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

6819

I N S E N A T E

March 26, 2012

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

AN ACT to amend the executive law, the state finance law, the arts and cultural affairs law, the economic development law, the environmental conservation law, the public authorities law, the general municipal law, the banking law, the facilities development corporation act, the New York state medical care facilities finance agency act and the New York state urban development corporation act, in relation to promoting veteran owned business enterprises

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

Section 1. Short title. This act shall be known and may be cited as the "veteran owned business enterprise act".

S 2. The article heading of article 15-A of the executive law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

PARTICIPATION BY MINORITY GROUP MEMBERS, VETERANS AND WOMEN WITH RESPECT TO STATE CONTRACTS

S 3. Subdivisions 1 and 9 of section 310 of the executive law, as added by chapter 261 of the laws of 1988, are amended and a new subdivision 23 is added to read as follows:

1. "Certified business" shall mean a business verified as a minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprise pursuant to section three hundred fourteen of this article. FOR PURPOSES OF THIS SECTION "VETERAN DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE" SHALL MEAN THOSE CONDITIONS DEFINED BY TITLE 38 CODE OF FEDERAL REGULATIONS SECTION 3.12.

9. "Utilization plan" shall mean a plan prepared by a contractor and submitted in connection with a proposed state contract. The utilization plan shall identify certified minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprises, if known, that have committed to perform work in connection with the proposed state contract as well as any such enterprises, if known, which the contractor intends to use in connection with the contractor's performance of the proposed state contract. The plan shall specifically contain a list, including the

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

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name, address and telephone number, of each certified enterprise with which the contractor intends to subcontract.

23. "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION THAT IS:

(A) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE UNITED STATES CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE HONORABLY DISCHARGED VETERANS;

(B) AN ENTERPRISE IN WHICH THE OWNERSHIP INTEREST OF SUCH HONORABLY DISCHARGED VETERANS IS REAL, SUBSTANTIAL AND CONTINUING;

(C) AN ENTERPRISE IN WHICH SUCH HONORABLY DISCHARGED VETERAN'S OWNERSHIP HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

(D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDEPENDENTLY OWNED AND OPERATED.

(E) HONORABLY DISCHARGED VETERAN SHALL MEAN A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE DURING A PERIOD OF WAR AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVISION, OR WHO WAS A RECIPIENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER OTHER THAN DISHONORABLE CONDITIONS, AS DOCUMENTED ACCORDING TO RULES AND REGULATIONS OF THE DIVISION OF MILITARY AND NAVAL AFFAIRS.

(F) FOR THE PURPOSES OF THIS ARTICLE, SERVICE DURING TIME OF WAR IS DEFINED BY SECTION 3.2 OF TITLE 38 OF THE CODE OF FEDERAL REGULATIONS.

S 4. Subdivision 1 and paragraphs (a), (d), (e) and (f) of subdivision 3 of section 311 of the executive law, subdivision 1 and paragraphs (d) and (e) of subdivision 3 as amended by chapter 55 of the laws of 1992 and paragraphs (a) and (f) of subdivision 3 as added by chapter 261 of the laws of 1988, are amended to read as follows:

1. The head of the division of minority and women's business development shall be the director who shall be appointed by the governor and hold office at the pleasure of the commissioner. It shall be the duty of the director of the division of minority and women's business development to assist the governor in the formulation and implementation of laws and policies relating to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises.

(a) to encourage and assist contracting agencies in their efforts to increase participation by minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises on state contracts and subcontracts so as to facilitate the award of a fair share of such contracts to them;

(d) to review periodically the practices and procedures of each contracting agency with respect to compliance with the provisions of this article, and to require them to file periodic reports with the division of minority and women's business development as to the level of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises participation in the awarding of agency contracts for goods and services;

(e) on January first of each year report to the governor and the chairpersons of the senate finance and assembly ways and means committees on the level of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises participating in each agency's contracts for goods and services and on activities of the office and effort by each contracting agency to promote employment of minority group members, HONORABLY DISCHARGED VETERANS and women, and to promote and increase participation by certified businesses with respect to state contracts

and subcontracts so as to facilitate the award of a fair share of state contracts to such businesses. The comptroller shall assist the division in collecting information on the participation of certified business for each contracting agency. Such report may recommend new activities and programs to effectuate the purposes of this article;

(f) to prepare and update periodically a directory of certified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services;

S 5. Section 313 of the executive law, as amended by chapter 175 of the laws of 2010, is amended to read as follows:

S 313. Opportunities for minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises. 1. Goals and requirements for agencies and contractors. Each agency shall structure procurement procedures for contracts made directly or indirectly to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises, in accordance with the findings of the two thousand ten disparity study, consistent with the purposes of this article, to attempt to achieve the following results with regard to total annual statewide procurement:

(a) construction industry for certified minority-owned business enterprises: fourteen and thirty-four hundredths percent;

(b) construction industry for certified women-owned business enterprises: eight and forty-one hundredths percent;

(c) construction related professional services industry for certified minority-owned business enterprises: thirteen and twenty-one hundredths percent;

(d) construction related professional services industry for certified women-owned business enterprises: eleven and thirty-two hundredths percent;

(e) non-construction related services industry for certified minority-owned business enterprises: nineteen and sixty hundredths percent;

(f) non-construction related services industry for certified women-owned business enterprises: seventeen and forty-four hundredths percent;

(g) commodities industry for certified minority-owned business enterprises: sixteen and eleven hundredths percent;

(h) commodities industry for certified women-owned business enterprises: ten and ninety-three hundredths percent;

(i) overall agency total dollar value of procurement for certified minority-owned business enterprises: sixteen and fifty-three hundredths percent;

(j) overall agency total dollar value of procurement for certified women-owned business enterprises: twelve and thirty-nine hundredths percent; and

(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises: twenty-eight and ninety-two hundredths percent.

1-a. The director shall ensure that each state agency has been provided with a copy of the two thousand ten disparity study.

1-b. Each agency shall develop and adopt agency-specific goals based on the findings of the two thousand ten disparity study.

2. The director shall promulgate rules and regulations pursuant to the goals established in subdivision one of this section that provide measures and procedures to ensure that certified minority, HONORABLY DISCHARGED VETERAN and women-owned businesses shall be given the oppor-

tunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority, HONORABLY DISCHARGED VETERAN and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses.

2-a. The director shall promulgate rules and regulations that will accomplish the following:

(a) provide for the certification and decertification of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises for all agencies through a single process that meets applicable requirements;

(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability, as contained within the study, of certified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(c) require that each agency provide a current list of certified minority business enterprises to each prospective contractor;

(d) allow a contractor that is a certified minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise to use the work it performs to meet requirements for use of certified minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprises as subcontractors;

(e) provide for joint ventures, which a bidder may count toward meeting its minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation;

(f) consistent with subdivision six of this section, provide for circumstances under which an agency may waive obligations of the contractor relating to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation;

(g) require that an agency verify that minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(h) provide for the collection of statistical data by each agency concerning actual minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation; and

(i) require each agency to consult the most current disparity study when calculating agency-wide and contract specific participation goals pursuant to this article.

