

# STATE OF NEW YORK

10744--A

R. R. 127

## IN ASSEMBLY

May 16, 2018

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Governmental Operations -- reported and referred to the Committee on Rules -- ordered to a third reading -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the executive law, in relation to certification classifications for businesses owned by minority group members or women

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 314 of the executive law is amended by adding a new  
2 subdivision 6 to read as follows:

3 6. (a) The director shall establish by regulation an additional  
4 certification classification for minority and women-owned businesses  
5 which are ineligible for certification pursuant to this section due to  
6 exceeding the personal net worth or small business thresholds; provided,  
7 however, that all other eligibility requirements pursuant to subdivision  
8 seven or fifteen of section three hundred ten of this article, as appli-  
9 cable, are satisfied. Such regulations shall not impose additional  
10 thresholds on personal net worth or the size of such businesses. Such  
11 additional certification classifications shall be listed separately in  
12 the directory of certified businesses required to be prepared pursuant  
13 to this section. Regulations for the certification classification  
14 established pursuant to this subdivision shall require each business  
15 seeking certification to demonstrate that it engages in, and signif-  
16 icantly invests in, diversity practices.

17 (b) For purposes of this subdivision, the term "diversity practices"  
18 shall include, but not be limited to:

19 (i) the inclusion of minority and women-owned business enterprises in  
20 procurement opportunities within such business;

21 (ii) joint ventures between such business and other minority and  
22 women-owned business enterprises;

23 (iii) trainings, workshops or mentoring programs conducted by the  
24 business for other minority and women-owned business enterprises; and

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

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1 (iv) job training and apprenticeship programs conducted by the minori-  
2 ty and women-owned business that result in a more diverse workforce  
3 within such business.

4 § 2. Paragraphs (h) and (i) of subdivision 2-a of section 313 of the  
5 executive law, as added by chapter 175 of the laws of 2010, are amended  
6 and a new paragraph (j) is added to read as follows:

7 (h) provide for the collection of statistical data by each agency  
8 concerning actual minority and women-owned business enterprise partic-  
9 ipation; ~~and~~

10 (i) require each agency to consult the most current disparity study  
11 when calculating agency-wide and contract specific participation goals  
12 pursuant to this article~~[-]~~; and

13 (j) require that businesses certified pursuant to subdivision six of  
14 section three hundred fourteen of this article are utilized toward  
15 contract solicitation goals after opportunities to meet such goals  
16 through contracts with other businesses certified pursuant to this arti-  
17 cle have been exhausted by commercially reasonable methods.

18 § 3. Section 313 of the executive law is amended by adding a new  
19 subdivision 6-a to read as follows:

20 6-a. Prior to requesting a partial or total waiver pursuant to subdi-  
21 vision six of this section, a contractor shall seek to comply with the  
22 minority and women-owned business enterprise participation goals by  
23 making a good faith effort to contract with a business in the certif-  
24 ication classification established pursuant to subdivision six of  
25 section three hundred fourteen of this article.

26 § 4. This act shall take effect immediately; provided, however, that  
27 the amendments to article 15-A of the executive law made by sections  
28 one, two and three of this act shall not affect the expiration of such  
29 article and shall be deemed to expire therewith.