

STATE OF NEW YORK

7150

2025-2026 Regular Sessions

IN ASSEMBLY

March 20, 2025

Introduced by M. of A. BICHOTTE HERMELYN, SIMON, ZINERMAN, SEAWRIGHT, JACKSON, DAVILA -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to participation by minority group members and women with respect to certain state contracts; and to amend the state finance law, in relation to performance and payment bond requirements

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

1 Section 1. Subdivisions 3 and 4 of section 311 of the executive law,
2 subdivision 3 as added by chapter 261 of the laws of 1988, paragraphs
3 (d) and (e) of subdivision 3 as amended by chapter 55 of the laws of
4 1992, paragraphs (f), (h), (i), (j), (k), (l) and (m) of subdivision 3
5 as amended by chapter 40 of the laws of 2023, the opening paragraph of
6 subdivision 4 as amended and paragraph (d-1) of subdivision 3 and para-
7 graphs (d) and (e) of subdivision 4 as added by chapter 96 of the laws
8 of 2019, paragraph (g) of subdivision 3 as amended by section 1 of part
9 BB of chapter 59 of the laws of 2006, and subdivision 4 as amended by
10 chapter 361 of the laws of 2009, are amended to read as follows:

11 3. The director shall have the following powers and duties:
12 (a) to encourage and assist contracting agencies in their efforts to
13 increase participation by minority and women-owned business enterprises
14 on state contracts and subcontracts [~~se-as~~] to facilitate the award of a
15 fair share of such contracts to them and to provide on the division's
16 website a list of each contracting agency's minority and women-owned
17 business enterprises certification outreach seminars;
18 (b) to develop standardized forms and reporting documents necessary to
19 implement this article;
20 (c) to conduct educational outreach programs to encourage the certifi-
21 cation of minority and women-owned business enterprises consistent with
22 the purposes of this article;

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

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1 (d) to review [~~periodically~~] quarterly the practices and procedures of
2 each contracting agency with respect to compliance with the provisions
3 of this article, and to require them to file [~~periodic~~] quarterly
4 reports with the division of minority and women's business development
5 as to the level of minority and women-owned business enterprises partic-
6 ipation in the awarding of agency contracts for goods and services
7 including but not limited to the number of state contracts awarded to
8 certified minority or women-owned business enterprises, the maximum
9 dollar amount obligated pursuant to all those contracts, and the total
10 expenditures made pursuant to all such contracts; the number of state
11 contracts awarded which include a utilization plan for business partic-
12 ipation by certified minority or women-owned business enterprises, the
13 maximum amount obligated pursuant to those contracts, and the total
14 expenditures made pursuant to all such contracts; the number of state
15 contracts awarded upon which a waiver was granted from goals required by
16 the contracts for business participation by certified minority or
17 women-owned business enterprises, and the maximum amount obligated
18 pursuant to those contracts; the number of state contracts awarded which
19 required goals for employment of minority group members and women; and
20 the number of state contracts awarded for which waivers of employment
21 goals required by the contracts have been granted;

22 (d-1) to require all contracting state agencies to develop a four-year
23 growth plan to determine a means of promoting and increasing partic-
24 ipation by [~~minority-owned~~] minority and women-owned business enter-
25 prises with respect to state contracts and subcontracts. Every four
26 years, beginning September fifteenth, two thousand twenty, each
27 contracting state agency shall submit a four-year growth plan as part of
28 its annual report to the governor and legislature pursuant to section
29 one hundred sixty-four of this chapter.

30 (e) on January first of each year report to the governor, the tempo-
31 rary president of the senate, the speaker of the assembly, the minority
32 leaders of the senate and the assembly, and the chairpersons of the
33 senate finance and assembly ways and means committees on the [~~level~~]
34 actual versus projected levels of minority and women-owned business
35 enterprises participating in each agency's contracts for goods [~~and~~],
36 services and construction, including but not limited to the number of
37 state contracts awarded to certified minority or women-owned business
38 enterprises, the maximum dollar amount obligated pursuant to all those
39 contracts, and the total expenditures made pursuant to all such
40 contracts, and on activities of the office and effort by each contract-
41 ing agency to promote employment of minority group members and women,
42 and to promote and increase participation by certified businesses with
43 respect to state contracts and subcontracts so as to facilitate the
44 award of a fair share of state contracts to such businesses. The comp-
45 troller shall assist the division in collecting information on the
46 participation of certified business for each contracting agency. Such
47 report may recommend new activities and programs to effectuate the
48 purposes of this article;

49 (f) the director shall list in the division's annual report the names
50 of non-compliant agencies and the extent of their noncompliance in
51 submitting its quarterly minority and women-owned business enterprise
52 utilization reports; and, shall implement a master list of all the state
53 agencies required to file quarterly compliance reports and shall attach
54 such list to the division's annual report.

