

STATE OF NEW YORK

8870--A

IN SENATE

May 30, 2018

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 subdivi-
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.