

STATE OF NEW YORK

5139--B

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. BLAKE, BICHOTTE, COOK, JOYNER, MOSLEY, ORTIZ, SEAWRIGHT, DICKENS, ARROYO, SAYEGH -- Multi-Sponsored by -- M. of A. THIELE -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the state finance law, in relation to encouraging the participation of minority and women-owned business enterprises in state contracts

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

1 Section 1. Subdivision 2-a of section 313 of the executive law is
2 amended by adding a new paragraph (k) to read as follows:

3 (k) require that each state contract avoids unnecessary and unjusti-
4 fied bundling of contract requirements that precludes minority and
5 women-owned business enterprises' participation in procurements as prime
6 contractors. For purposes of this paragraph, "unnecessary and unjusti-
7 fied" shall mean not required, not needed and with no legitimate reason.

8 § 2. Section 139-g of the state finance law is amended by adding a new
9 subdivision (e) to read as follows:

10 (e) require that each state contract avoids unnecessary and unjusti-
11 fied bundling of contract requirements that precludes small and certi-
12 fied women and minority-owned business' participation in procurements as
13 prime contractors. For purposes of this subdivision, "unnecessary and
14 unjustified" shall mean not required, not needed and with no legitimate
15 reason.

16 § 3. Subdivision 4 of section 313 of the executive law, as amended by
17 chapter 96 of the laws of 2019, is amended to read as follows:

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

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1 4. In the implementation of this section, the contracting agency shall
2 (a) consult the findings contained within the disparity study evidencing
3 relevant industry specific disparities in the utilization of minority
4 and women-owned businesses relative to their availability;

5 (b) implement a program that will enable the agency to evaluate each
6 contract to determine the appropriate goal for participation by minori-
7 ty-owned business enterprises and women-owned business enterprises; and

8 (c) [~~consider where practicable, the severability of construction~~
9 ~~projects and other bundled contracts; and~~

10 ~~(d)~~] consider compliance with the requirements of any federal law
11 concerning opportunities for minority and women-owned business enter-
12 prises which effectuates the purpose of this section. The contracting
13 agency shall determine whether the imposition of the requirements of any
14 such law duplicate or conflict with the provisions hereof and if such
15 duplication or conflict exists, the contracting agency shall waive the
16 applicability of this section to the extent of such duplication or
17 conflict.

18 § 4. This act shall take effect immediately; provided however, that
19 the amendments to section 313 of the executive law made by sections one
20 and three of this act shall not affect the expiration of such section
21 and shall be deemed to expire therewith.