STATE OF NEW YORK

8844

IN SENATE

March 20, 2024

Introduced by Sen. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the state finance law, in relation to adding employee-owned enterprises to the list of preferred contractors for public contracts in the state

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

Section 1. Subdivisions 6, 7, 8, 9 and 10 of section 160 of the state finance law are renumbered subdivisions 7, 8, 9, 10 and 11, and a new subdivision 6 is added to read as follows:

6. "Employee-owned enterprise" shall have the same meaning as defined by section eighteen hundred thirty-six-b of the public authorities law.

§ 2. Subdivision 2 of section 162 of the state finance law is amended by adding a new paragraph g to read as follows:

g. Commodities and services produced by an employee-owned enterprise or a worker cooperative incorporated under the laws of this state and governed by article five-A of the cooperative corporations law.

§ 3. Subparagraph (iii) of paragraph a and the opening paragraph of paragraph b of subdivision 4 of section 162 of the state finance law, as amended by chapter 565 of the laws of 2022, are amended to read as follows:

(iii) When commodities are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, and such commodities are not available pursuant to subparagraphs (i) and (ii) of this paragraph, said commodities shall then be purchased from a qualified nonprofit-making agency for other disabled persons, a qualified special employment program for mentally ill persons, [~~or~~] a qualified veterans' entity**, or a qualified employee-owned enterprise or worker cooperative**; provided, however, the preferred source shall perform fifty percent or more of the work;

When services are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, equal priority shall be accorded the services rendered and offered for sale by qualified nonprofit-making agencies for the blind and those for the other disabled, by qualified special employment programs for mentally ill persons [~~and~~]**,**

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

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by qualified veterans' entities**, and by qualified employee-owned enterprises or worker cooperatives**; provided, however, the preferred source shall perform fifty percent or more of the work. In the case of services:

§ 4. Subparagraph (iii) of paragraph a and the opening paragraph of paragraph b of subdivision 4 of section 162 of the state finance law, as added by chapter 83 of the laws of 1995, are amended to read as follows:

(iii) When commodities are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, and such commodities are not available pursuant to subparagraphs (i) and (ii) of this paragraph, said commodities shall then be purchased from a qualified nonprofit-making agency for other [~~severely~~] disabled persons, a qualified special employment program for mentally ill persons, [~~or~~] a qualified veterans' [~~workshop~~] **entity, or a qualified employee-owned enterprise or worker cooperative**;

When services are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, equal priority shall be accorded the services rendered and offered for sale by qualified nonprofit-making agencies for the blind and those for the other [~~severely~~] disabled, by qualified special employment programs for mentally ill persons [~~and~~]**,** by qualified veterans' [~~workshops~~] **entities, and by qualified employee-owned enterprises or worker cooperatives**. In the case of services:

§ 5. Section 162 of the state finance law is amended by adding a new subdivision 6-a to read as follows:

6-a. Prices charged by employee-owned enterprises or worker cooperatives.

a. Qualified employee-owned enterprises or worker cooperatives may make purchases of materials, equipment or supplies, except printed material, from centralized contracts for commodities in accordance with the conditions set by the office of general services; provided that such qualified employee-owned enterprise or worker cooperative shall accept sole responsibility for any payment due to the vendor.

b. The state comptroller may conduct audits and examinations of all records, books and data of any employee-owned enterprise or worker cooperative qualified under this section to determine the costs of manufacturing or the rendering of services and the manner and efficiency of production and administration of such employee-owned enterprise or worker cooperative with relation to any product or services purchased by a state agency or political subdivision or public benefit corporation and to furnish the results of such audit and examination to the commissioner for such action as he or she may deem appropriate under this section.

§ 6. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the amendments to subparagraph (iii) of paragraph a and the opening paragraph of paragraph b of subdivision 4 of section 162 of the state finance law made by section three of this act shall be subject to the expiration and reversion of such subparagraph and opening paragraph pursuant to section four of chapter 565 of the laws of 2022, as amended, when upon such date the provisions of section four of this act shall take effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.