

2383

2013-2014 Regular Sessions

I N A S S E M B L Y

January 14, 2013

Introduced by M. of A. MAGNARELLI, SWEENEY, GALEF, SCHIMEL, ZEBROWSKI, ORTIZ -- Multi-Sponsored by -- M. of A. ABBATE, BARCLAY, BOYLAND, CAHILL, CASTRO, CERETTO, COLTON, COOK, CROUCH, CURRAN, DUPREY, ESPINAL, FINCH, GIGLIO, GOTTFRIED, GRAF, GUNTHER, HAWLEY, JOHNS, KELLNER, LAVINE, P. LOPEZ, LUPARDO, MAGEE, McKEVITT, McLAUGHLIN, MILLMAN, MONTESANO, OAKS, PEOPLES-STOKES, RA, RAIA, ROBERTS, SALADINO, SCARBOROUGH, SCHIMMINGER, SIMANOWITZ, STEVENSON, THIELE, TITONE, WEISENBERG -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the executive law, the state finance law, the arts and cultural affairs law, the economic development law, the energy law, the environmental conservation law, the labor law, the public authorities law, the general municipal law, the banking law, the racing, pari-mutuel wagering and breeding 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 service connected disabled veteran owned business enterprises

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "service connected disabled veteran owned business enterprise act".
3 S 2. Subdivisions 1, 5, 6 and 7 of section 4-a of the executive law,
4 as added by chapter 175 of the laws of 2010, are amended to read as
5 follows:
6 1. Advise and assist the governor in formulating policies relating to
7 workforce diversity and minority, SERVICE CONNECTED DISABLED VETERANS
8 and women's business enterprises;
9 5. Serve as the governor's liaison with organizations representing
10 minority, SERVICE CONNECTED DISABLED VETERANS and women-owned business
11 enterprises and other organizations related to diversity in the state
12 workforce and in state contracting;

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

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6. Serve as the governor's liaison to the small business advisory council for issues related to the creation of a diverse workforce and state procurement practices relating to minority, SERVICE CONNECTED DISABLED VETERANS and women-owned business enterprises;

7. Review and consult with the director of minority and women's business development regarding policies relating to minority, SERVICE CONNECTED DISABLED VETERANS and women-owned business enterprise contract specialists at state agencies; and

S 3. 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, SERVICE CONNECTED DISABLED VETERANS AND WOMEN WITH RESPECT TO STATE CONTRACTS

S 4. 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, SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise pursuant to section three hundred fourteen of this article.

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

23. "SERVICE CONNECTED DISABLED 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 SERVICE CONNECTED DISABLED VETERANS;

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

(C) AN ENTERPRISE IN WHICH SUCH SERVICE CONNECTED DISABLED 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) SERVICE CONNECTED DISABLED VETERAN SHALL MEAN A PERSON (I) 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, (II) HAS BEEN AWARDED A DISABILITY RATING OF FORTY PERCENT OR HIGHER FROM THE FEDERAL VETERAN'S ADMINISTRATION OR FROM THE UNITED STATES DEPARTMENT OF DEFENSE, WHERE THAT DISABILITY WAS INCURRED IN LINE OF DUTY IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE, 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 AS FOLLOWS:

(I) THE INDIVIDUAL IN QUESTION WAS A RECIPIENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, THE NAVY EXPEDITIONARY MEDAL OR THE MARINE CORPS EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATIONS IN LEBANON FROM JUNE FIRST, NINETEEN HUNDRED EIGHTY-THREE TO DECEMBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN, IN GRENADA FROM OCTOBER TWENTY-THIRD, NINETEEN HUNDRED EIGHTY-THREE TO NOVEMBER TWENTY-FIRST, NINETEEN HUNDRED EIGHTY-THREE, OR IN PANAMA FROM DECEMBER TWENTIETH, NINETEEN HUNDRED EIGHTY-NINE TO JANUARY THIRTY-FIRST, NINETEEN HUNDRED NINETY; OR

(II) THE INDIVIDUAL SERVED ON ACTIVE DUTY FOR NINETY DAYS OR MORE IN THE ARMED FORCES OF THE UNITED STATES DURING ANY ONE OF THE FOLLOWING WARS OR HOSTILITIES:

(1) IN THE SPANISH-AMERICAN WAR FROM THE TWENTY-FIRST DAY OF APRIL, EIGHTEEN HUNDRED NINETY-EIGHT TO THE ELEVENTH DAY OF APRIL, EIGHTEEN HUNDRED NINETY-NINE, INCLUSIVE;

(2) IN THE PHILIPPINE INSURRECTION OR THE CHINA RELIEF EXPEDITION FROM THE ELEVENTH DAY OF APRIL, EIGHTEEN HUNDRED NINETY-NINE TO THE FOURTH DAY OF JULY, NINETEEN HUNDRED TWO, INCLUSIVE;

(3) IN THE MEXICAN BORDER CAMPAIGN FROM THE NINTH DAY OF MAY, NINETEEN HUNDRED SIXTEEN, TO THE FIFTH DAY OF APRIL, NINETEEN HUNDRED SEVENTEEN, INCLUSIVE;

(4) IN WORLD WAR I FROM THE SIXTH DAY OF APRIL, NINETEEN HUNDRED SEVENTEEN TO THE ELEVENTH DAY OF NOVEMBER, NINETEEN HUNDRED EIGHTEEN, INCLUSIVE;

(5) IN WORLD WAR II FROM THE SEVENTH DAY OF DECEMBER, NINETEEN HUNDRED FORTY-ONE TO THE THIRTY-FIRST DAY OF DECEMBER, NINETEEN HUNDRED FORTY-SIX, INCLUSIVE;

(6) IN THE KOREAN HOSTILITIES FROM THE TWENTY-SEVENTH DAY OF JUNE, NINETEEN HUNDRED FIFTY TO THE THIRTY-FIRST DAY OF JANUARY, NINETEEN HUNDRED FIFTY-FIVE, INCLUSIVE;

(7) IN THE VIETNAM CONFLICT FROM THE TWENTY-SECOND DAY OF DECEMBER, NINETEEN HUNDRED SIXTY-ONE TO THE SEVENTH DAY OF MAY, NINETEEN HUNDRED SEVENTY-FIVE, INCLUSIVE; OR

(8) IN THE PERSIAN GULF CONFLICT FROM THE SECOND DAY OF AUGUST, NINETEEN HUNDRED NINETY TO THE END OF SUCH CONFLICT.

S 5. 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, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises.

(a) to encourage and assist contracting agencies in their efforts to increase participation by minority, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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 6. 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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

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

4 1-a. The director shall ensure that each state agency has been
5 provided with a copy of the two thousand ten disparity study.

6 1-b. Each agency shall develop and adopt agency-specific goals based
7 on the findings of the two thousand ten disparity study.

8 2. The director shall promulgate rules and regulations pursuant to the
9 goals established in subdivision one of this section that provide meas-
10 ures and procedures to ensure that certified minority, SERVICE CONNECTED
11 DISABLED VETERAN and women-owned businesses shall be given the opportu-
12 nity for maximum feasible participation in the performance of state
13 contracts and to assist in the agency's identification of those state
14 contracts for which minority, SERVICE CONNECTED DISABLED VETERAN and
15 women-owned certified businesses may best bid to actively and affirma-
16 tively promote and assist their participation in the performance of
17 state contracts so as to facilitate the agency's achievement of the
18 maximum feasible portion of the goals for state contracts to such busi-
19 nesses.

20 2-a. The director shall promulgate rules and regulations that will
21 accomplish the following:

22 (a) provide for the certification and decertification of minority,
23 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises
24 for all agencies through a single process that meets applicable require-
25 ments;

26 (b) require that each contract solicitation document accompanying each
27 solicitation set forth the expected degree of minority, SERVICE
28 CONNECTED DISABLED VETERAN and women-owned business enterprise partic-
29 ipation based, in part, on:

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

32 (ii) the availability, as contained within the study, of certified
33 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
34 enterprises to respond competitively to the potential subcontract oppor-
35 tunities;

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

38 (d) allow a contractor that is a certified minority-owned, SERVICE
39 CONNECTED DISABLED VETERAN-OWNED or women-owned business enterprise to
40 use the work it performs to meet requirements for use of certified
41 minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned
42 business enterprises as subcontractors;

43 (e) provide for joint ventures, which a bidder may count toward meet-
44 ing its minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
45 business enterprise participation;

46 (f) consistent with subdivision six of this section, provide for
47 circumstances under which an agency may waive obligations of the
48 contractor relating to minority, SERVICE CONNECTED DISABLED VETERAN and
49 women-owned business enterprise participation;

50 (g) require that an agency verify that minority, SERVICE CONNECTED
51 DISABLED VETERAN and women-owned business enterprises listed in a
52 successful bid are actually participating to the extent listed in the
53 project for which the bid was submitted;

54 (h) provide for the collection of statistical data by each agency
55 concerning actual minority, SERVICE CONNECTED DISABLED VETERAN and
56 women-owned business enterprise participation; and

