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:

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

(a) The director shall establish a procedure [~~enabling~~] **requiring** the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process **separately**. [~~The~~] **Any municipal corporation that chooses to use such procedure shall first enter into a memorandum of understanding regarding acceptance of such municipal corporation certification verification with the office, and the** director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. [~~All eligible municipal corporation certifications~~] **An applicant certified in lieu of completing the state certification process separately pursuant to this section** shall [~~require~~] **meet the definition of a minority-owned** business [~~enterprises seeking certification to meet the following standards:~~

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

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

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

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

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

~~(vii) be an enterprise that is a small business pursuant to subdivision twenty of~~] as set forth in section three hundred ten of this article in order to receive state certification.

(b) The director shall work with all municipal corporations that have a municipal minority and women-owned business enterprise program to develop standards to accept state certification to meet the municipal corporation minority and women-owned business enterprise certification standards whenever a municipal corporation requests assistance. Upon entering into a memorandum of understanding pursuant to paragraph (a) of this subdivision, each municipal corporation that has a municipal minority and women-owned business enterprise program shall establish a procedure requiring such municipality to accept state certification verification for minority and women-owned business enterprise applicants in lieu of requiring applicants to apply to each entity separately. The municipal corporation shall develop rules and regulations in order to accept state certification in situations where an applicant who is certified as a minority or women-owned business enterprise pursuant to the law or rule for such municipal corporation's certification program also meets the definition of a minority-owned business enterprise or women-owned business enterprise as set forth in section three hundred ten of this article.

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