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the

director pursuant to section three hundred fifteen of this article shall include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses provided to the contracting agency by the office; (b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

4. In the implementation of this section, the contracting agency shall (a) consult the findings contained within the disparity study evidencing relevant industry specific availability of certified businesses;

(b) implement a program that will enable the agency to evaluate each contract to determine the appropriateness of the goal pursuant to subdivision one of this section;

(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, HONORABLY DISCHARGED VETERAN 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.

5. (a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to meet the maximum feasible portion of the agency's goals adopted pursuant to this article and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall

allow a contractor to apply for a partial or total waiver of the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section in the event a contractor is failing or has failed to comply with the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

6. Where it appears that a contractor cannot, after a good faith effort, comply with the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application

with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises located in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority, HONORABLY DISCHARGED VETERAN and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

7. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has advertised in general circulation media, trade association publications, and minority-focus, VETERAN-FOCUS and women-focus media and, in such event, (i) whether or not certified minority, HONORABLY DISCHARGED VETERAN or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and

(ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and

(b) whether there has been written notification to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

8. In the event that a contracting agency fails or refuses to issue a waiver to a contractor as requested within twenty days after having made application therefor pursuant to subdivision six of this section or if the contracting agency denies such application, in whole or in part, the contractor may file a complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contractor's complaint together with a demand for relief. The contractor shall serve a copy of such complaint upon the contracting agency by personal service or by certified mail, return receipt requested. The contracting agency shall be afforded an opportunity to respond to such complaint in writing.

9. If, after the review of a contractor's minority, HONORABLY DISCHARGED VETERAN and women owned business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by

the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority, HONORABLY DISCHARGED VETERAN and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

S 6. Section 317 of the executive law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

S 317. Superseding effect of article with respect to state law. The provisions of this article shall supersede any other provision of state law, which expressly implements or mandates an equal employment opportunity program or a program for securing participation by minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises, concerning action to be taken by any party to a state contract, to which the provisions of this article apply; provided, however, that the provisions of any state law, not as hereinabove superseded, which expressly implement or mandate such programs shall remain unimpaired by the provisions of this article, except that the provisions of any such law shall be construed as if the provisions of subdivisions five, six, seven and eight of section three hundred thirteen and section three hundred sixteen of this article were fully set forth therein and made applicable only to complaints of violations under such provisions of law occurring on or after September first, nineteen hundred eighty-eight; provided, further, that nothing contained in this article shall be construed to limit, impair, or otherwise restrict any state agency's authority or discretionary power in effect prior to the enactment of this article to establish or continue, by rule, regulation or resolution, an equal opportunity program or a program for securing participation of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises with regard to banking relationships, the issuance of insurance policies or contracts for the sale of bonds, notes or other securities; and, provided further, that nothing contained in the immediately preceding proviso shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any agency's authority or discretionary power with respect to an equal opportunity program or a program for securing participation of minority, HONORABLY DISCHARGED VETERAN and women-owned enterprises.

S 7. Section 136-b of the state finance law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

S 136-b. Selection of underwriters by state agencies. Whenever a state agency, as defined in article fifteen-A of the executive law, sells its bonds, notes or other securities at a private sale, in selecting one or more underwriters to purchase such securities the state agency shall consider, among other things, the participation of firms certified pursuant to such article as minority, HONORABLY DISCHARGED VETERAN or women-owned firms and the ability of other firms under consideration to work with minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises so as to promote and assist participation by such enterprises.

S 8. Paragraphs (b) and (d) of subdivision 2 of section 139-i of the state finance law, as amended by chapter 531 of the laws of 1993, are amended to read as follows:

(b) include in all bid documents provided to potential bidders a statement that information concerning the availability of New York state subcontractors and suppliers is available from the New York state department of economic development, which shall include the directory of certified minority and women-owned businesses, and it is the policy of New York state to encourage the use of New York state subcontractors and suppliers, and to promote the participation of minority, HONORABLY DISCHARGED VETERAN and women-owned businesses, where possible, in the procurement of goods and services.

(d) adopt policies to promote the participation by New York state business enterprises and New York state residents in procurement contracts, with the cooperation of the department of economic development and the community services division of the department of labor including, but not limited to, providing through cooperative efforts with contractors for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts in an amount estimated to be equal to or greater than one million dollars and for the notification of New York state residents of employment opportunities arising in New York state out of procurement contracts in an amount estimated to be equal to or greater than one million dollars; and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract, such contractors shall document their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has [(a)] (I) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority, HONORABLY DISCHARGED VETERAN and women-owned business, or [(b)] (II) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or [(c)] (III) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York state, or [(d)] (IV) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent. Such contractors shall also provide notification to New York state residents of employment opportunities through listing any such positions with the community services division, or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements. On or before the effective date of this section, each state agency or department shall submit such policies to the division of the budget and copies thereof to the department of audit and control, the department of economic development, the senate finance committee and the assembly ways and means committee.

S 9. Subdivision 5, paragraph (e) of subdivision 11, paragraph (e) of subdivision 12 and paragraph (a) of subdivision 16 of section 213 of the state finance law, subdivision 5, paragraph (e) of subdivision 11 and paragraph (e) of subdivision 12 as added by chapter 705 of the laws of

1993 and paragraph (a) of subdivision 16 as amended by chapter 424 of the laws of 2009, are amended to read as follows:

5. "Certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN or women-owned business" means any [minority-] MINORITY, HONORABLY DISCHARGED VETERAN or women-owned business enterprise as defined in section three hundred ten of the executive law and certified pursuant to section three hundred fourteen of the executive law.

(e) any certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN or women-owned business seeking financing necessary to carry out a procurement contract with an agency or authority or other entity of the state or federal government; or

(e) for certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, projects to provide financing necessary to carry out a procurement contract with an agency or authority or other entity of the state or federal government.

