

STATE OF NEW YORK

9298--A

IN SENATE

May 13, 2022

Introduced by Sens. PARKER, COMRIE, JACKSON -- (at request of the NYC Office of the Mayor) -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the New York city charter, the education law, the general municipal law, the labor law, the public authorities law, the New York city health and hospitals corporation act, and the New York city public works investment act, in relation to employment opportunities for economically disadvantaged candidates and economically disadvantaged region candidates and apprenticeship utilization on public transactions; and providing for the repeal of such provisions upon the expiration thereof

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

1 Section 1. Legislative findings. The legislature finds that both with-
2 in the city of New York and across the United States, over the past
3 several decades, income inequality has expanded and that poverty is
4 frequently concentrated in economically disadvantaged regions. The
5 legislature also finds that economic disparities across individuals and
6 across communities have further expanded due to the economic and health
7 effects of the virus known as COVID-19. The purpose of this legislation
8 is to remediate these economic disparities by authorizing the city of
9 New York, the city school district of the city of New York, the New York
10 city school construction authority, the New York city health and hospi-
11 tals corporation, the New York city industrial development agency, and
12 other city-affiliated not-for-profit corporations to use the economic
13 power of their transactions to implement programs by administrative rule
14 requiring contractors and subcontractors benefitting from such trans-
15 actions to make best efforts to employ qualified economically disadvan-
16 taged candidates and qualified candidates in such economically disadvan-
17 taged regions.
18 § 2. The New York city charter is amended by adding a new chapter 78
19 to read as follows:

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

LBD11713-04-2

Chapter 78COMMUNITY HIRING AND WORKFORCE DEVELOPMENT

§ 3401. Definitions. As used in this chapter, the following terms shall have the following meanings:

Absorption hire. The term "absorption hire" means an individual who fills a building service opportunity and who:

(1) was employed to perform building service work within the preceding six months at the same facility to which such individual is assigned; or

(2) fills such building service opportunity as a result of a reassignment by a contractor or subcontractor, as applicable, due to a displacement caused by the closure of another facility, a staffing reduction at another facility, or any other similar event.

Apprentice. The term "apprentice" means an individual who is receiving training and performing labor pursuant to an apprenticeship agreement.

Apprenticeship agreement. The term "apprenticeship agreement" means an agreement, as such term is defined by section eight hundred sixteen of the labor law, that has been registered with, and approved by, the commissioner of labor of the state of New York pursuant to article twenty-three of the labor law.

Building service opportunity. The term "building service opportunity" means an employment opportunity to perform building service work.

Building service opportunity labor hour. The term "building service opportunity labor hour" means a labor hour performed by an individual employed to fill a building service opportunity.

Building service work. The term "building service work" means the classifications of labor that the applicable fiscal officer has identified as consistent with section two hundred thirty of the labor law, regardless of whether such labor constitutes building service work for which workers are entitled to prevailing wage pursuant to article nine of the labor law.

City-affiliated not-for-profit corporation. The term "city-affiliated not-for-profit corporation" means a local development corporation or other not-for-profit corporation, a majority of whose members are appointed by the mayor.

Construction. The term "construction" means:

(1) any labor of a type that the applicable fiscal officer, as defined in paragraph e of subdivision five of section two hundred twenty of the labor law, has identified in a published schedule as a classification of work performed by laborers, workmen or mechanics, regardless of whether such labor constitutes public work pursuant to such section; and

(2) any additional types of labor identified by the director by rule, provided that such labor shall not include building service work.

Contractor. The term "contractor" means an individual, company, corporation, partnership, or other entity that has entered into a transaction with the city, except that the term "contractor" does not include:

(1) any governmental entity;

(2) any microbusiness, other than a microbusiness performing construction work under a transaction; or

(3) any labor organization.

Director. The term "director" means the director of the office of community hiring and workforce development or his or her designee.

Economically disadvantaged candidate. The term "economically disadvantaged candidate" means an individual:

(1) whose income or household income falls below an applicable quantitative threshold determined by the director, provided that such income shall not include any types of public benefits provided by the federal

1 government or a state or local government and identified by the direc-
2 tor; and

3 (2) who is certified as meeting all applicable requirements.

4 Economically disadvantaged region. The term "economically disadvan-
5 tagged region" means an area, represented by its ZIP code, in which at
6 least fifteen percent of residents have household incomes below the
7 federal poverty threshold.

