPATION REQUIREMENTS, INCLUDING WITHOUT LIMITATION ADDITIONAL CREDIT TOWARDS FULFILLMENT OF MINORITY AND WOMEN-OWNED BUSINESS SUBCONTRACTING PARTICIPATION GOALS BASED ON COSTS INCURRED BY A MENTOR FIRM IN PROVIDING ASSISTANCE TO A CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS PROTEGE FIRM.

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

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

S 2. This act shall take effect immediately.