(a) for a linked deposit made in connection with a linked loan to a certified business in an empire zone or to an eligible business located in a highly distressed area or to an eligible business that is defined in paragraph (b-1) of subdivision eleven of this section that is located in a renewal community or defined in paragraph (b-2) of such subdivision that is located in an empowerment zone or defined in paragraph (b-3) of such subdivision that is located in an enterprise community, respectively for eligible projects defined in paragraph (c) of subdivision twelve of this section or a certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN or women-owned business enterprise for an eligible project defined in paragraph (e) of subdivision twelve of this section or to a defense industry manufacturer for a project defined in paragraph (d) of subdivision twelve of this section, a fixed rate of interest which is three hundred basis points below the lender's posted four year certificate of deposit rate or, if the lender does not offer a four year certificate of deposit, is three hundred basis points below the average statewide rate for four year certificates of deposit as determined by the commissioner of economic development;

S 10. Subdivision 1 of section 218 of the state finance law, as amended by chapter 424 of the laws of 2009, is amended to read as follows:

1. Linked loans made to certified businesses in empire zones or to eligible businesses in highly distressed areas or to eligible businesses that are defined in paragraph (b-1) of subdivision eleven of section two hundred thirteen of this article that are located in a renewal community or defined in paragraph (b-2) of such subdivision that are located in an empowerment zone or defined in paragraph (b-3) of such subdivision that are located in an enterprise community, respectively for eligible projects defined in paragraph (c) of subdivision twelve of section two hundred thirteen of this article or to minority-, HONORABLY DISCHARGED VETERAN- or women-owned business enterprises for an eligible project defined in paragraph (e) of subdivision twelve of section two hundred thirteen of this article or to a defense industry manufacturer for a project defined in paragraph (d) of subdivision twelve of section two hundred thirteen of this article shall bear interest at a fixed rate equal to three percentage points below the fixed interest rate the lender would have charged for the loan in the absence of a linked deposit based on its usual credit considerations. All other linked loans shall bear interest at a fixed rate equal to two percentage points below the fixed interest rate the lender would have charged for the loan in the absence of a linked deposit based on its usual credit considerations.

Lenders shall certify to the commissioner of economic development that the rate to be charged on a linked loan is two percentage points or three percentage points, as the case may be, below the interest rate the lender would have charged for the loan in the absence of a linked deposit.

S 11. Paragraph (c) of subdivision 12 of section 3.07 of the arts and cultural affairs law, as amended by chapter 255 of the laws of 1988, is amended to read as follows:

(c) (i) In the performance of projects pursuant to this section, minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises shall be given the opportunity for meaningful participation. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock or other voting interest is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian, American Indian, Pacific Islander, or Alaskan native, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year; HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE SHALL MEAN THE SAME AS PROVIDED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock to other voting interests of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

(ii) In order to implement the requirements and objectives of this section, the council shall request, as appropriate, the assistance of other state agencies to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to these contracts.

S 12. Subdivision 2 of section 115 of the economic development law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

2. "Technical assistance" shall mean assistance and services designed to improve the efficiency, effectiveness and viability of a minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprise, including, but not limited to, management assistance, problem solving, the development of business and marketing plans, market analysis, financial planning, regulatory compliance, safety and security measures, export assistance, procurement assistance, application assistance, state program assistance, referral to private and public financing sources, contracting assistance, and other forms of assistance which the commissioner deems necessary and appropriate.

S 13. Section 118 of the economic development law, as added by chapter 55 of the laws of 1992 and subdivision 7 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

S 118. Power and duties. In addition to the power and duties conferred by section one hundred sixteen of this article, the division shall have the additional power and duty to:

1. Coordinate with all state agencies performing functions affecting the operations of minority business enterprises, HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISES and women-owned business enterprises, as such terms are defined in section two hundred ten of this chapter;

2. Receive complaints and inquiries of operators of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises and refer them to the appropriate federal, state or local agency for appropriate action on such complaints;

3. Solicit recommendations from the operators of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises for improving existing state programs and refer such recommendations to the governor, the legislature and appropriate state agencies or authorities;

4. Advise and make recommendations to the commissioner and the legislature on matters affecting the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises of the state and promote and encourage the protection of the legitimate interests of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises within the state;

5. Conduct investigations, research, studies and analyses of matters affecting the interests of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises;

6. Study the implementation of the laws affecting minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises and recommend to the commissioner new laws and amendments of laws for the benefit of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises; and review pending legislation affecting minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises and report its findings to the commissioner;

7. Provide technical assistance and information to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises in the state on economic development programs administered by the department, including, but not limited to: (a) the empire zones program, established pursuant to article eighteen-B of the general municipal law, (b) the industrial effectiveness program, established pursuant to article seven of this chapter, (c) the economic development skills training program, established pursuant to article eight of this chapter, and (d) the entrepreneurial assistance program, established pursuant to article nine of this chapter;

8. Provide technical assistance and information to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises in the state on economic development programs administered by agencies other than the department, including, but not limited to programs administered by the urban development corporation, the job development authority and the science and technology foundation;

9. Be responsible for conducting minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise assistance programs and for coordinating the activities of all other state agencies acting within the scope of this section; and

10. Carry out the activities to implement the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise assistance programs, to the extent practicable, within amounts appropriated therefor by[;]:

(a) collecting and maintaining information identifying certified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises within New York state;

(b) collecting, maintaining, and providing information to potential users identifying existing contracting and procurement opportunities within and outside New York state;

(c) maintaining, providing and marketing a compilation of existing programs providing assistance for minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises;

(d) identifying special needs and problems facing minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises within New York state;

(e) contacting institutions, organizations and commercial enterprises that are potential consumers of minority, HONORABLY DISCHARGED VETERAN and women-owned business products and services; urging their expanded consumption of such goods and services;

(f) facilitating the establishment of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises; and

(g) providing information concerning local and regional opportunities for minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises.

S 14. Section 210 of the economic development law is amended by adding a new subdivision 6 to read as follows:

6. "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" MEANS THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 15. Paragraphs (b) and (i) of subdivision 1 of section 231 of the economic development law, as amended by chapter 352 of the laws of 2009, are amended to read as follows:

(b) to provide outreach to businesses, with attention to small and medium-sized businesses, including minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises, for financial and technical assistance offered by state economic development agencies, authorities, or other economic entities;

(i) to provide information and assistance in the certification of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises;

S 16. Section 52-0113 of the environmental conservation law, as added by chapter 512 of the laws of 1986, is amended to read as follows:

S 52-0113. Minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise program.

1. a. In the performance of projects pursuant to this article minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises shall be given the opportunity for meaningful participation. The department or the office shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this article shall be construed to limit the ability of the department or office to assure that qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises may participate in the program.

For purposes [hereof] OF THIS ARTICLE, minority business enterprise shall mean any business enterprise which is at least fifty-one per

centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year. The provisions of this paragraph shall not be construed to limit the ability of any minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprise to bid on any contract.

b. In the implementation of this section, the department or the office shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises, which may effectuate the requirements of this section. If the department or the office determines that by virtue of the imposition of the requirements of any such law, in respect to capital project contracts, the provisions thereof duplicate or conflict with such law, the department may waive the applicability of this section to the extent of such duplication or conflict.

c. Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises in programs authorized under this article be applied without regard to local circumstances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the department and the office shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to these contracts.