8 Economically disadvantaged region candidate. The term "economically
9 disadvantaged region candidate" means an individual who is certified as
10 meeting all applicable requirements and who is a:

11 (1) resident of an address within an economically disadvantaged
12 region;

13 (2) resident of a building that is:

14 (i) owned or operated by the New York city housing authority; and

15 (ii) subject to section nine of the United States Housing Act of nine-
16 teen hundred thirty-seven, as amended; or

17 (3) resident of a dwelling unit that is:

18 (i) subject to a regulatory agreement with a federal, state or local
19 government agency requiring that occupancy of such unit be restricted
20 based on the income of the occupants; and

21 (ii) located in a building that was previously operated by the New
22 York city housing authority, was previously subject to section nine of
23 the United States Housing Act of nineteen thirty-seven, as amended, and
24 is subject to section eight of such act.

25 Employment opportunity. The term "employment opportunity" means a
26 vacancy in a position to perform services under a transaction.

27 Exempt transaction. The term "exempt transaction" includes any:

28 (1) contract procured pursuant to section one hundred sixty-two of the
29 state finance law;

30 (2) contract for the performance of services by a city-affiliated
31 not-for-profit corporation;

32 (3) contract the principal purpose of which is the supply of goods;

33 (4) contract in an amount below the small purchase threshold set
34 pursuant to the authority and procedure set forth in subdivision a of
35 section three hundred fourteen of the charter;

36 (5) contract for confidential or investigative services or any other
37 type of contract excluded by a rule adopted by the director based on a
38 determination that the application of goals under this program would
39 substantially undermine the primary objective of that type of contract;

40 (6) contract subject to federal or state funding requirements that
41 preclude or substantially conflict with the application of goals under
42 this program;

43 (7) contract for emergency demolition services procured by the depart-
44 ment of housing preservation and development pursuant to the procedure
45 set forth in section three hundred fifteen of the charter; or

46 (8) line item appropriations or discretionary funds allocated to a
47 community-based not-for-profit organization or other public service
48 organization and identified in the budget adopted pursuant to section
49 two hundred fifty-four of the charter or any related council resol-
50 utions, except as otherwise provided by rule by the director.

51 Labor organization. The term "labor organization" has the meaning
52 provided in section one hundred fifty-two of title twenty-nine of the
53 United States code, or any successor provision.

54 Microbusiness. The term "microbusiness" means an individual, company,
55 corporation, partnership or other entity that employs no less than one
56 employee and no more than nine employees.

1 MWBE. The term "MWBE" means a business certified as a minority or
2 women-owned business enterprise pursuant to article fifteen-A of the
3 executive law or section thirteen hundred four of the charter.

4 Project labor agreement. The term "project labor agreement" means a
5 pre-hire collective bargaining agreement entered into between the city
6 and a bona fide building and construction trade labor organization
7 establishing the labor organization or its affiliates as the collective
8 bargaining representative for all persons who will perform construction
9 work on a transaction, provided such agreement:

10 (1) provides that only contractors and subcontractors who sign a pre-
11 negotiated agreement with the labor organization can perform such work
12 on such transaction; and

13 (2) includes goals for the employment of qualified economically disad-
14 vantaged region candidates to perform such work.

15 Referral source. The term "referral source" means an individual,
16 company, corporation, partnership, agency, union referral system, or
17 other entity selected pursuant to paragraph three of subdivision a of
18 section thirty-four hundred two of this chapter to make referrals of
19 candidates to contractors, prospective contractors, subcontractors, and
20 prospective subcontractors for the purposes of meeting the applicable
21 employment goals set forth in such section; provided that union referral
22 systems that have affiliated registered apprentice programs with direct
23 entry access from pre-apprentice programs that are compliant with United
24 States department of labor or New York state department of labor regu-
25 lations, as well as union referral systems with community recruitment
26 programs, shall be deemed an approved referral source for the purposes
27 of paragraph three of subdivision a of section three thousand four
28 hundred two of this chapter.

29 Small business. The term "small business" means an entity that:

30 (1) is independently owned and operated; and

31 (2) has annual gross revenues not exceeding five million dollars or a
32 lesser amount established by the director by rule.

