STATE OF NEW YORK

1424--A

Cal. No. 500

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

Introduced by Sens. BAILEY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- recommitted to the Committee on Procurement and Contracts in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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:

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

(d-1) to require all contracting state agencies to develop a [~~four-year~~] three-year growth plan to determine a means of promoting and increasing participation by minority-owned and women-owned business enterprises with respect to state contracts and subcontracts. Every [~~four~~] three years, beginning September fifteenth, two thousand twenty, each contracting state agency shall submit a [~~four-year~~] three-year growth plan as part of its annual report to the governor and legislature pursuant to section one hundred sixty-four of this chapter. Such growth plans shall include, but not be limited to, an analysis of the contracting agency's use of discretionary buying in accordance with subdivision six of section one hundred sixty-three of the state finance law and what percentage of total commodities and service purchases within the discretionary buying dollar threshold are awarded to certified minority-owned and women-owned business enterprises pursuant to that authorization and whether this authorization can be used to increase participation by minority-owned and women-owned business enterprises, an analysis of how

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

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the contracting agency can use the empire state development corporation's and the division's resources to facilitate additional minority-owned and women-owned business enterprise participation and any recommendations for programmatic modifications that would make those resources easier to use, an analysis of what steps the contracting agency plans to take to improve minority-owned and women-owned business enterprise capacity to participate in additional contracts and become viable bidders for larger contracts, an explanation of how the contracting agency is debriefing minority-owned and women-owned business enterprises that lose bids and how that process can improve, and an analysis of the types of contracts where waivers are being granted and steps the state can take to reduce the need for waivers over the course of the growth plan.

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

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

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