S 17. Subparagraph (i) of paragraph (b), the opening paragraph of paragraph (c), paragraphs (i) and (j) and subparagraphs (ii) and (iii) of paragraph (n) of subdivision 3 of section 2879 of the public authorities law, subparagraph (i) of paragraph (b) as amended, paragraphs (i) and (j) as added, and subparagraphs (ii) and (iii) of paragraph (n) as relettered by chapter 174 of the laws of 2010 and paragraph (c) as amended by chapter 564 of the laws of 1988, are amended and a new paragraph (e-1) is added 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, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from small business concerns or those certified as minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprises, or goods or technology that are recycled or remanufactured, in an amount

not to exceed two hundred thousand dollars without a formal competitive process;

An identification of those areas or types of contracts for which minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprises may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises. For the purposes of this section, a minority business enterprise means any business enterprise, including a sole proprietorship, partnership or corporation that is:

(i) The establishment of appropriate goals for participation by minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprises in procurement contracts awarded by the corporation and for the utilization of minority, HONORABLY DISCHARGED VETERAN and women-owned enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation. Statewide numerical participation target goals shall be established by each authority based on the findings of the two thousand ten disparity study.

(j) Requirements to conduct procurements in a manner that will enable the corporation to achieve the maximum feasible portion of the goals established pursuant to paragraph (i) of this subdivision and that eliminates barriers to participation by minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises in the corporation's procurements. Such procurement requirements shall include the following:

(A) Measures and procedures to ensure that certified businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the corporation's identification of those state contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the corporation's achievement of the maximum feasible portion of the goals for state contracts to such businesses;

(B) Provisions designating the division of minority, HONORABLY DISCHARGED VETERAN and women-owned business development to certify and decertify minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises for all corporations through a single process that meets applicable state and federal requirements;

(C) A requirement that each contract solicitation document accompanying each solicitation set forth the expected degree of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation based, in part, on:

I. the potential subcontract opportunities available in the prime procurement contract; and

II. the availability of certified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(D) A requirement that each corporation provide a current list of certified minority business enterprises to each prospective contractor;

(E) Provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise portion of the joint venture;

(F) Provisions under which the corporation may waive obligations of the contractor relating to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation after a showing of good faith efforts to comply with the requirements of this act pursuant to

the waiver provisions contained in subdivision six of section three hundred thirteen of the executive law;

(G) A requirement that the corporation verify that minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(H) In the implementation of this section, the contracting corporation shall:

I. consider, where practicable, the severability of construction projects and other bundled contracts;

II. implement a program that will enable the corporation to evaluate each contract to determine the appropriateness of the goal pursuant to paragraph (i) of this subdivision;

III. consider compliance with the requirements of any federal law concerning opportunities for minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises which effectuates the purpose of this section; and

IV. consult the most recent disparity study pursuant to article fifteen-A of the executive law.

(ii) with the cooperation of the department of economic development and through cooperative efforts with contractors, providing for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts let by the corporation in an amount estimated to be equal to or greater than one million dollars and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract such contractors shall document their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has (a) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority, HONORABLY DISCHARGED VETERAN and women-owned business, or (b) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or (c) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York state, or (d) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent; and

(iii) except for procurement contracts for which the corporation would be expending funds received from another state, the corporation shall include in all bid documents provided to potential bidders a statement that information concerning the availability of New York state subcontractors and suppliers is available from the New York state department of economic development, which shall include the directory of certified minority, HONORABLY DISCHARGED VETERAN and women-owned businesses, and it is the policy of New York state to encourage the use of New York state subcontractors and suppliers, and to promote the participation of minority, HONORABLY DISCHARGED VETERAN and women-owned businesses where possible, in the procurement of goods and services; and

(E-1) FOR PURPOSES OF THIS SECTION, "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" MEANS THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 18. Section 957 of the general municipal law is amended by adding a new subdivision (u) to read as follows:

(U) "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 19. Subdivisions (g) and (t) of section 959 of the general municipal law, as amended by section 3 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(g) Coordinate, with the local empire zone administrative board and state agencies and authorities, the provision of business development programs and services for each empire zone in order to stimulate the creation and development of new small businesses, including new small minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises, and may request and shall receive from any department, division, board, bureau, commission, agency or public authority of the state such assistance as may be necessary;

(t) Coordinate with the urban development corporation the creation of a special category of assistance for zones within the regional economic development partnership program, which will make available economic development assistance grants for zone programs and activities, including, but not limited to, planning, service coordination, and local institutional capacity building for human resource development necessary for economic revitalization; planning and development of small business incubators; job placement and preparedness programs for zones residents; education and training programs for zone businesses; child care programs and projects supportive of business development; technical assistance for minority, HONORABLY DISCHARGED VETERAN and women-owned business development; training for zone officials; business and tourism development and marketing programs; and other innovative programs and activities in support of economic and community development within the zones;

S 20. Paragraph (x) of subdivision (b) of section 961 of the general municipal law, as added by chapter 708 of the laws of 1993, is amended to read as follows:

(x) identify financial commitments the applicant will make to the zone for activities, including, but not limited to, marketing of the zone for business development, human resource services for zone residents and businesses, and services for small [and], minority, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 21. Subdivision (j) of section 962 of the general municipal law, as amended by chapter 624 of the laws of 1990 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(j) a description of activities designed to ensure the meaningful participation of minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises in empire zone development activities;

S 22. Paragraphs (iii) and (xii) of subdivision (a) of section 963 of the general municipal law, as amended by chapter 708 of the laws of 1993, as further amended by section 15 of part GG of chapter 63 of the laws of 2000 and as relettered by section 7 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(iii) undertake efforts to ensure meaningful participation by minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises in empire zone activities;

(xii) provide within the zone, or contract with a new or existing community-based local development corporation or entity to provide, strategic economic development planning for the zone, marketing and promotion of the zone, assistance to companies in applying for available benefits, preparation of applications for financing assistance and other technical assistance services; coordination of the delivery of state and local programs within the zones; and operation of such other economic development assistance programs in furtherance of the empire zone development plan as may be appropriate. Provided, however, within the amount appropriated therefor and allocated by the director of the budget, the commissioner, through annual administrative contracts, shall, to the maximum extent feasible, make equally available financial support, through contracts or other means, to assist with the administrative expenses of the local zone administrative bodies or community-based development organizations. No funds shall be made available for this purpose unless the amount to be provided has been matched by private or governmental sources, other than state sources, in amounts at least equalling that to be provided by the state. Such matching funds shall be earmarked and used exclusively for the local administration of the zone program or for activities of the zone program. At least fifty percent of such matching funds shall be in cash, provided that the commissioner may waive this requirement for communities with populations of twenty-five thousand or less, and provided, further, that any amounts appropriated for minority, HONORABLY DISCHARGED VETERAN and women-owned business development within the zones shall be distributed by the commissioner pursuant to a competitive proposal solicitation process.

S 23. Subdivision (c) of section 964 of the general municipal law, as amended by chapter 708 of the laws of 1993 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(c) Each empire zone capital corporation shall, to the maximum extent feasible, undertake measures and procedures to ensure meaningful participation by minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises in the activities and investments of such corporation. Each such corporation shall additionally, to the maximum extent feasible, undertake measures and procedures to ensure meaningful participation by locally owned business enterprises in the activities and investments of such corporation.