33 Subcontractor. The term "subcontractor" means an individual, company,
34 corporation, partnership or other entity that has entered into an agree-
35 ment with a contractor or another subcontractor in order to perform
36 services or any other obligation under a transaction, provided that such
37 agreement involves the performance of construction work of any value, or
38 the total dollar value of such agreement exceeds twenty thousand
39 dollars, and further provided that the term "subcontractor" does not
40 include:

41 (1) employees;

42 (2) governmental entities;

43 (3) microbusinesses, other than microbusinesses performing
44 construction work under a transaction; or

45 (4) labor organizations.

46 Transaction. The term "transaction" means, a procurement contract
47 except that the term "transaction" shall not include any exempt trans-
48 action.

49 § 3402. Office of community hiring and workforce development. a.
50 Office established. The mayor shall establish an office of community
51 hiring and workforce development. Such office may be established as a
52 separate office or within any department the head of which is appointed
53 by the mayor. The office of community hiring and workforce development
54 shall be headed by a director who shall be appointed by the mayor or
55 head of such department. The director shall, as the director deems

1 appropriate, adopt rules consistent with the purpose of this chapter
2 relating to employment goals on transactions, including rules:

3 (1) requiring contractors and subcontractors to agree to publicly
4 disclose employment opportunities;

5 (2) establishing a procedure for the certification of individuals as
6 economically disadvantaged candidates, economically disadvantaged region
7 candidates, or both, provided that such certification procedure shall,
8 to the extent the director deems feasible, use data sources and adminis-
9 trative processes established or maintained by the city for other
10 programs or operations in order to minimize administrative burdens on
11 contractors, subcontractors, and individuals;

12 (3) establishing a procedure by which the director may approve refer-
13 ral sources for the purposes of this section, whereby the director
14 shall:

15 (i) publicly release a referral source solicitation that includes a
16 description of functions of a referral source, the manner in which
17 responses must be submitted, and the criteria by which responding enti-
18 ties will be approved, and authorize one or more entities, as appropri-
19 ate, to function as referral sources, based on the criteria included in
20 the solicitation;

21 (ii) authorize an agency in writing to function as a referral source;

22 (iii) authorize, in writing, an entity engaged pursuant to an agree-
23 ment with an agency for employment recruitment services or other work-
24 force development services to function as a referral source; or

25 (iv) identify and deem union referral systems that have affiliated
26 registered apprentice programs with direct entry access from pre-appren-
27 tice programs and that are compliant with United States department of
28 labor or New York state department of labor regulations, as well as
29 union referral systems with community recruitment programs, as approved
30 referral systems;

31 (4) establishing a procedure through which the director may provide
32 information regarding referral sources to contractors, subcontractors,
33 prospective contractors, and prospective subcontractors;

34 (5) establishing a procedure by which the director shall monitor and
35 criteria by which the director shall evaluate the performance of each
36 referral source on an annual basis, and where the director determines
37 that a referral source has performed inadequately, terminate or suspend
38 the referral source;

39 (6) requiring contractors to agree to make best efforts to interview,
40 as appropriate, and to employ qualified economically disadvantaged
41 region candidates in order to meet employment goals relating to building
42 service work based on:

43 (i) the percentage of building service opportunities filled by econom-
44 ically disadvantaged region candidates, provided that in calculating
45 such goals, absorption hires shall not be considered; or

46 (ii) the percentage of building service opportunity labor hours
47 performed by economically disadvantaged region candidates, provided that
48 in calculating such goals, building service opportunity labor hours
49 performed by absorption hires shall not be considered;

50 (7) requiring contractors and subcontractors to agree to make best
51 efforts to employ qualified economically disadvantaged region candidates
52 to perform no less than thirty percent of the cumulative hours of
53 construction labor on transactions involving construction work, and
54 additionally requiring, to the extent feasible consistent with the maxi-
55 mum ratios of apprentices to journey-level workers established by the
56 New York state department of labor, that such contractors and subcon-

tractors agree to make best efforts to employ apprentices who are qualified economically disadvantaged region candidates to perform no less than nine percent of such cumulative hours of construction labor, provided that labor performed by apprentices who are qualified economically disadvantaged region candidates shall be credited towards the achievement of both employment goals set forth in this paragraph, and further provided that prior to releasing a solicitation for a transaction or otherwise initiating a process for entering into a transaction, as applicable, the director may waive such requirements where the director determines in writing that such waiver is in the best interest of the city;