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

4 3. Solely for the purpose of providing the opportunity for meaningful
5 participation by certified businesses in the performance of state
6 contracts as provided in this section, state contracts shall include
7 leases of real property by a state agency to a lessee where: the terms
8 of such leases provide for the construction, demolition, replacement,
9 major repair or renovation of real property and improvements thereon by
10 such lessee; and the cost of such construction, demolition, replacement,
11 major repair or renovation of real property and improvements thereon
12 shall exceed the sum of one hundred thousand dollars. Reports to the
13 director pursuant to section three hundred fifteen of this article shall
14 include activities with respect to all such state contracts. Contracting
15 agencies shall include or require to be included with respect to state
16 contracts for the acquisition, construction, demolition, replacement,
17 major repair or renovation of real property and improvements thereon,
18 such provisions as may be necessary to effectuate the provisions of this
19 section in every bid specification and state contract, including, but
20 not limited to: (a) provisions requiring contractors to make a good
21 faith effort to solicit active participation by enterprises identified
22 in the directory of certified businesses provided to the contracting
23 agency by the office; (b) requiring the parties to agree as a condition
24 of entering into such contract, to be bound by the provisions of section
25 three hundred sixteen of this article; and (c) requiring the contractor
26 to include the provisions set forth in paragraphs (a) and (b) of this
27 subdivision in every subcontract in a manner that the provisions will be
28 binding upon each subcontractor as to work in connection with such
29 contract. Provided, however, that no such provisions shall be binding
30 upon contractors or subcontractors in the performance of work or the
31 provision of services that are unrelated, separate or distinct from the
32 state contract as expressed by its terms, and nothing in this section
33 shall authorize the director or any contracting agency to impose any
34 requirement on a contractor or subcontractor except with respect to a
35 state contract.

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

39 (b) implement a program that will enable the agency to evaluate each
40 contract to determine the appropriateness of the goal pursuant to subdi-
41 vision one of this section;

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

44 (d) consider compliance with the requirements of any federal law
45 concerning opportunities for minority, SERVICE CONNECTED DISABLED VETER-
46 AN and women-owned business enterprises which effectuates the purpose of
47 this section. The contracting agency shall determine whether the imposi-
48 tion of the requirements of any such law duplicate or conflict with the
49 provisions hereof and if such duplication or conflict exists, the
50 contracting agency shall waive the applicability of this section to the
51 extent of such duplication or conflict.

52 5. (a) Contracting agencies shall administer the rules and regulations
53 promulgated by the director in a good faith effort to meet the maximum
54 feasible portion of the agency's goals adopted pursuant to this article
55 and the regulations of the director. Such rules and regulations: shall
56 require a contractor to submit a utilization plan after bids are opened,

1 when bids are required, but prior to the award of a state contract;
2 shall require the contracting agency to review the utilization plan
3 submitted by the contractor and to post the utilization plan and any
4 waivers of compliance issued pursuant to subdivision six of this section
5 on the website of the contracting agency within a reasonable period of
6 time as established by the director; shall require the contracting agen-
7 cy to notify the contractor in writing within a period of time specified
8 by the director as to any deficiencies contained in the contractor's
9 utilization plan; shall require remedy thereof within a period of time
10 specified by the director; shall require the contractor to submit peri-
11 odic compliance reports relating to the operation and implementation of
12 any utilization plan; shall not allow any automatic waivers but shall
13 allow a contractor to apply for a partial or total waiver of the minori-
14 ty, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-
15 prise participation requirements pursuant to subdivisions six and seven
16 of this section; shall allow a contractor to file a complaint with the
17 director pursuant to subdivision eight of this section in the event a
18 contracting agency has failed or refused to issue a waiver of the minor-
19 ity, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-
20 prise participation requirements or has denied such request for a waiv-
21 er; and shall allow a contracting agency to file a complaint with the
22 director pursuant to subdivision nine of this section in the event a
23 contractor is failing or has failed to comply with the minority, SERVICE
24 CONNECTED DISABLED VETERAN and women-owned business enterprise partic-
25 ipation requirements set forth in the state contract where no waiver has
26 been granted.

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

37 (c) Without limiting other grounds for the disqualification of bids or
38 proposals on the basis of non-responsibility, a contracting agency may
39 disqualify the bid or proposal of a contractor as being non-responsible
40 for failure to remedy notified deficiencies contained in the contrac-
41 tor's utilization plan within a period of time specified in regulations
42 promulgated by the director after receiving notification of such defi-
43 ciencies from the contracting agency. Where failure to remedy any noti-
44 fied deficiency in the utilization plan is a ground for disqualifica-
45 tion, that issue and all other grounds for disqualification shall be
46 stated in writing by the contracting agency. Where the contracting agen-
47 cy states that a failure to remedy any notified deficiency in the utili-
48 zation plan is a ground for disqualification the contractor shall be
49 entitled to an administrative hearing, on a record, involving all
50 grounds stated by the contracting agency. Such hearing shall be
51 conducted by the appropriate authority of the contracting agency to
52 review the determination of disqualification. A final administrative
53 determination made following such hearing shall be reviewable in a
54 proceeding commenced under article seventy-eight of the civil practice
55 law and rules, provided that such proceeding is commenced within thirty
56 days of the notice given by certified mail return receipt requested

1 rendering such final administrative determination. Such proceeding shall
2 be commenced in the supreme court, appellate division, third department
3 and such proceeding shall be preferred over all other civil causes
4 except election causes, and shall be heard and determined in preference
5 to all other civil business pending therein, except election matters,
6 irrespective of position on the calendar. Appeals taken to the court of
7 appeals of the state of New York shall be subject to the same prefer-
8 ence.

9 6. Where it appears that a contractor cannot, after a good faith
10 effort, comply with the minority, SERVICE CONNECTED DISABLED VETERAN and
11 women-owned business enterprise participation requirements set forth in
12 a particular state contract, a contractor may file a written application
13 with the contracting agency requesting a partial or total waiver of such
14 requirements setting forth the reasons for such contractor's inability
15 to meet any or all of the participation requirements together with an
16 explanation of the efforts undertaken by the contractor to obtain the
17 required minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
18 business enterprise participation. In implementing the provisions of
19 this section, the contracting agency shall consider the number and types
20 of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
21 enterprises located in the region in which the state contract is to be
22 performed, the total dollar value of the state contract, the scope of
23 work to be performed and the project size and term. If, based on such
24 considerations, the contracting agency determines there is not a reason-
25 able availability of contractors on the list of certified business to
26 furnish services for the project, it shall issue a waiver of compliance
27 to the contractor. In making such determination, the contracting agency
28 shall first consider the availability of other business enterprises
29 located in the region and shall thereafter consider the financial abili-
30 ty of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
31 nesses located outside the region in which the contract is to be
32 performed to perform the state contract.

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

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

43 (ii) whether certified businesses which have been solicited by the
44 contractor have responded in a timely fashion to the contractor's solici-
45 tations for timely competitive bid quotations prior to the contracting
46 agency's bid date; and

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

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

54 8. In the event that a contracting agency fails or refuses to issue a
55 waiver to a contractor as requested within twenty days after having made
56 application therefor pursuant to subdivision six of this section or if

1 the contracting agency denies such application, in whole or in part, the
2 contractor may file a complaint with the director pursuant to section
3 three hundred sixteen of this article setting forth the facts and
4 circumstances giving rise to the contractor's complaint together with a
5 demand for relief. The contractor shall serve a copy of such complaint
6 upon the contracting agency by personal service or by certified mail,
7 return receipt requested. The contracting agency shall be afforded an
8 opportunity to respond to such complaint in writing.

9 9. If, after the review of a contractor's minority, SERVICE CONNECTED
10 DISABLED VETERAN and [women owned] WOMEN-OWNED business utilization plan
11 or review of a periodic compliance report and after such contractor has
12 been afforded an opportunity to respond to a notice of deficiency issued
13 by the contracting agency in connection therewith, it appears that a
14 contractor is failing or refusing to comply with the minority, SERVICE
15 CONNECTED DISABLED VETERAN and women-owned business participation
16 requirements as set forth in the state contract and where no waiver from
17 such requirements has been granted, the contracting agency may file a
18 written complaint with the director pursuant to section three hundred
19 sixteen of this article setting forth the facts and circumstances giving
20 rise to the contracting agency's complaint together with a demand for
21 relief. The contracting agency shall serve a copy of such complaint
22 upon the contractor by personal service or by certified mail, return
23 receipt requested. The contractor shall be afforded an opportunity to
24 respond to such complaint in writing.

25 S 7. Section 317 of the executive law, as added by chapter 261 of the
26 laws of 1988, is amended to read as follows:

27 S 317. Superseding effect of article with respect to state law. The
28 provisions of this article shall supersede any other provision of state
29 law, which expressly implements or mandates an equal employment opportu-
30 nity program or a program for securing participation by minority,
31 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises,
32 concerning action to be taken by any party to a state contract, to which
33 the provisions of this article apply; provided, however, that the
34 provisions of any state law, not as hereinabove superseded, which
35 expressly implement or mandate such programs shall remain unimpaired by
36 the provisions of this article, except that the provisions of any such
37 law shall be construed as if the provisions of subdivisions five, six,
38 seven and eight of section three hundred thirteen and section three
39 hundred sixteen of this article were fully set forth therein and made
40 applicable only to complaints of violations under such provisions of law
41 occurring on or after September first, nineteen hundred eighty-eight;
42 provided, further, that nothing contained in this article shall be
43 construed to limit, impair, or otherwise restrict any state agency's
44 authority or discretionary power in effect prior to the enactment of
45 this article to establish or continue, by rule, regulation or resol-
46 ution, an equal opportunity program or a program for securing partic-
47 ipation of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
48 business enterprises with regard to banking relationships, the issuance
49 of insurance policies or contracts for the sale of bonds, notes or other
50 securities; and, provided further, that nothing contained in the imme-
51 diately preceding proviso shall be construed to create, impair, alter,
52 limit, modify, enlarge, abrogate or restrict any agency's authority or
53 discretionary power with respect to an equal opportunity program or a
54 program for securing participation of minority, SERVICE CONNECTED DISA-
55 BLED VETERAN and women-owned enterprises.