S 24. Subparagraph 7 of paragraph f of subdivision 3 of section 970-r of the general municipal law, as amended by section 1 of part F of chapter 577 of the laws of 2004, is amended to read as follows:

(7) the financial commitments the applicant will make to the brownfield opportunity area for activities including, but not limited to, marketing of the area for business development, human resource services for residents and businesses in the brownfield opportunity area, and services for small [and], minority, HONORABLY DISCHARGED VETERAN and women-owned businesses.

S 25. Subdivision 33 of section 454 of the banking law, as amended by chapter 679 of the laws of 2003, is amended to read as follows:

33. Notwithstanding any other provision of this article to the contrary, to participate in the [minority -] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program, as established in section 16-c of section 1 of chapter 174 of the laws of 1968, constituting the urban development corporation act, to the extent that such program allows participation by credit unions.

S 26. Section 9-b of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 58 of the laws of 1987, is amended to read as follows:

S 9-b. Minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise program. 1. (a) Minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises shall be given the opportunity for meaningful participation in all contracts executed by the corporation pursuant to the provisions of this act other than contracts the cost of which is borne solely by a municipality or municipalities. The corporation shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the corporation to assure that qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; HONORABLY DISCHARGED VETERAN BUSINESS ENTERPRISE SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprise to bid on any contract.

(b) In the implementation of this section, the corporation shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises, which may effectuate the requirements of this section. If the corporation determines that by virtue of the imposition of the requirements of any such law, in respect to contracts, the provisions thereof duplicate or conflict with this section, the corporation may waive the applicability of this section to the extent of such duplication or conflict.

(c) Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises in programs authorized under this act be applied without regard to local circumstances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the corporation shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, HONORABLY DISCHARGED VETERAN and

women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to these contracts.

S 27. Section 16-b of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as added by chapter 58 of the laws of 1987, is amended to read as follows:

S 16-b. Minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise program. 1. a. In the performance of projects pursuant to this act minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises shall be given the opportunity for meaningful participation. The agency shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the agency to assure that qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; HONORABLY DISCHARGED VETERAN BUSINESS ENTERPRISE SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority, HONORABLY DISCHARGED VETERAN or women-owned business enterprise to bid on any contract.

b. In the implementation of this section, the agency shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises, which may effectuate the requirements of this section. If the department or the office determines that by virtue of the imposition of the requirements of any such law, in respect to contracts, the provisions thereof duplicate or conflict with this act, the agency may waive the applicability of this section to the extent of such duplication or conflict.

c. Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises in programs authorized under this act be applied without regard to local circumstances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the agency shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to these contracts.

S 28. Paragraph (c) of subdivision 10 of section 16-a of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 477 of the laws of 2002, is amended to read as follows:

(c) of minority, HONORABLY DISCHARGED VETERAN or women-owned enterprises or enterprises owned by dislocated workers, such workers as defined in the Workforce Investment Act (P.L. 105-220); and

S 29. Section 16-c of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

S 16-c. [Minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program.

(1) [Minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program. (a) There is hereby created a [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program for the purpose of providing financial and technical assistance to minority, HONORABLY DISCHARGED VETERAN and women-entrepreneurs.

(b) For the purposes of this section the following words or terms shall mean as follows:

(i) "minority-owned business enterprise" or "minority-owned business" shall mean the same as "minority business enterprise" as defined in subdivision [three] 3 of section [two hundred ten] 210 of the economic development law.

(ii) "women-owned business enterprise" or "women-owned business" shall mean the same as "women-owned business enterprise" as defined in subdivision [five] 5 of section [two hundred ten] 210 of the economic development law.

(iii) "HONORABLY DISCHARGED VETERAN BUSINESS ENTERPRISE" SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW.

(IV) "incubator" shall mean a facility providing low-cost space, technical assistance and support services, including, but not limited to, central services shared by tenants of the facility, to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises.

(c) Assistance shall not be provided under this section for:

(i) the purchase or rehabilitation of real property for speculative purposes;

(ii) payment of any tax or employee benefit arrearage;

(iii) residential construction, renovation or development construction, except for assistance to minority, HONORABLY DISCHARGED VETERAN and women contractors under subdivision four of this section;

(iv) educational institutions and proprietary education firms, except licensed child care facilities;

(v) hospitals or residential health care facilities;

(vi) overnight lodging facilities;

(vii) refinancing of debt or equity invested in an enterprise or project.

(d) The corporation is authorized to:

(i) establish programs in conjunction with locally, and community based entities to decentralize lending for small loans and loans to start up [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

(ii) establish a comprehensive program for minority, HONORABLY DISCHARGED VETERAN and women contractors, which may include assistance through loans, bonding assistance and technical assistance;

(iii) establish a program to provide loans to established [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses and for [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, including loans to such businesses seeking to acquire or expand a franchise;

(iv) provide loan guarantees to financial institutions and make linked deposits into federally and state chartered credit unions for the purpose of encouraging private financial institutions to make loans to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

(v) establish a program to create incubators to assist small and high risk [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses to grow and prosper;

(vi) promote equity investment in [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses; and

(vii) establish a comprehensive technical assistance program in cooperation with the department of economic development to assist [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses and potential minority, HONORABLY DISCHARGED VETERAN and women-entrepreneurs.

(2) Minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund. For the purpose of establishing programs in conjunction with locally and community based entities to decentralize lending for small loans and loans to start up [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, the corporation shall establish minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund accounts and related administrative expenses trust fund accounts.

(a) Each minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account shall be administered by one or more of the following types of entities that provide services to community businesses and have as one of their primary purposes the provision of services and assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses:

(i) empire zone capital corporations established pursuant to section [nine hundred sixty-four] 964 of the general municipal law;

(ii) community-based local development corporations or industrial development agencies that serve a municipality in which an empire zone has been established pursuant to article [eighteen-B] 18-B of the general municipal law and have as their primary purpose assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses located or to be located in such empire zone; or

(iii) local and community development corporations, industrial development agencies, or other not-for-profit entities, representative of the community.

(b) To be eligible to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account, the entity must also: (i) have staff with sufficient expertise to analyze applications for financial assistance, to regularly monitor financial assistance to clients, and to provide management or technical assistance to clients; and (ii) have established a loan committee composed of six or more persons experienced in business management, commercial lending or in the operation of a for-profit business, at least one-half of whom shall be experienced in commercial lending, at least one-third of whom shall be minority persons and at least one-third of whom shall be women. Such loan committee shall review every application, determine the feasibility of the proposed project and the likelihood of repayment of the requested financing and shall recommend to the governing body of the entity such action on the application as the loan committee deems appropriate. The corporation shall identify entities eligible to administer minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund accounts through a competitive statewide request for proposal process.