(8) requiring contractors to agree to make best efforts to interview and to employ qualified economically disadvantaged candidates in order to meet employment goals relating to work that neither involves construction work nor building service work, and establishing such goals based on:

(i) the percentage of the cumulative hours of labor performed by such candidates;

(ii) the percentage of employment opportunities filled by such candidates; or

(iii) the total value of the transaction;

(9) requiring subcontractors to agree to make best efforts to interview, as appropriate, and to extend offers of employment to qualified candidates in order to meet any employment goals described in paragraph six or eight of this subdivision and established pursuant to rules adopted by the director;

(10) establishing a schedule of civil penalties, based on factors including but not limited to a contractor's industry or any relevant occupations employed by a contractor or subcontractor, that the director or an applicable agency may impose on a contractor due to the contractor's or subcontractor's non-compliance with an obligation created pursuant to this section and a procedure for the imposition of such penalties, which will not exclude other remedies established in this charter or any other law, provided that any civil penalties imposed pursuant to this paragraph shall not exceed two thousand five hundred dollars for each non-compliance with such an obligation or each failure to correct such non-compliance, and further provided that when promulgating rules establishing or amending such a schedule of civil penalties, the director shall consider the potential impact of such penalties on contractors and subcontractors that are MWBEs, not-for-profit corporations, or small businesses;

(11) designate paper or electronic formats for the submission of documents related to the selection and operation of referral sources and contractors and subcontractors subject to goals pursuant to paragraphs six through nine of this subdivision, as applicable, including but not limited to, documents containing information required pursuant to paragraphs one and three of this subdivision and subdivision c and subparagraphs (E) and (F) of paragraph one of subdivision d of this section; solicitation documents and responses, including bids and proposals; and data related to labor performed pursuant to transactions, including payroll reports, as applicable; and

(12) (A) authorizing the director to establish factors by which goals described in paragraphs six, eight, and nine of this subdivision will be established for individual transaction, including:

(i) the scope of the transaction;

1 (ii) the availability of qualified economically disadvantaged candi-
2 dates and economically disadvantaged region candidates;

3 (iii) the nature of any employment opportunities that the director
4 expects will result from the transaction;

5 (iv) the potential impact of such goal on contractors and subcontrac-
6 tors, as applicable, that are MWBEs, not-for-profit corporations, or
7 small businesses; and

8 (v) any other similar factors.

9 (B) Prior to setting a goal pursuant to this subdivision for an indi-
10 vidual transaction, the agency entering into the transaction shall
11 consider the goals set for previous, similar transactions and whether
12 such goals were appropriate for such transactions.

13 b. Lists of economically disadvantaged regions. No later than ninety
14 days after the effective date of this section, and at least once during
15 each twelve-month period thereafter, the director shall publish a report
16 including an updated list of all economically disadvantaged regions
17 within a radius of one hundred miles of the city or all such econom-
18 ically disadvantaged regions within the metropolitan area. Nothing shall
19 preclude an individual whose residence is within an economically disad-
20 vantaged region that is not included in such list from qualifying as an
21 economically disadvantaged region candidate for the purposes of goals
22 set under this section.

23 c. Reporting. No later than one hundred eighty days after the effec-
24 tive date of this section and each quarter thereafter, the office of
25 community hiring and workforce development shall publish a report on a
26 website maintained or controlled by the city, pursuant to rules adopted
27 by the director, that shall include, for each transaction subject to a
28 goal established pursuant to paragraphs six, seven, or eight of subdivi-
29 sion a of this section, information demonstrating the corresponding
30 contractor's progress towards meeting such goal and, if applicable, any
31 subcontractors' progress towards meeting any goal established pursuant
32 to paragraphs seven or nine of subdivision a of this section, and aggre-
33 gate information regarding the demographics and compensation of econom-
34 ically disadvantaged region candidates, economically disadvantaged
35 candidates, and apprentices who are economically disadvantaged region
36 candidates, as applicable, relative to all individuals employed by such
37 contractor and, if applicable, subcontractors on such transaction. In
38 compiling this report, the director shall, to the extent he or she deems
39 feasible, use data sources established or maintained by the city for
40 other programs or operations in order to minimize administrative burdens
41 on contractors and subcontractors, provided that where the director
42 determines that such data sources cannot be used to complete such
43 report, the director may adopt rules requiring contractors and subcon-
44 tractors to provide such additional data necessary to complete this
45 report, and to certify the accuracy of such additional information.
46 Nothing in this subdivision shall be interpreted to authorize the direc-
47 tor to promulgate rules requiring labor organizations to provide infor-
48 mation on a regular basis to complete such reports.