1 S 8. Section 136-b of the state finance law, as added by chapter 261
2 of the laws of 1988, is amended to read as follows:

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

13 S 9. Paragraphs (b) and (d) of subdivision 2 of section 139-i of the
14 state finance law, as amended by chapter 531 of the laws of 1993, are
15 amended to read as follows:

16 (b) include in all bid documents provided to potential bidders a
17 statement that information concerning the availability of New York state
18 subcontractors and suppliers is available from the New York state
19 department of economic development, which shall include the directory of
20 certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
21 businesses, and it is the policy of New York state to encourage the use
22 of New York state subcontractors and suppliers, and to promote the
23 participation of minority, SERVICE CONNECTED DISABLED VETERAN and
24 women-owned businesses, where possible, in the procurement of goods and
25 services.

26 (d) adopt policies to promote the participation by New York state
27 business enterprises and New York state residents in procurement
28 contracts, with the cooperation of the department of economic develop-
29 ment and the community services division of the department of labor
30 including, but not limited to, providing through cooperative efforts
31 with contractors for the notification of New York state business enter-
32 prises of opportunities to participate as subcontractors and suppliers
33 on procurement contracts in an amount estimated to be equal to or great-
34 er than one million dollars and for the notification of New York state
35 residents of employment opportunities arising in New York state out of
36 procurement contracts in an amount estimated to be equal to or greater
37 than one million dollars; and promulgating procedures which will assure
38 compliance by contractors with such notification. Once awarded the
39 contract, such contractors shall document their efforts to encourage the
40 participation of New York state business enterprises as suppliers and
41 subcontractors on procurement contracts equal to or greater than one
42 million dollars. Documented efforts by a successful contractor shall
43 consist of and be limited to showing that such contractor has [(a)] (I)
44 solicited bids, in a timely and adequate manner, from New York state
45 business enterprises including certified minority, SERVICE CONNECTED
46 DISABLED VETERAN and women-owned business, or [(b)] (II) contacted the
47 New York state department of economic development to obtain listings of
48 New York state business enterprises, or [(c)] (III) placed notices for
49 subcontractors and suppliers in newspapers, journals and other trade
50 publications distributed in New York state, or [(d)] (IV) participated
51 in bidder outreach conferences. If the contractor determines that New
52 York state business enterprises are not available to participate on the
53 contract as subcontractors or suppliers, the contractor shall provide a
54 statement indicating the method by which such determination was made. If
55 the contractor does not intend to use subcontractors on the contract,
56 the contractor shall provide a statement verifying such intent. Such

1 contractors shall also provide notification to New York state residents
2 of employment opportunities through listing any such positions with the
3 community services division, or providing for such notification in such
4 manner as is consistent with existing collective bargaining contracts or
5 agreements. On or before the effective date of this section, each state
6 agency or department shall submit such policies to the division of the
7 budget and copies thereof to the department of audit and control, the
8 department of economic development, the senate finance committee and the
9 assembly ways and means committee.

10 S 10. Subdivision 5, paragraph (e) of subdivision 11, paragraph (e) of
11 subdivision 12 and paragraph (a) of subdivision 16 of section 213 of the
12 state finance law, subdivision 5, paragraph (e) of subdivision 11 and
13 paragraph (e) of subdivision 12 as added by chapter 705 of the laws of
14 1993 and paragraph (a) of subdivision 16 as amended by chapter 424 of
15 the laws of 2009, are amended to read as follows:

16 5. "Certified [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN
17 or women-owned business" means any [minority-] MINORITY, SERVICE
18 CONNECTED DISABLED VETERAN or women-owned business enterprise as defined
19 in section three hundred ten of the executive law and certified pursuant
20 to section three hundred fourteen of the executive law.

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

25 (e) for certified [minority-] MINORITY, SERVICE CONNECTED DISABLED
26 VETERAN and women-owned businesses, projects to provide financing neces-
27 sary to carry out a procurement contract with an agency or authority or
28 other entity of the state or federal government.

29 (a) for a linked deposit made in connection with a linked loan to a
30 certified business in an empire zone or to an eligible business located
31 in a highly distressed area or to an eligible business that is defined
32 in paragraph (b-1) of subdivision eleven of this section that is located
33 in a renewal community or defined in paragraph (b-2) of such subdivision
34 that is located in an empowerment zone or defined in paragraph (b-3) of
35 such subdivision that is located in an enterprise community, respective-
36 ly for eligible projects defined in paragraph (c) of subdivision twelve
37 of this section or a certified [minority-] MINORITY, SERVICE CONNECTED
38 DISABLED VETERAN or women-owned business enterprise for an eligible
39 project defined in paragraph (e) of subdivision twelve of this section
40 or to a defense industry manufacturer for a project defined in paragraph
41 (d) of subdivision twelve of this section, a fixed rate of interest
42 which is three hundred basis points below the lender's posted four year
43 certificate of deposit rate or, if the lender does not offer a four year
44 certificate of deposit, is three hundred basis points below the average
45 statewide rate for four year certificates of deposit as determined by
46 the commissioner of economic development;

47 S 11. Subdivision 1 of section 218 of the state finance law, as
48 amended by section 1 of part U of chapter 58 of the laws of 2012, is
49 amended to read as follows:

50 1. Linked loans made to certified businesses in empire zones or to
51 eligible businesses in highly distressed areas or to eligible businesses
52 that are defined in paragraph (b-1) of subdivision eleven of section two
53 hundred thirteen of this article that are located in a renewal community
54 or defined in paragraph (b-2) of such subdivision that are located in an
55 empowerment zone or defined in paragraph (b-3) of such subdivision that
56 are located in an enterprise community, respectively for eligible

1 projects defined in paragraph (c) of subdivision twelve of section two
2 hundred thirteen of this article or to [minority-] MINORITY, SERVICE
3 CONNECTED DISABLED VETERAN or women-owned business enterprises for an
4 eligible project defined in paragraph (e) of subdivision twelve of
5 section two hundred thirteen of this article or to a defense industry
6 manufacturer for a project defined in paragraph (d) of subdivision
7 twelve of section two hundred thirteen of this article or to an eligible
8 business pursuant to paragraph (a) of subdivision eleven of section two
9 hundred thirteen of this article that produces products defined in
10 subdivision two of section three hundred one of the agriculture and
11 markets law for an eligible project as defined in paragraph (b) of
12 subdivision twelve of section two hundred thirteen of this article shall
13 bear interest at a fixed rate equal to three percentage points below the
14 fixed interest rate the lender would have charged for the loan in the
15 absence of a linked deposit based on its usual credit considerations.
16 All other linked loans shall bear interest at a fixed rate equal to two
17 percentage points below the fixed interest rate the lender would have
18 charged for the loan in the absence of a linked deposit based on its
19 usual credit considerations. Lenders shall certify to the commissioner
20 of economic development that the rate to be charged on a linked loan is
21 two percentage points or three percentage points, as the case may be,
22 below the interest rate the lender would have charged for the loan in
23 the absence of a linked deposit.

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

27 (c) (i) In the performance of projects pursuant to this section,
28 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
29 enterprises shall be given the opportunity for meaningful participation.
30 For purposes hereof, minority business enterprise shall mean any busi-
31 ness enterprise which is at least fifty-one per centum owned by, or in
32 the case of a publicly owned business, at least fifty-one per centum of
33 the stock or other voting interest is owned by citizens or permanent
34 resident aliens who are Black, Hispanic, Asian, American Indian, Pacific
35 Islander, or Alaskan native, and such ownership interest is real,
36 substantial and continuing and has the authority to independently
37 control the day to day business decisions of the entity for at least one
38 year; SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE SHALL
39 MEAN THE SAME AS PROVIDED IN SUBDIVISION TWENTY-THREE OF SECTION THREE
40 HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business enterprise
41 shall mean any business enterprise which is at least fifty-one per
42 centum owned by, or in the case of a publicly owned business, at least
43 fifty-one per centum of the stock to other voting interests of which is
44 owned by citizens or permanent resident aliens who are women, and such
45 ownership interest is real, substantial and continuing and has the
46 authority to independently control the day to day business decisions of
47 the entity for at least one year.

