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

S. 6898 A. 9987

S E N A T E - A S S E M B L Y

February 23, 2010

IN SENATE -- Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by M. of A. BRODSKY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to diversity practices; and to amend the public authorities law, in relation to exempting public authorities and public benefit corporations from the procurement process under certain circumstances

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

Section 1. Paragraph j of subdivision 1 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

j. "Best value" means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers AND WHICH ALSO TAKES INTO ACCOUNT THE DIVERSITY PRACTICES OF EACH OFFERER. Such basis shall reflect, wherever possible, objective and quantifiable analysis.

S 2. Subdivision 1 of section 163 of the state finance law is amended by adding a new paragraph k to read as follows:

K. "DIVERSITY PRACTICES" MEANS THE OFFERER'S PRACTICES WITH RESPECT TO: (I) APPOINTING, HIRING AND RETAINING MINORITY GROUP MEMBERS (AS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW) AND WOMEN IN SENIOR MANAGEMENT POSITIONS OF THE OFFERER, INCLUDING AT THE LEVEL OF BOARD OF DIRECTORS OR ITS COMPARABLE MANAGEMENT LEVEL BODY, AND AS SENIOR EXECUTIVE OFFICERS WITHIN THE OFFERER'S ORGANIZATION; (II) HIRING, TRAINING, DEVELOPING, PROMOTING AND RETAINING MINORITY GROUP MEMBERS AND WOMEN EMPLOYEES; (III) UTILIZING CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES, AS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW OR ANY OTHER STATUTES OR REGULATIONS GOVERNING THE PARTICIPATION OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY A STATE AGENCY OR OTHER PUBLIC CORPORATION, AS SUBCONTRACTORS AND SUPPLIERS; (IV) ENTERING INTO PARTNERSHIPS, JOINT VENTURES OR OTHER SIMILAR

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

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ARRANGEMENTS WITH CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW OR OTHER APPLICABLE STATUTE OR REGULATION GOVERNING AN ENTITY'S UTILIZATION OF MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES; AND (V) UTILIZING SUBCONTRACTORS OR OTHER PARTNERS, WHO ARE NOT MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES AS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW, THAT DEMONSTRATE A SIGNIFICANT COMMITMENT TO AND PROGRESS IN ATTRACTING, RETAINING AND PROMOTING DIVERSE TEAMS, INCLUDING MINORITY GROUP MEMBERS AND WOMEN WITH RELEVANT DOMAIN EXPERIENCE IN SENIOR MANAGEMENT OR STAFFING POSITIONS.

S 3. Subparagraph (i) of paragraph (b) of subdivision 3 of section 2879 of the public authorities law, as amended by chapter 45 of the laws of 1994, is amended to read as follows:

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition; PROVIDED HOWEVER, THE CORPORATION MAY PURCHASE GOODS OR SERVICES FROM SMALL BUSINESS CONCERNS OR THOSE CERTIFIED AS MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES, OR GOODS OR TECHNOLOGY THAT ARE RECYCLED OR REMANUFACTURED, IN AN AMOUNT NOT EXCEEDING ONE HUNDRED THOUSAND DOLLARS WITHOUT A FORMAL COMPETITIVE PROCESS;

S 4. This act shall take effect immediately; provided, however, that the amendments to section 163 of the state finance law made by sections one and two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.