49 d. Best efforts. (1) In determining whether a contractor or subcon-
50 tractor has exercised best efforts to meet the employment goals estab-
51 lished pursuant to subdivision a of this section, the director shall
52 consider the degree to which the contractor or subcontractor has endeav-
53 ored:

54 (A) to review economically disadvantaged region candidates' and
55 economically disadvantaged candidates' qualifications, as applicable, in
56 good faith;

1 (B) to advertise employment opportunities, as applicable, in a manner
2 reasonably intended to attract qualified economically disadvantaged
3 candidates or economically disadvantaged region candidates, except that
4 contractors and subcontractors performing construction work pursuant to
5 a project labor agreement shall not be required to advertise employment
6 opportunities for construction work;

7 (C) to coordinate with referral sources or apprenticeship programs, as
8 applicable, in order to interview, if applicable, and employ such candi-
9 dates identified by such referral sources or apprenticeship programs,
10 provided that for contractors and subcontractors performing construction
11 work pursuant to a project labor agreement, the director shall only
12 consider the degree to which the contractor or subcontractor has endeav-
13 ored to meet such goals by complying with the referral provisions of
14 such project labor agreement;

15 (D) to review and organize the work under the transaction in order to
16 eliminate obstacles to meeting such employment goals;

17 (E) to monitor and to document the contractor's or subcontractor's
18 efforts to meet the employment goals;

19 (F) to contact the office of community hiring and workforce develop-
20 ment at routine intervals, or as otherwise required by rule, to inform
21 the director of the contractor's or subcontractor's efforts to meet the
22 employment goals; and

23 (G) to take all other commercially reasonable actions to meet the
24 employment goals.

25 (2) In order to exercise best efforts, neither contractors nor subcon-
26 tractors are required:

27 (A) to undertake an undue financial burden;

28 (B) to terminate or substantially reduce the work levels of any of a
29 contractor's or subcontractor's existing employees;

30 (C) to extend an offer of employment to an individual whose labor
31 would not be commercially useful; or

32 (D) to forgo filling building service opportunities with absorption
33 hires.

34 e. Discretionary application of goals. Notwithstanding any other
35 provision of this section, employment goals authorized under paragraphs
36 six through nine of subdivision a of this section may, but are not
37 required to be, established for transactions that are emergency procure-
38 ment contracts procured pursuant to the procedure set forth in section
39 three hundred fifteen of the charter.

40 f. Adjustment of construction goals. On a biannual basis, the director
41 shall review and thereafter may promulgate rules increasing or decreas-
42 ing the value of the employment goals established under paragraph seven
43 of subdivision a of this section.

44 g. Wage payment assurances. The director may promulgate rules setting
45 forth standards and a procedure by which contractors and subcontractors
46 that the director has determined have a record of failing to pay wages,
47 including but not limited to prevailing wages and benefits required
48 pursuant to article eight of the labor law, to individuals performing
49 construction labor under a transaction shall be required to provide
50 additional assurances acceptable to the director in order to receive
51 credit towards the achievement of employment goals set forth in para-
52 graph seven of subdivision a of this section.

53 § 3. Paragraph 1 of subdivision b of section 311 of the New York city
54 charter, as amended by local law number 20 of the city of New York for
55 the year 2004, is amended to read as follows:

1 1. the methods for soliciting bids or proposals and awarding
2 contracts, consistent with the provisions of this chapter, provided that
3 the director of the office of community hiring and workforce development
4 may promulgate rules authorizing agencies to incorporate into the award
5 methodology for any contract a quantitative factor based on a bidder or
6 proposer's capacity to meet or exceed goals established pursuant to
7 subdivision a of section thirty-four hundred two of the charter, and
8 further provided that agencies incorporating such a quantitative factor
9 into the award methodology for a contract pursuant to such a rule shall
10 consider the potential impact of such a quantitative factor on busi-
11 nesses certified as minority or women-owned business enterprises pursu-
12 ant to article fifteen-A of the executive law or section thirteen
13 hundred four of the charter, not-for-profit corporations, and small
14 businesses, as such term is defined in section thirty-four hundred one
15 of the charter;