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

50 (ii) In order to implement the requirements and objectives of this
51 section, the council shall request, as appropriate, the assistance of
52 other state agencies to monitor the contractors' compliance with
53 provisions hereof, provide assistance in obtaining competing qualified
54 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
55 enterprises to perform contracts proposed to be awarded, and take other
56 appropriate measures to improve the access of minority, SERVICE

1 CONNECTED DISABLED VETERAN and women-owned business enterprises to these
2 contracts.

3 S 13. Subdivision 2 of section 115 of the economic development law, as
4 added by chapter 55 of the laws of 1992, is amended to read as follows:

5 2. "Technical assistance" shall mean assistance and services designed
6 to improve the efficiency, effectiveness and viability of a minority,
7 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise,
8 including, but not limited to, management assistance, problem solving,
9 the development of business and marketing plans, market analysis, finan-
10 cial planning, regulatory compliance, safety and security measures,
11 export assistance, procurement assistance, application assistance, state
12 program assistance, referral to private and public financing sources,
13 contracting assistance, and other forms of assistance which the commis-
14 sioner deems necessary and appropriate.

15 S 14. Section 118 of the economic development law, as added by chapter
16 55 of the laws of 1992 and subdivision 7 as further amended by section
17 15 of part GG of chapter 63 of the laws of 2000, is amended to read as
18 follows:

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

22 1. Coordinate with all state agencies performing functions affecting
23 the operations of minority business enterprises, SERVICE CONNECTED DISA-
24 BLED VETERAN OWNED BUSINESS ENTERPRISES and women-owned business enter-
25 prises, as such terms are defined in section two hundred ten of this
26 chapter;

27 2. Receive complaints and inquiries of operators of minority, SERVICE
28 CONNECTED DISABLED VETERAN and women-owned business enterprises and
29 refer them to the appropriate federal, state or local agency for appro-
30 priate action on such complaints;

31 3. Solicit recommendations from the operators of minority, SERVICE
32 CONNECTED DISABLED VETERAN and women-owned business enterprises for
33 improving existing state programs and refer such recommendations to the
34 governor, the legislature and appropriate state agencies or authorities;

35 4. Advise and make recommendations to the commissioner and the legis-
36 lature on matters affecting the minority, SERVICE CONNECTED DISABLED
37 VETERAN and women-owned business enterprises of the state and promote
38 and encourage the protection of the legitimate interests of minority,
39 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises
40 within the state;

41 5. Conduct investigations, research, studies and analyses of matters
42 affecting the interests of minority, SERVICE CONNECTED DISABLED VETERAN
43 and women-owned business enterprises;

44 6. Study the implementation of the laws affecting minority, SERVICE
45 CONNECTED DISABLED VETERAN and women-owned business enterprises and
46 recommend to the commissioner new laws and amendments of laws for the
47 benefit of minority, SERVICE RELATED DISABLED VETERAN and women-owned
48 business enterprises; and review pending legislation affecting minority,
49 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises
50 and report its findings to the commissioner;

51 7. Provide technical assistance and information to minority, SERVICE
52 CONNECTED DISABLED VETERAN and women-owned business enterprises in the
53 state on economic development programs administered by the department,
54 including, but not limited to: (a) the empire zones program, estab-
55 lished pursuant to article eighteen-B of the general municipal law, (b)
56 the industrial effectiveness program, established pursuant to article

1 seven of this chapter, (c) the economic development skills training
2 program, established pursuant to article eight of this chapter, and (d)
3 the entrepreneurial assistance program, established pursuant to article
4 nine of this chapter;

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

11 9. Be responsible for conducting minority, SERVICE CONNECTED DISABLED
12 VETERAN and women-owned business enterprise assistance programs and for
13 coordinating the activities of all other state agencies acting within
14 the scope of this section; and

15 10. Carry out the activities to implement the minority, SERVICE
16 CONNECTED DISABLED VETERAN and women-owned business enterprise assist-
17 ance programs, to the extent practicable, within amounts appropriated
18 therefor by[;]:

19 (a) collecting and maintaining information identifying certified
20 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
21 enterprises within New York state;

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

25 (c) maintaining, providing and marketing a compilation of existing
26 programs providing assistance for minority, SERVICE CONNECTED DISABLED
27 VETERAN and women-owned business enterprises;

28 (d) identifying special needs and problems facing minority, SERVICE
29 CONNECTED DISABLED VETERAN and women-owned business enterprises within
30 New York state;

31 (e) contacting institutions, organizations and commercial enterprises
32 that are potential consumers of minority, SERVICE CONNECTED DISABLED
33 VETERAN and women-owned business products and services; urging their
34 expanded consumption of such goods and services;

35 (f) facilitating the establishment of minority, SERVICE CONNECTED
36 DISABLED VETERAN and women-owned business enterprises; and

37 (g) providing information concerning local and regional opportunities
38 for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
39 ness enterprises.

40 S 15. Subdivision 5 of section 145 of the economic development law, as
41 added by chapter 137 of the laws of 2008, is amended to read as follows:

42 5. additional information to be included to increase the transparency
43 and utility of the system, including without limitation, notices by the
44 comptroller of progress payments made to prime contractors, and
45 minority, SERVICE CONNECTED DISABLED VETERANS and women-owned business
46 enterprises utilization plans and waivers granted pursuant to article
47 fifteen-A of the executive law.

48 S 16. Section 210 of the economic development law is amended by
49 adding a new subdivision 6 to read as follows:

50 6. "SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE"
51 MEANS THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE
52 HUNDRED TEN OF THE EXECUTIVE LAW.

53 S 17. Paragraphs (b) and (i) of subdivision 1 of section 231 of the
54 economic development law, as amended by chapter 352 of the laws of 2009,
55 are amended to read as follows:

1 (b) to provide outreach to businesses, with attention to small and
2 medium-sized businesses, including minority, SERVICE CONNECTED DISABLED
3 VETERAN and women-owned business enterprises, for financial and techni-
4 cal assistance offered by state economic development agencies, authori-
5 ties, or other economic entities;

6 (i) to provide information and assistance in the certification of
7 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
8 enterprises;

9 S 18. Subdivision 6 of section 6-102 of the energy law, as added by
10 chapter 433 of the laws of 2009, is amended to read as follows:

11 6. The board shall require any contractor or subcontractor awarded a
12 contract pursuant to the provisions of this article to comply, and
13 otherwise exercise all of its responsibilities and conduct all of its
14 activities consistent with the provisions of article fifteen-A of the
15 executive law with regards to the utilization and participation of
16 certified minority, SERVICE CONNECTED DISABLED VETERANS and women-owned
17 business enterprises.

18 S 19. Section 52-0113 of the environmental conservation law, as added
19 by chapter 512 of the laws of 1986, is amended to read as follows:

20 S 52-0113. Minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
21 business enterprise program.

22 1. a. In the performance of projects pursuant to this article
23 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
24 enterprises shall be given the opportunity for meaningful participation.
25 The department or the office shall establish measures and procedures to
26 secure meaningful participation and identify those contracts and items
27 of work for which minority, SERVICE CONNECTED DISABLED VETERAN and
28 women-owned business enterprises may best bid to actively and affirma-
29 tively promote and assist their participation in the projects, so as to
30 facilitate the award of a fair share of contracts to such enterprises;
31 provided, however, that nothing in this article shall be construed to
32 limit the ability of the department or office to assure that qualified
33 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
34 enterprises may participate in the program.

35 For purposes [hereof] OF THIS ARTICLE, minority business enterprise
36 shall mean any business enterprise which is at least fifty-one per
37 centum owned by, or in the case of a publicly owned business, at least
38 fifty-one per centum of the stock of which is owned by citizens or
39 permanent resident aliens who are Black, Hispanic, Asian or American
40 Indian, Pacific Islander or Alaskan natives and such ownership interest
41 is real, substantial and continuing and have the authority to independ-
42 ently control the day to day business decisions of the entity for at
43 least one year; SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTER-
44 PRISE SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF
45 SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business
46 enterprise shall mean any business enterprise which is at least fifty-
47 one per centum owned by, or in the case of a publicly owned business, at
48 least fifty-one per centum of the stock of which is owned by citizens or
49 permanent resident aliens who are women, and such ownership interest is
50 real, substantial and continuing and have the authority to independently
51 control the day to day business decisions of the entity for at least one
52 year. The provisions of this paragraph shall not be construed to limit
53 the ability of any minority, SERVICE CONNECTED DISABLED VETERAN or
54 women-owned business enterprise to bid on any contract.

55 b. In the implementation of this section, the department or the office
56 shall consider compliance by any contractor with the requirements of any

1 federal, state, or local law concerning minority, SERVICE CONNECTED
2 DISABLED VETERAN and women-owned business enterprises, which may effec-
3 tuate the requirements of this section. If the department or the office
4 determines that by virtue of the imposition of the requirements of any
5 such law, in respect to capital project contracts, the provisions there-
6 of duplicate or conflict with such law, the department may waive the
7 applicability of this section to the extent of such duplication or
8 conflict.

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

14 2. In order to implement the requirements and objectives of this
15 section, the department and the office shall establish procedures to
16 monitor the contractors' compliance with provisions hereof, provide
17 assistance in obtaining competing qualified minority, SERVICE CONNECTED
18 DISABLED VETERAN and women-owned business enterprises to perform
19 contracts proposed to be awarded, and take other appropriate measures to
20 improve the access of minority, SERVICE CONNECTED DISABLED VETERAN and
21 women-owned business enterprises to these contracts.

