

STATE OF NEW YORK

8139--A

Cal. No. 504

IN SENATE

January 9, 2024

Introduced by Sens. SANDERS, FERNANDEZ, PARKER, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the executive law, in relation to reciprocal minority and women-owned business enterprise certification

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

1 Section 1. Paragraphs (a) and (b) of subdivision 2-a of section 314 of
2 the executive law, as amended by chapter 96 of the laws of 2019, subpar-
3 agraph (i) of paragraph (a) as amended by chapter 669 of the laws of
4 2022, are amended to read as follows:

5 (a) The director shall establish a procedure [~~enabling~~] requiring the
6 office to accept New York municipal corporation certification verifica-
7 tion for minority and women-owned business enterprise applicants in lieu
8 of requiring the applicant to complete the state certification process
9 separately. [~~The~~] Any municipal corporation that chooses to use such
10 procedure shall first enter into a memorandum of understanding regarding
11 acceptance of such municipal corporation certification verification with
12 the office, and the director shall promulgate rules and regulations to
13 set forth criteria for the acceptance of municipal corporation certifi-
14 cation. [~~All eligible municipal corporation certifications~~] An appli-
15 cant certified in lieu of completing the state certification process
16 separately pursuant to this section shall [~~require~~] meet the definition
17 of a minority-owned business [~~enterprises seeking certification to meet~~
18 ~~the following standards:~~

19 ~~(i) have at least fifty one percent ownership by a minority]~~ enter-
20 prise or a women-owned business enterprise [~~and be owned by United~~
21 ~~States citizens or permanent resident noncitizens;~~

22 ~~(ii) be an enterprise in which the minority and/or women-ownership~~
23 ~~interest is real, substantial and continuing;~~

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

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1 ~~(iii) be an enterprise in which the minority and/or women ownership~~
2 ~~has and exercises the authority to control independently the day-to-day~~
3 ~~business decisions of the enterprise;~~

4 ~~(iv) be an enterprise authorized to do business in this state;~~

5 ~~(v) be subject to a physical site inspection to verify the fifty-one~~
6 ~~percent ownership requirement;~~

7 ~~(vi) be owned by an individual or individuals, whose ownership,~~
8 ~~control and operation are relied upon for certification, with a personal~~
9 ~~net worth that does not exceed fifteen million dollars and such other~~
10 ~~amount as the director shall set forth in regulations, as adjusted annu-~~
11 ~~ally for inflation according to the consumer price index; and~~

12 ~~(vii) be an enterprise that is a small business pursuant to subdivi-~~
13 ~~sion twenty of] as set forth in section three hundred ten of this arti-~~
14 ~~cle in order to receive state certification.~~

15 (b) The director shall work with all municipal corporations that have
16 a municipal minority and women-owned business enterprise program to
17 develop standards to accept state certification to meet the municipal
18 corporation minority and women-owned business enterprise certification
19 standards whenever a municipal corporation requests assistance. Upon
20 entering into a memorandum of understanding pursuant to paragraph (a) of
21 this subdivision, each municipal corporation that has a municipal minor-
22 ity and women-owned business enterprise program shall establish a proce-
23 dure requiring such municipality to accept state certification verifica-
24 tion for minority and women-owned business enterprise applicants in lieu
25 of requiring applicants to apply to each entity separately. The munici-
26 pal corporation shall develop rules and regulations in order to accept
27 state certification in situations where an applicant who is certified as
28 a minority or women-owned business enterprise pursuant to the law or
29 rule for such municipal corporation's certification program also meets
30 the definition of a minority-owned business enterprise or women-owned
31 business enterprise as set forth in section three hundred ten of this
32 article.

33 § 2. This act shall take effect on the two hundred seventieth day
34 after it shall have become a law; provided, however, that the amendments
35 to paragraphs (a) and (b) of subdivision 2-a of section 314 of the exec-
36 utive law made by section one of this act shall not affect the repeal of
37 such section and shall be deemed repealed therewith.