16 § 4. Subparagraphs (x) and (xi) of paragraph a of subdivision 36 of
17 section 2590-h of the education law, as amended by chapter 98 of the
18 laws of 2019, are amended and two new subparagraphs (xii) and (xiii) are
19 added to read as follows:

20 (x) a process for emergency procurement in the case of an unforeseen
21 danger to life, safety, property or a necessary service provided that
22 such procurement shall be made with such competition as is practicable
23 under the circumstances and that a written determination of the basis
24 for the emergency procurement shall be required and filed with the comp-
25 troller of the city of New York when such emergency contract is filed
26 with such comptroller; ~~and~~

27 (xi) procedures for the fair and equitable resolution of contract
28 disputes~~[-]~~;

29 (xii) employment goals established in accordance with the program
30 established pursuant to section thirty-four hundred two of the New York
31 city charter, including but not limited to employment goals established
32 pursuant to paragraph seven of subdivision a and the corresponding best
33 efforts provisions set forth in subdivision d of such section; provided,
34 however, that where a provision of such section requires action by the
35 director of the office of community hiring and workforce development,
36 such action shall not be taken by the director of the office of communi-
37 ty hiring and workforce development but shall be taken by the chancellor
38 or his or her designee; and

39 (xiii) a quantitative factor to be used in the evaluation of bids,
40 proposals or other offers for the purposes of awarding of contracts
41 based on a bidder, proposer or other offerer's capacity to meet or
42 exceed goals established pursuant to subparagraph (xii) of this para-
43 graph, provided that, when incorporating such a quantitative factor into
44 the award process for a contract, the chancellor, superintendent, or
45 school, as applicable, shall consider the potential impact of such a
46 quantitative factor on businesses certified as minority or women-owned
47 business enterprises pursuant to article fifteen-A of the executive law
48 or section thirteen hundred four of the New York city charter, not-for-
49 profit corporations, and small businesses, as such term is defined in
50 section thirty-four hundred one of such charter.

51 § 5. Subdivision (c) of section 917 of the general municipal law, as
52 separately amended by chapter 1082 of the laws of 1974 and chapter 239
53 of the laws of 2001, is amended to read as follows:

54 (c) For the benefit of the city and the inhabitants thereof an indus-
55 trial development agency, to be known as the New York City Industrial
56 Development Agency, is hereby established for the accomplishment of any

1 or all of the purposes specified in title one of article eighteen-A of
2 this chapter, except that it shall not have the power to construct or
3 rehabilitate any residential facility or housing of any nature and kind
4 whatsoever, nor shall it use any of its funds to further the
5 construction or rehabilitation of any residential facility or housing of
6 any nature and kind whatsoever. It shall constitute a body corporate and
7 politic, and be perpetual in duration. It shall only have the powers and
8 duties conferred by title one of article eighteen-A of this chapter upon
9 industrial development agencies as of January 1, 1973 except that it
10 shall have the power to finance a rail freight facility and the power to
11 establish employment goals in accordance with the program established
12 pursuant to section thirty-four hundred two of the New York city char-
13 ter, including but not limited to employment goals established pursuant
14 to paragraph seven of subdivision a and the corresponding best efforts
15 provisions set forth in subdivision d of such section; provided, howev-
16 er, that where a provision of such section requires action by the direc-
17 tor of the office of community hiring and workforce development, such
18 action shall not be taken by the director of the office of community
19 hiring and workforce development but shall be taken by the chief execu-
20 tive officer of the agency or his or her designee, and it shall not have
21 the power of condemnation. In the exercise of the powers conferred upon
22 such agency with respect to the acquisition of real property by article
23 eighteen-A of this chapter such agency shall be limited to the geograph-
24 ical jurisdictional limits of the city.