22 S 20. Paragraph (e) of subdivision 2 of section 222 of the labor law,
23 as added by section 18 of part MM of chapter 57 of the laws of 2008, is
24 amended to read as follows:

25 (e) Any contract, subcontract, lease, grant, bond, covenant, or other
26 agreement for construction, reconstruction, demolition, excavation,
27 rehabilitation, repair, renovation, alteration, or improvement with
28 respect to each project undertaken pursuant to this section, the entity
29 shall consider the financial and organizational capacity of contractors
30 and subcontractors in relation to the magnitude of work they may
31 perform, the record of performance of contractors and subcontractors on
32 previous work, the record of contractors and subcontractors in complying
33 with existing labor standards and maintaining harmonious labor
34 relations, and the commitment of contractors to work with minority,
35 SERVICE CONNECTED DISABLED VETERANS and women-owned business enterprises
36 pursuant to article fifteen-A of the executive law through joint
37 ventures of subcontractor relationships. With respect to any contract
38 for construction, reconstruction, demolition, excavation, rehabili-
39 tation, repair, renovation, alteration, or improvement in excess of
40 three million dollars in the counties of the Bronx, Kings, New York,
41 Queens, and Richmond; one million five hundred thousand dollars in the
42 counties of Nassau, Suffolk and Westchester; and five hundred thousand
43 dollars in all other counties within the state; the entity shall further
44 require that each contractor and subcontractor shall participate in
45 apprentice training programs in the trades of work it employs that have
46 been approved by the department for not less than three years and shall
47 have graduated at least one apprentice in the last three years and shall
48 have at least one apprentice currently enrolled in such apprenticeship
49 training program. In addition, it must be demonstrated that the program
50 has made significant efforts to attract and retain minority apprentices,
51 as determined by affirmative action goals established for such program
52 by the department.

53 S 21. Paragraph e of subdivision 2 of section 1269-e of the public
54 authorities law, as added by section 13 of part H of chapter 25 of the
55 laws of 2009, is amended to read as follows:

1 e. the extent of participation by minority, SERVICE CONNECTED DISABLED
2 VETERANS and women owned enterprises in authority contracts and services
3 in accordance with article fifteen-A of the executive law; and

4 S 22. Subparagraph (i) of paragraph (b), the opening paragraph of
5 paragraph (c), paragraphs (f), (g), (h), (i) and (j), and subparagraphs
6 (ii) and (iii) of paragraph (n) of subdivision 3 and subdivision 6 of
7 section 2879 of the public authorities law, subparagraph (i) of para-
8 graph (b) of subdivision 3 and subdivision 6 as amended, paragraphs (f),
9 (g), (h), (i) and (j) as added and paragraph (n) of subdivision 3 as
10 relettered by chapter 174 of the laws of 2010, the opening paragraph of
11 paragraph (c) of subdivision 3 as amended by chapter 564 of the laws of
12 1988, subparagraphs (ii) and (iii) of paragraph (n) of subdivision 3 as
13 amended by chapter 531 of the laws of 1993, are amended and a new para-
14 graph (e-1) is added to subdivision 3 to read as follows:

15 (i) for the selection of such contractors on a competitive basis, and
16 provisions relating to the circumstances under which the board may by
17 resolution waive competition, including, notwithstanding any other
18 provision of law requiring competition, the purchase of goods or
19 services from small business concerns or those certified as minority,
20 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprises,
21 or goods or technology that are recycled or remanufactured, in an amount
22 not to exceed two hundred thousand dollars without a formal competitive
23 process;

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

31 (E-1) FOR PURPOSES OF THIS SECTION, "SERVICE CONNECTED DISABLED VETER-
32 AN OWNED BUSINESS ENTERPRISE" MEANS THE SAME AS DEFINED IN SUBDIVISION
33 TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

34 (f) Requirements for the designation of one or more senior staff of
35 the corporation to oversee the corporation's programs established to
36 promote and assist: (i) participation by certified minority, SERVICE
37 CONNECTED DISABLED VETERAN or women-owned business enterprises in the
38 corporation's procurement opportunities and facilitation of the award of
39 procurement contracts to such enterprises; (ii) the utilization of
40 certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
41 business enterprises as subcontractors and suppliers by entities having
42 procurement contracts with the corporation; and (iii) the utilization of
43 partnerships, joint ventures or other similar arrangements between
44 certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
45 business enterprises and other entities having procurement contracts
46 with the corporation. Such staff shall be familiar with the procurement
47 of the types of construction, financial, legal or professional services
48 utilized by the corporation, report directly to the corporation's execu-
49 tive director, president or chief executive officer and either directly
50 or through their designees participate in the procurement process.

51 (g) Requirements for providing notice, in addition to any other notice
52 of procurement opportunities required by law, to professional and other
53 organizations that serve minority, SERVICE CONNECTED DISABLED VETERAN
54 and women-owned business enterprises providing the types of services
55 procured by the corporation.

(h) Procedures for maintaining lists of qualified certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises, including professional firms that have expressed an interest in doing business with the corporation and ensuring that such lists are updated regularly. The corporation shall also consult the lists of certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises maintained by the department of economic development pursuant to article fifteen-A of the executive law.

(i) The establishment of appropriate goals for participation by minority, SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprises in procurement contracts awarded by the corporation and for the utilization of minority, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women-owned business development to certify and decertify minority, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses where possible, in the procurement of goods and services; and

6. Each corporation, as part of the guidelines established pursuant to subdivision three of this section, shall establish policies regarding the preparation of publicly available reports on procurement contracts

1 entered into by such corporation. Such policies shall provide, at the
2 minimum, for the preparation of a report no less frequently than annual-
3 ly, summarizing procurement activity by such corporation for the period
4 of the report, including a listing of all procurement contracts entered
5 into, all contracts entered into with New York state business enter-
6 prises and the subject matter and value thereof, all contracts entered
7 into with certified minority, SERVICE CONNECTED DISABLED VETERAN or
8 women-owned business enterprises and the subject matter and value there-
9 of, all referrals made and all penalties imposed pursuant to section
10 three hundred sixteen of the executive law, all contracts entered into
11 with foreign business enterprises, and the subject matter and value
12 thereof, the selection process used to select such contractors, all
13 procurement contracts which were exempt from the publication require-
14 ments of article four-C of the economic development law, the basis for
15 any such exemption and the status of existing procurement contracts.

16 S 23. Section 957 of the general municipal law is amended by adding a
17 new subdivision (u) to read as follows:

18 (U) "SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE"
19 SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION
20 THREE HUNDRED TEN OF THE EXECUTIVE LAW.

21 S 24. Subdivisions (g) and (t) of section 959 of the general municipal
22 law, as amended by section 3 of part S-1 of chapter 57 of the laws of
23 2009, are amended to read as follows:

24 (g) Coordinate, with the local empire zone administrative board and
25 state agencies and authorities, the provision of business development
26 programs and services for each empire zone in order to stimulate the
27 creation and development of new small businesses, including new small
28 minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned
29 business enterprises, and may request and shall receive from any depart-
30 ment, division, board, bureau, commission, agency or public authority of
31 the state such assistance as may be necessary;

32 (t) Coordinate with the urban development corporation the creation of
33 a special category of assistance for zones within the regional economic
34 development partnership program, which will make available economic
35 development assistance grants for zone programs and activities, includ-
36 ing, but not limited to, planning, service coordination, and local
37 institutional capacity building for human resource development necessary
38 for economic revitalization; planning and development of small business
39 incubators; job placement and preparedness programs for zones residents;
40 education and training programs for zone businesses; child care programs
41 and projects supportive of business development; technical assistance
42 for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
43 ness development; training for zone officials; business and tourism
44 development and marketing programs; and other innovative programs and
45 activities in support of economic and community development within the
46 zones;

47 S 25. Paragraph (x) of subdivision (b) of section 961 of the general
48 municipal law, as added by chapter 708 of the laws of 1993, is amended
49 to read as follows:

50 (x) identify financial commitments the applicant will make to the zone
51 for activities, including, but not limited to, marketing of the zone for
52 business development, human resource services for zone residents and
53 businesses, and services for small [and], minority, SERVICE CONNECTED
54 DISABLED VETERAN and women-owned businesses;

55 S 26. Subdivision (j) of section 962 of the general municipal law, as
56 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, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises in empire zone development activities;

S 27. 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 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000 and such subdivision 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women-owned business development within the zones shall be distributed by the commissioner pursuant to a competitive proposal solicitation process.

S 28. 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, SERVICE CONNECTED DISABLED 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 29. 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 brown-field 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, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses.

S 30. 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, SERVICE CONNECTED DISABLED 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 31. Paragraph (e) of subdivision 2 of section 213 of the racing, pari-mutuel wagering and breeding law, as added by chapter 18 of the laws of 2008, is amended to read as follows:

(e) Whenever the franchise oversight board enters into a contract, subcontract, lease, grant, bond, covenant or other agreement for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement with respect to each project undertaken pursuant to this chapter, the franchise oversight board shall consider the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority, SERVICE CONNECTED DISABLED VETERANS and women owned business enterprises pursuant to article fifteen-A of the executive law through joint ventures or subcontractor relationships.