(c) Any entity selected to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account shall be eligible to draw funds from the account as needed to provide the following types of financial assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses upon certification to and acceptance by the corporation that such assistance complies with rules and regulations promulgated by the corporation: (i) working capital loans, provided that the amount of the loan does not exceed thirty-five thousand dollars and the term of the loan does not exceed five years; and (ii) loans for the acquisition and/or improvement of real property and for the acquisition of machinery and equipment provided that the amount of the loan does not exceed fifty thousand dollars and the term of the loan does not exceed the useful life of the equipment or property.

(d) (i) Notwithstanding any provision of law to the contrary, the corporation may establish an administrative expenses trust fund account for the benefit of each entity selected to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account. The initial deposit of funds to an administrative expenses trust fund account shall be an amount determined by the corporation but shall not exceed twenty-five thousand dollars.

(ii) An entity selected to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account may use the funds in the administrative expenses trust fund account for costs incurred by it in the start up and administration of the financial assistance program authorized pursuant to this subdivision.

(iii) The corporation shall deposit into each administrative expenses trust fund account:

(A) all income earned from the moneys on deposit in the corresponding minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account during the first year of the entity's administration of said account; and

(B) beginning with its second year in administering a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account, said amounts may be used for costs incurred by the entity in administering the minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account; and

(C) repayments of interest on loans made from the corresponding minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account.

(iv) Funds from the administrative expenses trust fund account may be used for costs incurred at any time by an administering entity in its administration of a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account pursuant to this section.

(v) Funds deposited in an administrative expenses trust fund account shall be disbursed by the corporation to the entity that administers the corresponding minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account on a periodic basis and shall be expended by the entity in accordance with an annual budget and any updates of same, approved by the corporation.

(e) Any entity selected to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account shall pay to the corporation for deposit any repayments received in connection with financial assistance provided from its account. Payments consisting of the repayment of the principal amount of a loan shall be deposited by the corporation into the minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account from which the loan was made. The interest earned by the corporation from the investment of moneys in each minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account during and after the second year of a selected entity's administration of said account shall be deposited by the corporation into the corresponding minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account and used to provide the financial assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses as authorized pursuant to this section.

(f) The provisions of subdivisions eight, nine, and fourteen through nineteen of section sixteen-a of this act pertaining to the regional revolving loan trust fund shall also be applicable to the minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund, provided that: where the term "regional corporation" appears therein it shall be interpreted to mean an entity selected to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund account, and "regional revolving [loans] LOAN trust fund" shall mean a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund, and where the term "this section" appears therein it shall mean this section sixteen-c.

(g) The corporation may provide funds from an appropriation for the [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program to any entity selected to administer a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund for the purposes of recapitalizing such account and the entity's corresponding administrative expenses trust fund account following an evaluation by the corporation of the entity's administration and use of such accounts.

(h) Notwithstanding any provision of law to the contrary, the corporation shall establish a minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund to pay into such fund any moneys made available to the corporation for such fund from any source, including moneys appropriated by the state and any income earned by, or increment to, the account due to the investment thereof, or any repayment of moneys advanced from the fund. The corporation shall not commingle the moneys of such fund with any moneys held in trust by the corporation, except for investment purposes.

(3) Micro-loan program. (a) For the purposes of this subdivision "micro-loan" shall mean a loan of under seven thousand five hundred dollars.

(b) The corporation shall, pursuant to requests for proposals, enter into agreements for other types of locally, community or regionally administered loan programs than those set forth in subdivision two of this section, including micro-loan programs to be administered by local development corporations, local industrial development organizations, municipalities and not-for-profit organizations, to provide micro-loans to small and high risk [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses located within their respective service areas, provided that loan review committees are established by such administering entity, including women, HONORABLY DISCHARGED VETERAN and minority persons experienced in business management, business development, commercial lending, entrepreneurship, or in the operation of a for-profit business.

(c) Agreements entered into pursuant to paragraph (b) of this subdivision shall be governed by paragraphs (d) through (h) of subdivision two of this section, and minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund accounts and administrative expenses trust fund accounts shall be established in a similar fashion for entities selected to administer micro-loan funds pursuant to this subdivision.

(4) Minority, HONORABLY DISCHARGED VETERAN and women contracting program. For the purpose of establishing a comprehensive program to assist minority, HONORABLY DISCHARGED VETERAN and women contractors, the corporation may provide loans, loan guarantees, technical assistance and bonding assistance, the corporation may enter into cooperative agreements with cities, counties, municipalities, authorities, agencies, federally and state chartered credit unions in New York state and federally insured banking organizations and financial institutions for such purposes.

(a) To be eligible for a contractor loan, the borrower must have either (i) a construction contract with, or a contract to provide goods or services to, a governmental entity or authority, (ii) a subcontract on a government-sponsored construction contract, (iii) a contract or subcontract on a [government sponsored] GOVERNMENT-SPONSORED residential project, or (iv) a contract or subcontract on a construction project previously approved by the corporation pursuant to section ten of this act.

(b) The corporation shall provide technical assistance specifically oriented to minority, HONORABLY DISCHARGED VETERAN and women-owned government contractors as part of its comprehensive technical assistance program.

(c) The corporation is authorized to provide assistance through the creation of, or assistance to, a minority, HONORABLY DISCHARGED VETERAN and women bonding guarantee program to enable minority, HONORABLY DISCHARGED VETERAN and women contractors and subcontractors to meet payment or performance bonding requirements.

(i) Through such program, assistance in the form of working capital loans and loan guarantees pursuant to subdivision six of this section may also be provided to minority, HONORABLY DISCHARGED VETERAN and women contractors and subcontractors who have secured contracts by participating in the program.

(ii) The corporation shall either establish criteria for the bonding guarantee program and for any required escrow funds which shall include detailed provisions for eligibility; or if the corporation is providing assistance to a program other than one established by the corporation, review and approve the criteria established for such other program.

(5) Direct financial assistance for [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses. For the purpose of establishing a program to provide direct financial assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, the corporation is authorized to provide assistance in the form of:

(a) Business development loans and loan guarantees pursuant to subdivision six of this section to eligible enterprises for the acquisition or improvement of real property, machinery, equipment or working capital, provided that to be eligible for a business development loan, the borrowers must have been in business for at least three years and provided that the loans must be in an amount equal to or in excess of fifty thousand dollars;

(b) Franchise loans to eligible enterprises seeking to acquire or expand franchises of nationally recognized corporations, provided that disbursements by the corporation of such loans shall be conditioned on obtaining such franchises;

(c) Equity assistance for eligible minority, HONORABLY DISCHARGED VETERAN and women-owned enterprises to match equity contributions to such enterprises by financial institutions and community development equity capital funds, provided, however, that such assistance shall be targeted to start-up and early stage enterprises in the manufacturing, retail and service sectors located in economically distressed areas.