55 (g) to prepare and update [~~, no less than annually,~~] quarterly a direc-
56 tory of certified minority and women-owned business enterprises which

1 shall, wherever practicable, (i) make publicly available records of all
2 certifications and recertifications, (ii) be divided into categories of
3 labor, services, supplies, equipment, materials and recognized
4 construction trades, and (iii) indicate areas or locations of the state
5 where such enterprises are available to perform services;

6 [~~(g)~~] (h) to appoint independent hearing officers who by contract or
7 terms of employment shall preside over adjudicatory hearings pursuant to
8 section three hundred fourteen of this article for the office and who
9 are assigned no other work by the office;

10 [~~(h)~~] (i) to make publicly available on the division's website records
11 of all revocations of certification for convictions for fraudulently
12 misrepresenting the status of minority or women-owned business enter-
13 prises or for evidence of fraudulent conduct with regard to partic-
14 ipation of a minority or women-owned business enterprise in the perform-
15 ance of state contracts and the reasoning for such revocations after a
16 final determination has been made, provided that information falling
17 into the categories enumerated in paragraphs (a) through (j) of subdivi-
18 sion two of section eighty-seven of the public officers law shall be
19 withheld;

20 [~~(i)~~] (j) notwithstanding the provisions of section two hundred nine-
21 ty-six of this chapter, to file a complaint pursuant to the provisions
22 of section two hundred ninety-seven of this chapter where the director
23 has knowledge that a contractor may have violated the provisions of
24 paragraph (a), (b) or (c) of subdivision one of section two hundred
25 ninety-six of this chapter where such violation is unrelated, separate
26 or distinct from the state contract as expressed by its terms;

27 [~~(j)~~] (k) to streamline the state certification process to accept
28 federal and municipal corporation certifications;

29 [~~(k)~~] (l) to make publicly available on the division's website records
30 of all waivers of compliance reported pursuant to paragraph (b) of
31 subdivision six of section three hundred thirteen of this article,
32 including the reasoning for denial of such waivers after a final deter-
33 mination has been made, provided that information falling into the cate-
34 gories enumerated in paragraphs (a) through (j) of subdivision two of
35 section eighty-seven of the public officers law shall be withheld;

36 [~~(l)~~] (m) to work in conjunction with the industrial commissioner
37 pursuant to paragraph (j) of subdivision one of section eight hundred
38 eleven of the labor law to assist contractors in identifying minority
39 group members and women who are participating in apprenticeship agree-
40 ments under article twenty-three of the labor law; and

41 [~~(m)~~] (n) to coordinate with appropriate offices, agencies, or author-
42 ities, where applicable, to conduct site visits or perform inspections
43 of financial records of minority or women-owned business enterprises in
44 accordance with this article and the regulations of the director.

45 4. The director shall provide assistance to, and facilitate access to
46 programs serving certified businesses as well as applicants to ensure
47 that such businesses benefit, as needed, from technical, managerial and
48 financial, and general business assistance; training; marketing; organ-
49 ization and personnel skill development; project management assistance;
50 technology assistance; bond and insurance education assistance; and
51 other business development assistance. The director shall maintain a
52 toll-free number at the department of economic development to be used to
53 answer questions concerning the MWBE certification process. In addition,
54 the director [~~may~~] shall, either independently or in conjunction with
55 other state agencies:

1 (a) develop a clearinghouse of information on programs and services
2 provided by entities that may assist such businesses;

3 (b) review bonding and paperwork requirements imposed by contracting
4 agencies that may unnecessarily impede the ability of such businesses to
5 compete; and

6 (c) seek to maximize utilization by minority and women-owned business
7 enterprises of available federal resources including but not limited to
8 federal grants, loans, loan guarantees, surety bonding guarantees, tech-
9 nical assistance, and programs and services of the federal small busi-
10 ness administration.