25 § 6. Section 816-b of the labor law, as added by chapter 571 of the
26 laws of 2001, is amended to read as follows:

27 § 816-b. Apprenticeship participation on [~~construction~~] certain
28 governmental contracts. 1. For purposes of this section:

29 (a) "governmental entity" shall mean the state, any state agency, as
30 that term is defined in section two-a of the state finance law, municip-
31 al corporation, commission appointed pursuant to law, school district,
32 district corporation, board of education, board of cooperative educa-
33 tional services, soil conservation district, and public benefit corpo-
34 ration; [~~and~~]

35 (b) "construction contract" shall mean any contract to which a govern-
36 mental entity may be a direct or indirect party which involves the
37 design, construction, reconstruction, improvement, rehabilitation, main-
38 tenance, repair, furnishing, equipping of or otherwise providing for any
39 building, facility or physical structure of any kind; and

40 (c) "city governmental entity" means a governmental entity that is (i)
41 a city with a population of one million or more inhabitants; or (ii) a
42 city school district or public benefit corporation operating primarily
43 within a city with a population of one million or more inhabitants.

44 2. Notwithstanding any other provision of this article, of section one
45 hundred three of the general municipal law, of section one hundred thir-
46 ty-five of the state finance law, of section one hundred fifty-one of
47 the public housing law, or of any other general, special or local law or
48 administrative code, in entering into any construction contract, a
49 governmental entity [~~which~~] that is to be a direct or indirect party to
50 such contract may require that any contractors and subcontractors have,
51 prior to entering into such contract, apprenticeship agreements appro-
52 priate for the type and scope of work to be performed, that have been
53 registered with, and approved by, the commissioner pursuant to the
54 requirements found in this article. A city governmental entity that is
55 a direct or indirect party to a contract, including but not limited to a
56 construction contract, may establish in its specifications a requirement

1 that, in performing the work, the contractor and its subcontractors
2 utilize a minimum ratio of apprentices to journey-level workers, as
3 established by the government entity but subject to any maximum ratio
4 established by the department of labor, for any classification appropri-
5 ate for the type and scope of work to be performed, provided that no
6 such minimum ratio shall be established for labor performed pursuant to
7 a construction contract subject to a goal for the employment of appren-
8 tices who reside in economically disadvantaged regions. Whenever utiliz-

9 ing [~~this requirement~~] these requirements, the governmental entity may,
10 in addition to whatever considerations are required by law, consider the
11 degree to which career opportunities in apprenticeship training programs
12 approved by the commissioner may be provided.

13 § 7. Notwithstanding any law to the contrary, any city-affiliated
14 not-for-profit corporation, as such term is defined in section 3401 of
15 the New York city charter, is authorized to establish employment goals
16 in accordance with the program established pursuant to section 3402 of
17 such charter, including but not limited to employment goals established
18 pursuant to paragraph 7 of subdivision a and the corresponding best
19 efforts provisions set forth in subdivision d of such section; provided,
20 however, that where a provision of such section requires action by the
21 director of the office of community hiring and workforce development of
22 the city of New York, such action shall not be taken by the director of
23 the office of community hiring and workforce development but shall be
24 taken by the chief executive officer of such corporation, or a duly
25 appointed designee.

26 § 8. Section 1728 of the public authorities law is amended by adding a
27 new subdivision 15-a to read as follows:

28 15-a. To establish employment goals in accordance with the program
29 established pursuant to section thirty-four hundred two of the New York
30 city charter, including but not limited to employment goals established
31 pursuant to paragraph seven of subdivision a and the corresponding best
32 efforts provisions set forth in subdivision d of such section; provided,
33 however, that where a provision of such section requires action by the
34 director of the office of community hiring and workforce development,
35 such action shall not be taken by the director of the office of communi-
36 ty hiring and workforce development but shall be taken by the president
37 of the authority or his or her designee;

38 § 9. The opening paragraph of paragraph d of subdivision 5 of section
39 1734 of the public authorities law, as added by chapter 738 of the laws
40 of 1988, is amended to read as follows:

41 the authority determines that it is in the public interest to award
42 contracts pursuant to a process for competitive requests for proposals
43 as hereinafter set forth. For purposes of this section, a process for
44 competitive requests for proposals shall mean a method of soliciting
45 proposals and awarding a contract on the basis of a formal evaluation of
46 the characteristics, such as quality, cost, delivery schedule, the
47 capacity to meet or exceed the goals set forth in subdivision fifteen-a
48 of section seventeen hundred twenty-eight of this title and financing of
49 such proposals against stated selection criteria. Public notice of the
50 requests for proposals shall be given in the same manner as provided in
51 subdivision three of this section and shall include the selection crite-
52 ria. In the event the authority makes a material change in the selection
53 criteria from those previously stated in the notice, it will inform all
54 proposers of such change and permit proposers to modify their proposals.
55 When the authority includes in the selection criteria for a request for
56 proposals a quantitative factor based on a proposer's capacity to meet

or exceed the goals set forth in subdivision fifteen-a of section seventeen hundred twenty-eight of this title, the authority shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-a of the executive law, section thirteen hundred four of the New York city charter, or section seventeen hundred forty-three of this title, not-for-profit corporations, and small businesses, as such term is defined in section thirty-four hundred one of the New York city charter.

§ 10. Section 5 of section 1 of chapter 1016 of the laws of 1969, constituting the New York city health and hospitals corporation act, is amended by adding a new subdivision 20-a to read as follows:

20-a. To establish employment goals in accordance with the program established pursuant to section thirty-four hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by a duly appointed designee of the corporation; and

§ 11. Section 8 of section 1 of chapter 1016 of the laws of 1969, constituting the New York city health and hospitals corporation act, is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any other provision in this act, the corporation may establish a quantitative factor to be used in the evaluation of bids for the purposes of awarding of contracts based on a bidder's capacity to meet or exceed goals established pursuant to subdivision twenty-a of section five of this act, provided that when establishing such a qualitative factor, the corporation shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-a of the executive law or section thirteen hundred four of the New York city charter, not-for-profit corporations, and small businesses, as such term is defined in section thirty-four hundred one of the New York city charter;

§ 12. Subdivision b of section 2 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, is amended by adding a new paragraph 12-a to read as follows:

(12-a) A quantitative factor to be used in the evaluation of bids or offers for awarding of contracts based on a bidder or offerer's capacity to meet or exceed goals established pursuant to subdivision a of section 3402 of the New York city charter;

§ 13. No provision of this act shall be construed to invalidate any provision of a project labor agreement, as such term is defined in section 3401 of the New York city charter as added by section two of this act, or otherwise affect the contractual rights of any party to such an agreement.

§ 14. If any clause, sentence, paragraph, or section of this act is declared invalid or unconstitutional by any court of competent jurisdiction, after exhaustion of all further judicial review, such portion shall be deemed severable, and the court's judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or section of this act directly involved in the controversy in which the judgment was rendered.

1 § 15. This act shall take effect on the one hundred eightieth day
2 after it shall have become a law; provided that effective immediately,
3 the addition, amendment and/or repeal of any rule or regulation neces-
4 sary for the implementation of this act on its effective date are
5 authorized to be made and completed on or before such effective date by
6 the director of the office of community hiring and workforce development
7 of the city of New York, the chancellor and the city board of the city
8 school district of the city of New York, the president of the New York
9 city school construction authority, the duly appointed designee of the
10 New York city health and hospitals corporation, the chief executive
11 officer of the New York city industrial development agency, and the
12 chief executive officer of any city-affiliated not-for-profit corpo-
13 ration, as such term is defined by section 3401 of the New York city
14 charter as added by section two of this act; provided further that:

15 (1) sections one, two, three, five, six, seven, eight, nine, ten,
16 eleven, thirteen, and fourteen of this act shall expire and be deemed
17 repealed 7 years after this act takes effect, provided that such expira-
18 tion and repeal shall not affect any transaction, as such term is
19 defined by section 3401 of the New York city charter as added by section
20 two of this act, entered into or for which a solicitation was released
21 prior to such expiration and repeal, or to any renewals, extensions,
22 modifications, or amendments to such transaction;

23 (2) the amendments to paragraph a of subdivision 36 of section 2590-h
24 of the education law made by section four of this act shall not affect
25 the expiration of such subdivision and such section and shall expire and
26 be deemed repealed therewith, or 7 years after this act takes effect,
27 whichever occurs earlier, provided that such expiration and repeal shall
28 not affect any transaction entered into or for which a solicitation was
29 released prior to such expiration and repeal, or to any renewals, exten-
30 sions, modifications, or amendments to such transaction; and

31 (3) the amendments to the New York city public works investment act
32 made by section twelve of this act shall not affect the expiration and
33 repeal of such act and shall expire and be deemed repealed therewith, or
34 7 years after this act takes effect, whichever occurs earlier.