

# STATE OF NEW YORK

7810--A

2023-2024 Regular Sessions

## IN ASSEMBLY

June 15, 2023

Introduced by M. of A. CRUZ -- 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

AN ACT to amend the executive law, in relation to directing contracting state agencies to develop a growth plan in order to increase participation of MWBEs with respect to state contracts and subcontracts

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

1 Section 1. Paragraph (d-1) of subdivision 3 of section 311 of the  
2 executive law, as added by chapter 96 of the laws of 2019, is amended to  
3 read as follows:

4 (d-1) to require all contracting state agencies to develop a [~~four-~~  
5 ~~year~~] three-year growth plan to determine a means of promoting and  
6 increasing participation by minority-owned and women-owned business  
7 enterprises with respect to state contracts and subcontracts. Every  
8 [~~four~~] three years, beginning September fifteenth, two thousand twenty,  
9 each contracting state agency shall submit a [~~four-year~~] three-year  
10 growth plan as part of its annual report to the governor and legislature  
11 pursuant to section one hundred sixty-four of this chapter. Such growth  
12 plans shall include, but not be limited to, an analysis of the contract-  
13 ing agency's use of discretionary buying in accordance with subdivision  
14 six of section one hundred sixty-three of the state finance law and what  
15 percentage of total commodities and service purchases within the discre-  
16 tionary buying dollar threshold are awarded to certified minority-owned  
17 and women-owned business enterprises pursuant to that authorization and  
18 whether this authorization can be used to increase participation by  
19 minority-owned and women-owned business enterprises, an analysis of how  
20 the contracting agency can use the empire state development corpo-  
21 ration's and the division's resources to facilitate additional minori-

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

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1 ty-owned and women-owned business enterprise participation and any  
2 recommendations for programmatic modifications that would make those  
3 resources easier to use, an analysis of what steps the contracting agen-  
4 cy plans to take to improve minority-owned and women-owned business  
5 enterprise capacity to participate in additional contracts and become  
6 viable bidders for larger contracts, an explanation of how the contract-  
7 ing agency is debriefing minority-owned and women-owned business enter-  
8 prises that lose bids and how that process can improve, and an analysis  
9 of the types of contracts where waivers are being granted and steps the  
10 state can take to reduce the need for waivers over the course of the  
11 growth plan.

12 § 2. Subdivision 5 of section 315 of the executive law, as amended by  
13 chapter 96 of the laws of 2019, is amended to read as follows:

14 5. Each agency shall include in its annual report to the governor and  
15 legislature pursuant to section one hundred sixty-four of this chapter:

16 (a) its annual goals for contracts with minority-owned and women-owned  
17 business enterprises; (b) the number of actual contracts issued to  
18 minority-owned and women-owned business enterprises; (c) a summary of  
19 all waivers of the requirements of subdivisions six and seven of section  
20 three hundred thirteen of this article allowed by the reporting agency  
21 during the preceding year, including a description of the basis of the  
22 waiver request and the rationale for granting such waiver; (d) whether  
23 or not it has been required to prepare a remedial plan, and, if so, the  
24 plan and the extent to which the agency has complied with each element  
25 of the plan; (e) which expenditures are exempt from participation goals  
26 and the rationale for such exemption; and (f) every [~~four~~] three years,  
27 beginning September fifteenth, two thousand twenty, each agency shall  
28 include in such annual report its [~~four-year~~] three-year growth plan  
29 pursuant to section three hundred eleven of this article.

30 § 3. This act shall take effect on the ninetieth day after it shall  
31 have become a law; provided, however, the amendments to sections 311 and  
32 315 of the executive law made by sections one and two of this act  
33 respectively, shall not affect the repeal of such sections and shall be  
34 deemed repealed therewith.