(6) Deposits and loan guarantees. For the purpose of encouraging private financial institutions to make loans to eligible enterprises pursuant to this section for any of the eligible projects pursuant to subdivisions four and five of this section, the corporation is authorized to:

(a) Make linked deposits of funds into federally and state chartered credit unions in New York state, in order to encourage such organizations to make small loans to minority, HONORABLY DISCHARGED VETERAN and women-owned businesses; and

(b) Provide loan guarantees to private financial institutions for loans made to eligible [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses pursuant to this subdivision for eligible projects, provided that the guarantee shall be at least fifty percent backed by funds of the corporation. Any such loan guaranteed by the corporation shall be made to borrowers that are approved by the corporation and substantially meet the underwriting criteria the credit union or financial institution customarily applies to similar borrowers for similar loans supported by similar guarantees, and no guaranteed loan funds shall be disbursed until the corporation has received, reviewed and concurred, in writing, with the recommendation of the credit union or banking or financial institution to make a loan.

(7) Minority, HONORABLY DISCHARGED VETERAN and women small business incubator program.

(a) The corporation shall establish a minority and women small business incubator program for the purpose of providing financial support for the creation of incubators to nurture minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises with growth potential.

(b) Under this subdivision the corporation is authorized to provide low-interest loans and grants for construction financing and permanent financing of up to seventy-five percent of project costs up to a maximum of six hundred fifty thousand dollars per project, provided that the total amount of grant assistance provided pursuant to this paragraph shall not exceed twenty percent of an appropriation provided for the purposes of this section.

(c) Incubator projects eligible for such assistance shall involve the renovation or reconstruction of existing facilities or the acquisition of equipment, except that construction shall be allowable in cases in which an applicant can demonstrate to the satisfaction of the corporation that an existing facility is unavailable in the area to be served by the new incubator facility.

(d) Incubator projects are not eligible to receive loans for the purpose of covering operating costs or supplying incubator support services, except that incubators in their first eighteen months of operation may receive one-time grants not to exceed forty thousand dollars, which costs may include administrative costs of employing a resident administrator/advisor to the incubator, provided that the corporation shall not expend a sum greater than two hundred fifty thousand dollars in any one state fiscal year, or so much as may be specifically appropriated for this purpose.

(e) Eligible incubator projects shall be required to demonstrate to the corporation's satisfaction:

(i) public or private support and involvement sufficient to complete the renovation of existing facilities or the construction of new facilities and the acquisition of equipment;

(ii) significant community support for the project;

(iii) the existence of prospective tenants for such incubator space;

(iv) demand for such incubator space, which may include evidence of the unavailability of suitable space for prospective tenants at appropriate rental or lease costs in the community in which such prospective tenants are located; and

(v) the inability of the project to occur without financial assistance from the corporation.

(f) The corporation shall establish criteria for eligibility for funding for incubator projects, including but not limited to the following:

(i) the project must be designed to provide low-cost space and support services to incubator tenants, coordination with other sources of assistance and flexible leasing arrangements for tenants;

(ii) the project sponsors must provide a management plan and a business plan for operating the incubator satisfactory to the corporation; and

(iii) the project gives preference for incubator space and assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses which currently receive, or have received, assistance from the corporation pursuant to this section and to incubator projects proposed to be located in economically distressed areas.

(8) [Minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business technical assistance program. (a) The corporation shall establish a comprehensive technical assistance program within the minority, HONORABLY DISCHARGED VETERAN and women business development office, in cooperation with the department of economic development's division of [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-business development established pursuant to article [four-A] 4-A of the economic development law, to provide technical assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises and to prospective [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-business entrepreneurs through third party service providers, which assistance shall include, but not be limited to:

(i) technical assistance in development and execution of business plans, including the formation of, acquisition of, management of, or

diversification of a [minority-] MINORITY, HONORABLY DISCHARGED VETERAN or women-owned business enterprise;

(ii) technical assistance with applications for obtaining funds from public and private financing sources;

(iii) technical assistance in the development of a working capital budget;

(iv) referrals to other providers of technical assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses and minority, HONORABLY DISCHARGED VETERAN and women entrepreneurs, where appropriate, including the entrepreneurial assistance program established pursuant to article [nine] 9 of the economic development law; and

(v) technical assistance through education programs directed primarily at women, HONORABLY DISCHARGED VETERAN and minority entrepreneurs.

(b) Technical assistance may be provided through direct corporate support, through grants to or contracts with service providers or governmental entities, and [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises and individuals.

(9) Priorities. The corporation shall give priority to applications for assistance pursuant to this section in which the business seeking such assistance indicates a commitment to first consider persons eligible to participate in federal job training partnership act (P.L. 97-300) programs.

(10) Non-application of certain provisions. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance or projects authorized pursuant to this section.

(11) Rules and regulations. The corporation shall, assisted by the commissioner of economic development and in consultation with the department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act. Such rules and regulations shall be consistent with the program plan required by subdivision [nineteen] 19 of section [one hundred] 100 of the economic development law. No funds shall be disbursed under this program until such rules and regulations have been reviewed and approved by the corporation. All assistance and projects funded under this program shall be funded in accordance with the rules and regulations in effect on the date the completed application for such assistance shall be received by the corporation.

(12) Minority, HONORABLY DISCHARGED VETERAN and women business development and lending account. Notwithstanding any provision of law to the contrary, the corporation shall establish within the treasury of the corporation a minority, HONORABLY DISCHARGED VETERAN and women business development and lending account, and shall pay into such account any moneys which may be made available to the corporation for this purpose from any source including, but not limited to, moneys appropriated by the state and any repayment of principal and interest on loans made by the corporation pursuant to the [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program. Funds in the minority, HONORABLY DISCHARGED VETERAN and women business development and lending account, including funds from the repayment of principal and interest on loans made by the corporation, may be used for any form of assistance authorized hereunder. The amounts deposited in the minority, HONORABLY DISCHARGED VETERAN and women business development and lending account may not be interchanged with any other account, but may be commingled with any other account for investment purposes. All loans disbursed by the corporation shall be repaid

into the account. The corporation shall enter into a written agreement with the director of the budget for repayment, to the state comptroller to the credit of the capital projects fund, of all moneys in the account after a period of time to be determined by the corporation and the director of the budget. The corporation shall transfer to the minority, HONORABLY DISCHARGED VETERAN and women business development and lending account: all moneys appropriated or reappropriated by New York state for the minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund that have not been committed prior to the effective date of the appropriation for the program in the current fiscal year, or become uncommitted subsequent to the effective date of the program's appropriation for the current fiscal year; and all repayments of principal and interest on loans made by the corporation which are currently on deposit in, or payable to, the minority, HONORABLY DISCHARGED VETERAN and women business development and lending account.

(13) Standardization. The corporation shall streamline the review and approval process for projects and wherever possible standardize all relevant attendant documentation and legal documents.

(14) Approval cycle. The corporation shall approve eligible loans or grants on at least a four-month cycle and shall give priority consideration to the comparative degree of economic distress within the areas in which the project is located. Other factors to be considered by the corporation shall include the impact of the project on the employment and economic condition of the community and the financial feasibility of the project.