11 (d) conduct outreach events, training workshops, seminars, and other
12 such educational programs throughout the state, including all regional
13 offices, to state agencies, external stakeholders, and the public, to
14 promote awareness and utilization of minority and women-owned business
15 enterprises; and

16 (e) identify and establish mentorship opportunities and other business
17 development programs to increase capacity and better prepare MWBEs for
18 bidding on contracts with state agencies upon successful completion of
19 the mentorship opportunity. Such mentorship opportunities shall be
20 intended to ensure that mentor and mentee are connected based on a
21 commercially useful function.

22 § 2. Subdivision 5 of section 312 of the executive law, as added by
23 chapter 261 of the laws of 1988, is amended to read as follows:

24 5. The director shall promulgate rules and regulations to ensure that
25 contractors and subcontractors undertake programs of affirmative action
26 and equal employment opportunity as required by this section. Such rules
27 and regulations as they pertain to any particular agency shall be devel-
28 oped after consultation with contracting agencies. Such rules and regu-
29 lations [~~may~~] shall require a contractor, after notice in a bid solici-
30 tation, to submit an equal employment opportunity program [~~after bid~~
31 ~~opening and prior to the award of any contract~~] at the time bids are
32 submitted, and [~~may~~] shall require the contractor or subcontractor to
33 submit compliance reports relating to the contractor's or subcontrac-
34 tor's operation and implementation of any equal employment opportunity
35 program in effect as of the date the contract is executed. The contract-
36 ing agency [~~may recommend to the director that~~] shall have the right to
37 recommend that the director take appropriate action according to the
38 procedures set forth in section three hundred sixteen of this article
39 against the contractor for noncompliance with the requirements of this
40 section. The contracting agency shall be responsible for monitoring
41 compliance with this section.

42 § 3. Paragraph (j) of subdivision 2-a of section 313 of the executive
43 law, as amended by chapter 96 of the laws of 2019, is amended and a new
44 paragraph (k) is added to read as follows:

45 (j) require each agency to consult the most current disparity study
46 when calculating agency-wide and contract specific participation goals
47 pursuant to this article; [~~and~~]

48 (k) encourage joint ventures, partnerships, and mentor-protege
49 relationships as defined in section one hundred forty-seven of the state
50 finance law, between prime contractors and minority and women-owned
51 business enterprises; and

52 § 4. Subdivision 3 and paragraph (a) of subdivision 5 of section 313
53 of the executive law, subdivision 3 as amended by chapter 96 of the laws
54 of 2019 and paragraph (a) of subdivision 5 as amended by chapter 40 of
55 the laws of 2023, are amended to read as follows:

1 3. Solely for the purpose of providing the opportunity for [~~meaning-~~
2 ~~ful~~] **increased** participation by certified businesses in the performance
3 of state contracts as provided in this section, state contracts shall
4 include leases of real property by a state agency to a lessee where: the
5 terms of such leases provide for the construction, demolition, replace-
6 ment, major repair or renovation of real property and improvements there-
7 on by such lessee; and the cost of such construction, demolition,
8 replacement, major repair or renovation of real property and improve-
9 ments thereon shall exceed the sum of one hundred thousand dollars.
10 Reports to the director pursuant to section three hundred fifteen of
11 this article shall include activities with respect to all such state
12 contracts. Contracting agencies shall include or require to be included
13 with respect to state contracts for the acquisition, construction, demo-
14 lition, replacement, major repair or renovation of real property and
15 improvements thereon, such provisions as [~~may~~] **shall** be necessary to
16 effectuate the provisions of this section in every bid specification and
17 state contract, including, but not limited to: (a) provisions requiring
18 contractors to make a good faith effort to solicit active participation
19 by enterprises identified in the directory of certified businesses; (b)
20 requiring the parties to agree as a condition of entering into such
21 contract, to be bound by the provisions of section three hundred sixteen
22 of this article; and (c) requiring the contractor to include the
23 provisions set forth in paragraphs (a) and (b) of this subdivision in
24 every subcontract in a manner that the provisions will be binding upon
25 each subcontractor as to work in connection with such contract.
26 Provided, however, that no such provisions shall be binding upon
27 contractors or subcontractors in the performance of work or the
28 provision of services that are unrelated, separate or distinct from the
29 state contract as expressed by its terms, and nothing in this section
30 shall authorize the director or any contracting agency to impose any
31 requirement on a contractor or subcontractor except with respect to a
32 state contract.