S 32. 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, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprise program. 1. (a) Minority, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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

1 control the day to day business decisions of the entity for at least one
2 year; SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE SHALL MEAN
3 THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE
4 LAW; and women-owned business enterprise shall mean any business enter-
5 prise which is at least fifty-one per centum owned by, or in the case of
6 a publicly owned business, at least fifty-one per centum of the stock of
7 which is owned by citizens or permanent resident aliens who are women,
8 and such ownership interest is real, substantial and continuing and have
9 the authority to independently control the day to day business decisions
10 of the entity for at least one year.

11 The provisions of this paragraph shall not be construed to limit the
12 ability of any minority, SERVICE CONNECTED DISABLED VETERAN or women-
13 owned business enterprise to bid on any contract.

14 (b) In the implementation of this section, the corporation shall
15 consider compliance by any contractor with the requirements of any
16 federal, state, or local law concerning minority, SERVICE CONNECTED
17 DISABLED VETERAN and women-owned business enterprises, which may effec-
18 tuate the requirements of this section. If the corporation determines
19 that by virtue of the imposition of the requirements of any such law, in
20 respect to contracts, the provisions thereof duplicate or conflict with
21 this section, the corporation may waive the applicability of this
22 section to the extent of such duplication or conflict.

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

28 2. In order to implement the requirements and objectives of this
29 section, the corporation shall establish procedures to monitor the
30 contractors' compliance with provisions hereof, provide assistance in
31 obtaining competing qualified minority, SERVICE CONNECTED DISABLED
32 VETERAN and women-owned business enterprises to perform contracts
33 proposed to be awarded, and take other appropriate measures to improve
34 the access of minority, SERVICE CONNECTED DISABLED VETERAN and women-
35 owned business enterprises to these contracts.

36 S 33. Section 16-b of section 1 of chapter 392 of the laws of 1973,
37 constituting the New York state medical care facilities finance agency
38 act, as added by chapter 58 of the laws of 1987, is amended to read as
39 follows:

40 S 16-b. Minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
41 business enterprise program. 1. a. In the performance of projects pursu-
42 ant to this act minority, SERVICE CONNECTED DISABLED VETERAN and women-
43 owned business enterprises shall be given the opportunity for meaningful
44 participation. The agency shall establish measures and procedures to
45 secure meaningful participation and identify those contracts and items
46 of work for which minority, SERVICE CONNECTED DISABLED VETERAN and
47 women-owned business enterprises may best bid to actively and affirma-
48 tively promote and assist their participation in the projects, so as to
49 facilitate the award of a fair share of contracts to such enterprises;
50 provided, however, that nothing in this act shall be construed to limit
51 the ability of the agency to assure that qualified minority, SERVICE
52 CONNECTED DISABLED VETERAN and women-owned business enterprises may
53 participate in the program. For purposes hereof, minority business
54 enterprise shall mean any business enterprise which is at least fifty-
55 one per centum owned by, or in the case of a publicly owned business, at
56 least fifty-one per centum of the stock of which is owned by citizens or

1 permanent resident aliens who are Black, Hispanic, Asian or American
2 Indian, Pacific Islander or Alaskan natives and such ownership interest
3 is real, substantial and continuing and have the authority to independ-
4 ently control the day to day business decisions of the entity for at
5 least one year; SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE
6 SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE
7 EXECUTIVE LAW; and women-owned business enterprise shall mean any busi-
8 ness enterprise which is at least fifty-one per centum owned by, or in
9 the case of a publicly owned business, at least fifty-one per centum of
10 the stock of which is owned by citizens or permanent resident aliens who
11 are women, and such ownership interest is real, substantial and continu-
12 ing and have the authority to independently control the day to day busi-
13 ness decisions of the entity for at least one year.

14 The provisions of this paragraph shall not be construed to limit the
15 ability of any minority, SERVICE CONNECTED DISABLED VETERAN or women-
16 owned business enterprise to bid on any contract.

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

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

31 2. In order to implement the requirements and objectives of this
32 section, the agency shall establish procedures to monitor the contrac-
33 tors' compliance with provisions hereof, provide assistance in obtaining
34 competing qualified minority, SERVICE CONNECTED DISABLED VETERAN and
35 women-owned business enterprises to perform contracts proposed to be
36 awarded, and take other appropriate measures to improve the access of
37 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
38 enterprises to these contracts.

39 S 34. Paragraph (c) of subdivision 10 of section 16-a of section 1 of
40 chapter 174 of the laws of 1968, constituting the New York state urban
41 development corporation act, as amended by chapter 477 of the laws of
42 2002, is amended to read as follows:

43 (c) of minority, SERVICE CONNECTED DISABLED VETERAN or women-owned
44 enterprises or enterprises owned by dislocated workers, such workers as
45 defined in the Workforce Investment Act (P.L. 105-220); and

46 S 35. Section 16-c of section 1 of chapter 174 of the laws of 1968,
47 constituting the New York state urban development corporation act, as
48 added by chapter 169 of the laws of 1994, subparagraphs (i) and (ii) of
49 paragraph (a) of subdivision 2 as further amended by section 15 of part
50 GG of chapter 63 of the laws of 2000, is amended to read as follows:

51 S 16-c. [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and
52 women-owned business development and lending program.

53 (1) [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and
54 women-owned business development and lending program. (a) There is
55 hereby created a [minority-] MINORITY, SERVICE CONNECTED DISABLED VETER-
56 AN and women-owned business development and lending program for the

1 purpose of providing financial and technical assistance to minority,
2 SERVICE CONNECTED DISABLED VETERAN and women-entrepreneurs.

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

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

9 (ii) "women-owned business enterprise" or "women-owned business" shall
10 mean the same as "women-owned business enterprise" as defined in subdi-
11 vision [five] 5 of section [two hundred ten] 210 of the economic devel-
12 opment law.

13 (iii) "SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE" SHALL
14 MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECU-
15 TIVE LAW.

16 (IV) "incubator" shall mean a facility providing low-cost space, tech-
17 nical assistance and support services, including, but not limited to,
18 central services shared by tenants of the facility, to [minority-]
19 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business
20 enterprises.

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

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

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

25 (iii) residential construction, renovation or development
26 construction, except for assistance to minority, SERVICE CONNECTED DISA-
27 BLED VETERAN and women contractors under subdivision four of this
28 section;

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

31 (v) hospitals or residential health care facilities;

32 (vi) overnight lodging facilities;

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

35 (d) The corporation is authorized to:

36 (i) establish programs in conjunction with locally, and community
37 based entities to decentralize lending for small loans and loans to
38 start up [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and
39 women-owned businesses;

40 (ii) establish a comprehensive program for minority, SERVICE CONNECTED
41 DISABLED VETERAN and women contractors, which may include assistance
42 through loans, bonding assistance and technical assistance;

43 (iii) establish a program to provide loans to established [minority-]
44 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses
45 and for [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and
46 women-owned businesses, including loans to such businesses seeking to
47 acquire or expand a franchise;

48 (iv) provide loan guarantees to financial institutions and make linked
49 deposits into federally and state chartered credit unions for the
50 purpose of encouraging private financial institutions to make loans to
51 [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned
52 businesses;

53 (v) establish a program to create incubators to assist small and high
54 risk [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and
55 women-owned businesses to grow and prosper;

1 (vi) promote equity investment in [minority-] MINORITY, SERVICE
2 CONNECTED DISABLED VETERAN and women-owned businesses; and

3 (vii) establish a comprehensive technical assistance program in coop-
4 eration with the department of economic development to assist [minority-]
5 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
6 nesses and potential minority, SERVICE CONNECTED DISABLED VETERAN and
7 women-entrepreneurs.

8 (2) Minority, SERVICE CONNECTED DISABLED VETERAN and women revolving
9 loan trust fund. For the purpose of establishing programs in conjunction
10 with locally and community based entities to decentralize lending for
11 small loans and loans to start up [minority-] MINORITY, SERVICE
12 CONNECTED DISABLED VETERAN and women-owned businesses, the corporation
13 shall establish minority, SERVICE CONNECTED DISABLED VETERAN and women
14 revolving loan trust fund accounts and related administrative expenses
15 trust fund accounts.

16 (a) Each minority, SERVICE CONNECTED DISABLED VETERAN and women
17 revolving loan trust fund account shall be administered by one or more
18 of the following types of entities that provide services to community
19 businesses and have as one of their primary purposes the provision of
20 services and assistance to [minority-] MINORITY, SERVICE CONNECTED DISA-
21 BLED VETERAN and women-owned businesses:

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

24 (ii) community-based local development corporations or industrial
25 development agencies that serve a municipality in which an empire zone
26 has been established pursuant to article [eighteen-B] 18-B of the gener-
27 al municipal law and have as their primary purpose assistance to [minor-
28 ity-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
29 nesses located or to be located in such empire zone; or

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

33 (b) To be eligible to administer a minority, SERVICE CONNECTED DISA-
34 BLED VETERAN and women revolving loan trust fund account, the entity
35 must also: (i) have staff with sufficient expertise to analyze applica-
36 tions for financial assistance, to regularly monitor financial assist-
37 ance to clients, and to provide management or technical assistance to
38 clients; and (ii) have established a loan committee composed of six or
39 more persons experienced in business management, commercial lending or
40 in the operation of a for-profit business, at least one-half of whom
41 shall be experienced in commercial lending, at least one-third of whom
42 shall be minority persons and at least one-third of whom shall be women.
43 Such loan committee shall review every application, determine the feasi-
44 bility of the proposed project and the likelihood of repayment of the
45 requested financing and shall recommend to the governing body of the
46 entity such action on the application as the loan committee deems appro-
47 priate. The corporation shall identify entities eligible to administer
48 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan
49 trust fund accounts through a competitive statewide request for proposal
50 process.

