STATE OF NEW YORK

7007--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the public authorities law, in relation to modernizing the metropolitan transportation authority's small business mentoring program

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

Section 1. Paragraph (c) of subdivision 1 of section 1265-b of the public authorities law, as added by chapter 206 of the laws of 2010, is amended to read as follows:

(c) "small business" means a business in the construction trades which (i) is independently owned and operated; (ii) has annual revenues not exceeding a fiscal limitation of [~~five~~] **ten** million dollars or such lesser amount as established by the authority pursuant to these provisions; and (iii) meets additional criteria as otherwise established by the chairman in consultation with the members of the MTA small business mentoring program advisory committee. The chair of the committee shall be the chief diversity officer of the MTA. The authority shall establish a detailed definition in general and specific to different segments of the construction industry to the extent necessary to reflect differing characteristics of such segments based on the criteria used by the United States small business administration for loans to small businesses as set forth in Sections 121.301 through 121.305, or for awarding government procurements as set forth in Sections 121.401 through 121.413, of Subpart A of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations as amended, and such other criteria as determined by the authority;

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

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§ 2. Paragraph (d) of subdivision 1 of section 1265-b of the public authorities law, as added by chapter 206 of the laws of 2010, is amended to read as follows:

(d) "small business mentoring program" is a program established by the authority pursuant to these provisions to provide small businesses accepted into the program with the opportunity:

(i) for up to [~~four~~] five years, to compete for and, where awarded, to perform certain authority public work contracts to be designated by the authority for inclusion in this program under this subparagraph, with the assistance of an authority-provided mentor, which shall be a firm competitively selected by the authority that has extensive construction management and mentoring experience, with the mentor to provide the small business with advice and assistance in competing for and managing authority public work contracts; and

(ii) for a small business mentoring program participant which the authority has determined has successfully completed the program under subparagraph (i) of this paragraph, for up to [~~four~~] five additional years, (A) additional opportunities to compete with other designated small businesses in the program for certain public work contracts to be designated for inclusion under this subparagraph and, where awarded, to perform such authority public work contracts, with the further assistance of an authority-provided mentor, which shall be a firm competitively selected by the authority that has extensive construction management and mentoring experience, with the mentor to provide the small business with advice and technical assistance in competing for and managing authority public work contracts, and (B) authority-provided assistance, as determined by the authority, for such a small business to obtain bonding for public work contracts that are competitively awarded pursuant to provisions of law other than this section.

§ 3. Paragraph (e) of subdivision 1 of section 1265-b of the public authorities law, as added by chapter 206 of the laws of 2010, is amended to read as follows:

(e) "small business mentoring program contract" means a non-federally funded, unless authorized by the applicable federal funding agency, authority public work contract designated by the authority, in an estimated amount of not more than one million five hundred thousand dollars for contracts under subparagraph (i) of paragraph (d) of this subdivision and [~~three~~] five million dollars for contracts under subparagraph (ii) of paragraph (d) of this subdivision, for which bids or proposals are to be invited and accepted only from businesses that are enrolled in the small business mentoring program and have been selected by the authority to compete for the contract.

§ 4. Section 1265-b of the public authorities law is amended by adding a new subdivision 7 to read as follows:

7. The authority shall submit a report, no later than September thirtieth, two thousand twenty-five, and annually thereafter, to the governor, the temporary president of the senate, and the speaker of the assembly regarding procurements made pursuant to this section. Such report shall include a description of each procurement made pursuant to this subdivision and the rationale for why the public work contract was selected as a small business mentoring program contract, information regarding the procurement process for each such mentoring program contract and the name or names of the small businesses that fulfilled the contract, the project identification number and a description for each such project performed pursuant to the contract, the contractual completion date for each contract, the status of each such project, the

contract price, including executed modifications, whether a project received surety bond or insurance contract assistance pursuant to subparagraph (vi) of paragraph (b) of subdivision two of this section, the total dollar value of monies paid to minority-owned and women-owned business enterprises and disadvantaged business enterprises pursuant to this section itemized by year and including the total dollar values for the five years preceding the respective annual report's release date. Such report shall additionally identify the authority-provided construction manager mentors and describe their competitive selection process, describe the technical assistance and advice provided by the authority and the mentors to program participants, and describe the business training provided by such mentor. For annual reports, any new procurements and changes during the period covered by the report shall be identified separately.

§ 5. This act shall take effect immediately; provided, however, that the amendments to section 1265-b of the public authorities law made by sections one, two, three and four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.