(15) Repayment. Notwithstanding the provisions of section [forty-a] 40-A of the state finance law and any other general or special law, no written agreement under this program shall require repayment at any time or on any terms inconsistent with the provisions of this act or the New York state project finance agency act; except, however, that the corporation may make grants to projects using funds appropriated for this purpose and that the repayment provision may not apply to such grants.

(16) Reports. The chairman of the corporation shall submit to the director of the budget, the speaker of the assembly and the temporary president of the senate an evaluation of the effectiveness of the program prepared by an entity independent of the corporation. The corporation shall select the program evaluator through a request for proposal process. Such evaluation shall determine whether the assistance provided has enhanced the economic condition of assisted companies or communities, and shall make recommendation for improvements which would make the program more effective. Such evaluation shall be submitted by September first, nineteen hundred ninety-five and September first every two years thereafter.

S 30. Subparagraphs (viii) and (x) of paragraph (e) of subdivision 7 of section 16-d of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, are amended to read as follows:

(viii) export, marketing, procurement and subcontracting assistance to small and medium-sized industrial firms, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, and to flexible manufacturing networks, and programs to assist regional and multi-county business marketing and procurement programs;

(x) business planning, management assistance and counseling, and financial packaging assistance to small and medium-sized industrial firms, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, flexible manufacturing networks, and new enter-

prises and small businesses, including the establishment of neighborhood-based business service centers designed to deliver comprehensive technical assistance to new and small businesses in specific communities and neighborhoods;

S 31. Clause (B) of subparagraph (i) of paragraph (h) of subdivision 8 of section 16-d of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(B) community based local development corporations, industrial development agencies, or other not-for-profit entities which serve a municipality in which an empire zone has been established and which, as one of their primary purposes, provide services and assistance to business enterprises located or to be located in such empire zone, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 32. Subparagraph (vi) of paragraph (c) of subdivision 10 of section 16-e of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, is amended to read as follows:

(vi) management and procurement assistance to small business, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 33. Paragraph (d) of subdivision 18 of section 16-e of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, is amended to read as follows:

(d) The participation of [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 34. The opening paragraph, paragraph (a) and the opening paragraph and subparagraph (iv) of paragraph (b) of subdivision 1 of section 16-f of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, are amended to read as follows:

There is hereby created a state bonding guarantee assistance program to enable small businesses, [and] minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises, certified as a minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise pursuant to article [fifteen-A] 15-A of the executive law, to meet payment and/or performance bonding requirements by providing additional financial backing needed to induce a surety company to issue a bond for construction projects, including but not limited to, government sponsored, transportation related construction projects. For purposes of this section, the term small business shall have the same meaning as defined in section [one hundred thirty-one] 131 of the economic development law. Such program shall give preference to minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises and shall:

(a) Make available funds to surety companies providing bonds to small businesses [and minority- owned], MINORITY-OWNED, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprises in an amount equal to a percentage not to exceed fifty percent of the face value of bonds issued by the surety.

Provide technical assistance in completing bonding applications for small businesses [and], minority-owned, HONORABLY DISCHARGED

VETERAN-OWNED or women-owned business enterprises seeking to become eligible for bonding in preparation for bidding on construction projects, including transportation related projects. The corporation shall provide and may refer such businesses to the department of economic development for technical assistance as such businesses may need, including but not limited to:

(iv) assistance from the regional offices of the department of economic development, pursuant to article [eleven] 11 of the economic development law, and the entrepreneurial assistance program, pursuant to article [nine] 9 of such law, and any other such program receiving state funds from this act or the department of economic development or any other state agency that is intended to provide technical assistance to small businesses [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned small business enterprises.

S 35. Paragraph (g) of subdivision 1 of section 16-i of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 471 of the laws of 2001, is amended to read as follows:

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

S 36. Subparagraph (i) of paragraph (c) of subdivision 2 of section 16-k of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 103 of the laws of 2011, is amended to read as follows:

(i) provide a plan to the corporation or its agent for the marketing of the capital access program to small businesses, including those in highly distressed areas and to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, with appropriate lending objectives identified by the financial institution for such areas and businesses;

S 37. Paragraph (g) of subdivision 1 of section 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 1 of part N of chapter 84 of the laws of 2002, is amended to read as follows:

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

S 38. Paragraph 1 of subdivision (c) of section 30 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 732 of the laws of 1990, is amended to read as follows:

(1) In addition to any other requirements imposed by the act or otherwise regarding evaluations of programs administered by the corporation, each evaluation shall include an analysis of the job creation effect of such program, the number of small businesses that received assistance, the number of minority, HONORABLY DISCHARGED VETERAN and women-owned firms that received assistance, the number of projects undertaken in

distressed and highly distressed communities, and, if applicable, the repayment experience of borrowers of funds from the corporation.

S 39. Paragraph 2 of subdivision (e) of section 30-a of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 2 of part M1 of chapter 62 of the laws of 2003, is amended to read as follows:

(2) require projects to be financed out of the empire state economic development fund be approved generally in amounts which are proportional to amounts appropriated for the urban and community development program, and the minority, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program;

S 40. The section heading, the opening paragraph of subdivision 1, the opening paragraph of subdivision 2, paragraph (a) of subdivision 3 and subdivisions 4 and 5 of section 38 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 169 of the laws of 1994, are amended to read as follows:

Small business [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises transportation capital assistance and guaranteed loan program.

To provide financial assistance to small business [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises engaged in government sponsored, transportation related construction projects, the corporation shall establish a small business [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprise transportation capital assistance revolving loan fund which shall provide loans or loan guarantees to small business [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises. For purposes of this section:

Such loans, or loan guarantees for loans made by federally and state chartered credit institutions, financial institutions, and federally insured banking organizations to small business [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises, shall be used to:

(a) To be eligible for such loans or loan guarantees (i) a minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise must be certified as a minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise pursuant to article 15-A of the executive law; and (ii) a small business or a minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise shall have a contract or sub-contract to provide goods or services related to a government sponsored, transportation related construction project.

4. The corporation shall give preference to minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises in making such loans and loan guarantees and shall establish such other criteria as it may deem necessary for this program and for any required amount that shall be held in reserve for any guarantees made under this program.

5. Notwithstanding any inconsistent provision of law, general, special or local, including pursuant to capital projects budget appropriations or reappropriations, where applicable, the corporation is hereby authorized to enter into such agreements as may be necessary for the operation and administration of a small business [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises transportation capital assistance and guaranteed loan program.

S 41. This act shall take effect immediately; provided, however, that the amendments to article 15-A of the executive law made by sections two through six of this act shall not affect the expiration of such article and shall be deemed to expire therewith; and provided, further that the amendments to section 136-b of the state finance law made by section seven of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and provided further that the amendments to sections 16-i and 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, made by sections thirty-five and thirty-seven, respectively, of this act shall not affect the expirations of such sections and shall be deemed to expire therewith.