51 (c) Any entity selected to administer a minority, SERVICE CONNECTED
52 DISABLED VETERAN and women revolving loan trust fund account shall be
53 eligible to draw funds from the account as needed to provide the follow-
54 ing types of financial assistance to [minority-] MINORITY, SERVICE
55 CONNECTED DISABLED VETERAN and women-owned businesses upon certification
56 to and acceptance by the corporation that such assistance complies with

1 rules and regulations promulgated by the corporation: (i) working capi-
2 tal loans, provided that the amount of the loan does not exceed thirty-
3 five thousand dollars and the term of the loan does not exceed five
4 years; and (ii) loans for the acquisition and/or improvement of real
5 property and for the acquisition of machinery and equipment provided
6 that the amount of the loan does not exceed fifty thousand dollars and
7 the term of the loan does not exceed the useful life of the equipment or
8 property.

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

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

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

23 (A) all income earned from the moneys on deposit in the corresponding
24 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan
25 trust fund account during the first year of the entity's administration
26 of said account; and

27 (B) beginning with its second year in administering a minority,
28 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund
29 account, said amounts may be used for costs incurred by the entity in
30 administering the minority, SERVICE CONNECTED DISABLED VETERAN and women
31 revolving loan trust fund account; and

32 (C) repayments of interest on loans made from the corresponding minor-
33 ity, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust
34 fund account.

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

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

45 (e) Any entity selected to administer a minority, SERVICE CONNECTED
46 DISABLED VETERAN and women revolving loan trust fund account shall pay
47 to the corporation for deposit any repayments received in connection
48 with financial assistance provided from its account. Payments consisting
49 of the repayment of the principal amount of a loan shall be deposited by
50 the corporation into the minority, SERVICE CONNECTED DISABLED VETERAN
51 and women revolving loan trust fund account from which the loan was
52 made. The interest earned by the corporation from the investment of
53 moneys in each minority, SERVICE CONNECTED DISABLED VETERAN and women
54 revolving loan trust fund account during and after the second year of a
55 selected entity's administration of said account shall be deposited by
56 the corporation into the corresponding minority, SERVICE CONNECTED DISA-

1 BLED VETERAN and women revolving loan trust fund account and used to
2 provide the financial assistance to [minority-] MINORITY, SERVICE
3 CONNECTED DISABLED VETERAN and women-owned businesses as authorized
4 pursuant to this section.

5 (f) The provisions of subdivisions eight, nine, and fourteen through
6 nineteen of section sixteen-a of this act pertaining to the regional
7 revolving loan trust fund shall also be applicable to the minority,
8 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund,
9 provided that: where the term "regional corporation" appears therein it
10 shall be interpreted to mean an entity selected to administer a
11 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan
12 trust fund account, and "regional revolving [loans] LOAN trust fund"
13 shall mean a minority, SERVICE CONNECTED DISABLED VETERAN and women
14 revolving loan trust fund, and where the term "this section" appears
15 therein it shall mean this section sixteen-c.

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

24 (h) Notwithstanding any provision of law to the contrary, the corpo-
25 ration shall establish a minority, SERVICE CONNECTED DISABLED VETERAN
26 and women revolving loan trust fund to pay into such fund any moneys
27 made available to the corporation for such fund from any source, includ-
28 ing moneys appropriated by the state and any income earned by, or incre-
29 ment to, the account due to the investment thereof, or any repayment of
30 moneys advanced from the fund. The corporation shall not commingle the
31 moneys of such fund with any moneys held in trust by the corporation,
32 except for investment purposes.

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

36 (b) The corporation shall, pursuant to requests for proposals, enter
37 into agreements for other types of locally, community or regionally
38 administered loan programs than those set forth in subdivision two of
39 this section, including micro-loan programs to be administered by local
40 development corporations, local industrial development organizations,
41 municipalities and not-for-profit organizations, to provide micro-loans
42 to small and high risk [minority-] MINORITY, SERVICE CONNECTED DISABLED
43 VETERAN and women-owned businesses located within their respective
44 service areas, provided that loan review committees are established by
45 such administering entity, including women, SERVICE CONNECTED DISABLED
46 VETERAN and minority persons experienced in business management, busi-
47 ness development, commercial lending, entrepreneurship, or in the opera-
48 tion of a for-profit business.

49 (c) Agreements entered into pursuant to paragraph (b) of this subdivi-
50 sion shall be governed by paragraphs (d) through (h) of subdivision two
51 of this section, and minority, SERVICE CONNECTED DISABLED VETERAN and
52 women revolving loan trust fund accounts and administrative expenses
53 trust fund accounts shall be established in a similar fashion for enti-
54 ties selected to administer micro-loan funds pursuant to this subdivi-
55 sion.

(4) Minority, SERVICE CONNECTED DISABLED VETERAN and women contracting program. For the purpose of establishing a comprehensive program to assist minority, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women bonding guarantee program to enable minority, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses. For the purpose of establishing a program to provide direct financial assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses; and

(b) Provide loan guarantees to private financial institutions for loans made to eligible [minority-] MINORITY, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women small business incubator program.

(a) The corporation shall establish a minority, SERVICE CONNECTED DISABLED VETERAN and women small business incubator program for the purpose of providing financial support for the creation of incubators to nurture minority, SERVICE CONNECTED DISABLED 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:

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

3 (ii) significant community support for the project;

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

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

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

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

11 (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;

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

14 (iii) the project gives preference for incubator space and assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED 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.

15 (8) [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business technical assistance program. (a) The corporation shall establish a comprehensive technical assistance program within the minority, SERVICE CONNECTED DISABLED VETERAN and women business development office, in cooperation with the department of economic development's division of [minority-] MINORITY, SERVICE CONNECTED DISABLED 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, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises and to prospective [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-business entrepreneurs through third party service providers, which assistance shall include, but not be limited to:

16 (i) technical assistance in development and execution of business plans, including the formation of, acquisition of, management of, or diversification of a [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise;

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

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

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

20 (v) technical assistance through education programs directed primarily at women, SERVICE CONNECTED DISABLED VETERAN and minority entrepreneurs.

21 (b) Technical assistance may be provided through direct corporate support, through grants to or contracts with service providers or

1 governmental entities, and [minority-] MINORITY, SERVICE CONNECTED DISA-
2 BLED VETERAN and women-owned business enterprises and individuals.

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

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

11 (11) Rules and regulations. The corporation shall, assisted by the
12 commissioner of economic development and in consultation with the
13 department of economic development, promulgate rules and regulations in
14 accordance with the state administrative procedure act. Such rules and
15 regulations shall be consistent with the program plan required by subdi-
16 vision [nineteen] 19 of section [one hundred] 100 of the economic devel-
17 opment law. No funds shall be disbursed under this program until such
18 rules and regulations have been reviewed and approved by the corpo-
19 ration. All assistance and projects funded under this program shall be
20 funded in accordance with the rules and regulations in effect on the
21 date the completed application for such assistance shall be received by
22 the corporation.

23 (12) Minority, SERVICE CONNECTED DISABLED VETERAN and women business
24 development and lending account. Notwithstanding any provision of law
25 to the contrary, the corporation shall establish within the treasury of
26 the corporation a minority, SERVICE CONNECTED DISABLED VETERAN and women
27 business development and lending account, and shall pay into such
28 account any moneys which may be made available to the corporation for
29 this purpose from any source including, but not limited to, moneys
30 appropriated by the state and any repayment of principal and interest on
31 loans made by the corporation pursuant to the [minority-] MINORITY,
32 SERVICE CONNECTED DISABLED VETERAN and women-owned business development
33 and lending program. Funds in the minority, SERVICE CONNECTED DISABLED
34 VETERAN and women business development and lending account, including
35 funds from the repayment of principal and interest on loans made by the
36 corporation, may be used for any form of assistance authorized here-
37 under. The amounts deposited in the minority, SERVICE CONNECTED DISABLED
38 VETERAN and women business development and lending account may not be
39 interchanged with any other account, but may be commingled with any
40 other account for investment purposes. All loans disbursed by the corpo-
41 ration shall be repaid into the account. The corporation shall enter
42 into a written agreement with the director of the budget for repayment,
43 to the state comptroller to the credit of the capital projects fund, of
44 all moneys in the account after a period of time to be determined by the
45 corporation and the director of the budget. The corporation shall
46 transfer to the minority, SERVICE CONNECTED DISABLED VETERAN and women
47 business development and lending account: all moneys appropriated or
48 reappropriated by New York state for the minority, SERVICE CONNECTED
49 DISABLED VETERAN and women revolving loan trust fund that have not been
50 committed prior to the effective date of the appropriation for the
51 program in the current fiscal year, or become uncommitted subsequent to
52 the effective date of the program's appropriation for the current fiscal
53 year; and all repayments of principal and interest on loans made by the
54 corporation which are currently on deposit in, or payable to, the minor-
55 ity, SERVICE CONNECTED DISABLED VETERAN and women business development
56 and lending account.

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

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

11 (15) Repayment. Notwithstanding the provisions of section [forty-a]
12 40-A of the state finance law and any other general or special law, no
13 written agreement under this program shall require repayment at any time
14 or on any terms inconsistent with the provisions of this act or the New
15 York state project finance agency act; except, however, that the corpo-
16 ration may make grants to projects using funds appropriated for this
17 purpose and that the repayment provision may not apply to such grants.

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

29 S 36. Subparagraphs (viii) and (x) of paragraph (e) of subdivision 7
30 of section 16-d of section 1 of chapter 174 of the laws of 1968, consti-
31 tuting the New York state urban development corporation act, as added by
32 chapter 169 of the laws of 1994, are amended to read as follows:

33 (viii) export, marketing, procurement and subcontracting assistance to
34 small and medium-sized industrial firms, including [minority-] MINORITY,
35 SERVICE CONNECTED DISABLED VETERAN and women-owned businesses, and to
36 flexible manufacturing networks, and programs to assist regional and
37 multi-county business marketing and procurement programs;

38 (x) business planning, management assistance and counseling, and
39 financial packaging assistance to small and medium-sized industrial
40 firms, including [minority-] MINORITY, SERVICE CONNECTED DISABLED VETER-
41 AN and women-owned businesses, flexible manufacturing networks, and new
42 enterprises and small businesses, including the establishment of neigh-
43 borhood-based business service centers designed to deliver comprehensive
44 technical assistance to new and small businesses in specific communities
45 and neighborhoods;

46 S 37. Clause (B) of subparagraph (i) of paragraph (h) of subdivision 8
47 of section 16-d of section 1 of chapter 174 of the laws of 1968, consti-
48 tuting the New York state urban development corporation act, as added by
49 chapter 169 of the laws of 1994 and as further amended by section 15 of
50 part GG of chapter 63 of the laws of 2000, is amended to read as
51 follows:

52 (B) community based local development corporations, industrial devel-
53 opment agencies, or other not-for-profit entities which serve a munici-
54 pality in which an empire zone has been established and which, as one of
55 their primary purposes, provide services and assistance to business
56 enterprises located or to be located in such empire zone, including

1 [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned
2 businesses;

3 S 38. Subparagraph (vi) of paragraph (c) of subdivision 10 of section
4 16-e of section 1 of chapter 174 of the laws of 1968, constituting the
5 New York state urban development corporation act, as added by chapter
6 169 of the laws of 1994, is amended to read as follows:

7 (vi) management and procurement assistance to small business, includ-
8 ing [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-
9 owned businesses;

10 S 39. Paragraph (d) of subdivision 18 of section 16-e of section 1 of
11 chapter 174 of the laws of 1968, constituting the New York state urban
12 development corporation act, as added by chapter 169 of the laws of
13 1994, is amended to read as follows:

14 (d) The participation of [minority-] MINORITY, SERVICE CONNECTED DISA-
15 BLED VETERAN and women-owned businesses;

16 S 40. The opening paragraph, paragraph (a) and the opening paragraph
17 and subparagraph (iv) of paragraph (b) of subdivision 1 of section 16-f
18 of section 1 of chapter 174 of the laws of 1968, constituting the New
19 York state urban development corporation act, as added by chapter 169 of
20 the laws of 1994, are amended to read as follows:

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

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

40 Provide technical assistance in completing bonding applications for
41 small businesses [and], minority-owned, SERVICE CONNECTED DISABLED
42 VETERAN-OWNED or women-owned business enterprises seeking to become
43 eligible for bonding in preparation for bidding on construction
44 projects, including transportation related projects. The corporation
45 shall provide and may refer such businesses to the department of econom-
46 ic development for technical assistance as such businesses may need,
47 including but not limited to:

48 (iv) assistance from the regional offices of the department of econom-
49 ic development, pursuant to article [eleven] 11 of the economic develop-
50 ment law, and the entrepreneurial assistance program, pursuant to arti-
51 cle [nine] 9 of such law, and any other such program receiving state
52 funds from this act or the department of economic development or any
53 other state agency that is intended to provide technical assistance to
54 small businesses [and], minority-owned, SERVICE CONNECTED DISABLED
55 VETERAN-OWNED and women-owned small business enterprises.

1 S 41. Paragraph (g) of subdivision 1 of section 16-i of section 1 of
2 chapter 174 of the laws of 1968, constituting the New York state urban
3 development corporation act, as amended by chapter 471 of the laws of
4 2001, is amended to read as follows:

5 (g) Assistance to local or regional organizations to facilitate
6 financing for small- and medium-sized business, including [minority-]
7 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business
8 enterprises through flexible financing programs, including, but not
9 limited to, loan loss reserve and revolving loan programs, working capi-
10 tal loans, working capital loan guarantees, or other flexible financing
11 programs that leverage traditional financing;

12 S 42. Subparagraph (i) of paragraph (c) of subdivision 2 of section
13 16-k of section 1 of chapter 174 of the laws of 1968, constituting the
14 New York state urban development corporation act, as amended by chapter
15 103 of the laws of 2011, is amended to read as follows:

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

22 S 43. Paragraph 1 of subdivision (c) of section 30 of section 1 of
23 chapter 174 of the laws of 1968, constituting the New York state urban
24 development corporation act, as amended by chapter 732 of the laws of
25 1990, is amended to read as follows:

26 (1) In addition to any other requirements imposed by the act or other-
27 wise regarding evaluations of programs administered by the corporation,
28 each evaluation shall include an analysis of the job creation effect of
29 such program, the number of small businesses that received assistance,
30 the number of minority, SERVICE CONNECTED DISABLED VETERAN and women-
31 owned firms that received assistance, the number of projects undertaken
32 in distressed and highly distressed communities, and, if applicable, the
33 repayment experience of borrowers of funds from the corporation.

34 S 44. Paragraph 2 of subdivision (e) of section 30-a of section 1 of
35 chapter 174 of the laws of 1968, constituting the New York state urban
36 development corporation act, as added by section 2 of part M1 of chapter
37 62 of the laws of 2003, is amended to read as follows:

38 (2) require projects to be financed out of the empire state economic
39 development fund be approved generally in amounts which are proportional
40 to amounts appropriated for the urban and community development program,
41 and the minority, SERVICE CONNECTED DISABLED VETERAN and women-owned
42 business development and lending program;

43 S 45. The section heading, the opening paragraph of subdivision 1, the
44 opening paragraph of subdivision 2, paragraph (a) of subdivision 3 and
45 subdivisions 4 and 5 of section 38 of section 1 of chapter 174 of the
46 laws of 1968, constituting the New York state urban development corpo-
47 ration act, as amended by chapter 169 of the laws of 1994, are amended
48 to read as follows:

49 Small business [and], minority-owned, SERVICE CONNECTED DISABLED
50 VETERAN-OWNED and women-owned business enterprises transportation capi-
51 tal assistance and guaranteed loan program.

52 To provide financial assistance to small business [and], minority-
53 owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business
54 enterprises engaged in government sponsored, transportation related
55 construction projects, the corporation shall establish a small business
56 [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and

1 women-owned business enterprise transportation capital assistance
2 revolving loan fund which shall provide loans or loan guarantees to
3 small business [and], minority-owned, SERVICE CONNECTED DISABLED VETER-
4 AN-OWNED and women-owned business enterprises. For purposes of this
5 section:

6 Such loans, or loan guarantees for loans made by federally and state
7 chartered credit institutions, financial institutions, and federally
8 insured banking organizations to small business [and], minority-owned,
9 SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enter-
10 prises, shall be used to:

11 (a) To be eligible for such loans or loan guarantees (i) a minority-
12 owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned business
13 enterprise must be certified as a minority-owned, SERVICE CONNECTED
14 DISABLED VETERAN-OWNED or women-owned business enterprise pursuant to
15 article 15-A of the executive law; and (ii) a small business or a minor-
16 ity-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned busi-
17 ness enterprise shall have a contract or sub-contract to provide goods
18 or services related to a government sponsored, transportation related
19 construction project.

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

26 5. Notwithstanding any inconsistent provision of law, general, special
27 or local, including pursuant to capital projects budget appropriations
28 or reappropriations, where applicable, the corporation is hereby author-
29 ized to enter into such agreements as may be necessary for the operation
30 and administration of a small business [and], minority-owned, SERVICE
31 CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises
32 transportation capital assistance and guaranteed loan program.

33 S 46. This act shall take effect immediately; provided, however, that
34 the amendments to article 15-A of the executive law made by sections
35 three, four, five, six and seven of this act shall not affect the expi-
36 ration of such article and shall be deemed to expire therewith; and
37 provided, further that the amendments to section 136-b of the state
38 finance law made by section eight of this act shall not affect the expi-
39 ration of such section and shall be deemed to expire therewith; and
40 provided, further that the amendments to section 16-i of section 1 of
41 chapter 174 of the laws of 1968, constituting the New York state urban
42 development corporation act, made by section forty-one of this act,
43 shall not affect the expiration of such section 16-i and shall expire
44 therewith.