33 (a) Contracting agencies shall administer the rules and regulations
34 promulgated by the director in a good faith effort to achieve the maxi-
35 mum feasible participation by minority and women owned business enter-
36 prises adopted pursuant to this article and the regulations of the
37 director. Such rules and regulations: shall require a contractor to
38 submit a utilization plan [~~after bids are opened~~] **at the time bids are**
39 **submitted**, when bids are required[, ~~but prior to the award of a state~~
40 ~~contract~~]; shall require the contracting agency to review the utiliza-
41 tion plan submitted by the contractor and to post the utilization plan
42 and any waivers of compliance issued pursuant to subdivision six of this
43 section on the website of the contracting agency; shall require the
44 contracting agency to notify the contractor in writing within a period
45 of time specified by the director as to any deficiencies contained in
46 the contractor's utilization plan; shall require remedy thereof within a
47 period of time specified by the director; shall require the contractor
48 to submit **quarterly** compliance reports relating to the operation and
49 implementation of any utilization plan; shall not allow any automatic
50 waivers but shall allow a contractor to apply for a partial or total
51 waiver of the minority and women-owned business enterprise participation
52 requirements pursuant to subdivisions six and seven of this section;
53 shall allow a contractor to file a complaint with the director pursuant
54 to subdivision eight of this section in the event a contracting agency
55 has failed or refused to issue a waiver of the minority and women-owned
56 business enterprise participation requirements or has denied such

1 request for a waiver; and shall allow a contracting agency to file a
2 complaint with the director pursuant to subdivision nine of this section
3 in the event a contractor is failing or has failed to comply with the
4 minority and women-owned business enterprise participation requirements
5 set forth in the state contract where no waiver has been granted.

6 § 5. Subdivisions 1, 2-a and 3 of section 315 of the executive law,
7 subdivisions 1 and 3 as amended and subdivision 2-a as added by chapter
8 96 of the laws of 2019, are amended and two new subdivisions 3-a and 8
9 are added to read as follows:

10 1. Each contracting agency shall be responsible for monitoring state
11 contracts under its jurisdiction, and recommending matters to the office
12 respecting non-compliance with the provisions of this article so that
13 the office [~~may~~] shall take such action as [~~is appropriate~~] stated in
14 subdivision three of section three hundred sixteen of this article. Each
15 contracting agency shall have the right to recommend that the director
16 impose a sanction, penalty, or fine for three or more violations of
17 subdivision one of section three hundred sixteen of this article, to
18 ensure compliance with the provisions of this article, the rules and
19 regulations of the director issued hereunder and the contractual
20 provisions required pursuant to this article. All contracting agencies
21 shall comply with the rules and regulations of the office and are
22 directed to cooperate with the office and to furnish to the office such
23 information and assistance as may be required in the performance of its
24 functions under this article.

25 2-a. [~~To the extent practicable, upon completion of the restrictive~~
26 ~~period of a procurement, each~~] Each contracting agency when notifying a
27 contractor of a winning bid award shall also notify any minority or
28 women-owned business enterprise identified in the contractor's submitted
29 utilization plan of such contractor's receipt of the winning bid award.

30 3. Each contracting agency shall report to the commissioner of econom-
31 ic development, the commissioner of general services and the director
32 with respect to activities undertaken to promote employment of minority
33 group members and women and promote and increase participation by certi-
34 fied businesses with respect to state contracts and subcontracts. Such
35 reports shall be submitted [~~no later than May fifteenth of every year~~]
36 quarterly and shall include such information as is necessary for the
37 director to determine whether the contracting agency and any contractor
38 to the contracting agency have complied with the purposes of this arti-
39 cle, including, without limitation, the number of state contracts
40 awarded to certified minority or women-owned business enterprises; the
41 maximum dollar amount obligated pursuant to all those contracts; and the
42 total expenditures made pursuant to all such contracts; the number of
43 state contracts awarded which include a utilization plan for business
44 participation by certified minority or women-owned business enterprises,
45 the maximum amount obligated pursuant to those contracts, and the total
46 expenditures made pursuant to all such contracts; a summary of all waiv-
47 ers of the requirements of subdivisions six and seven of section three
48 hundred thirteen of this article allowed by the contracting agency
49 during the period covered by the report, including a description of the
50 basis of the waiver request [~~and~~], the rationale for granting any such
51 waiver, the maximum amount obligated pursuant to those contracts; the
52 number of state contracts awarded which required goals for employment of
53 minority group members and women; the number of state contracts awarded
54 for which waivers of employment goals required by the contracts have
55 been granted, and any instances in which the contract agency has deemed
56 a contractor to have committed a violation pursuant to section three

1 hundred sixteen of this article and such other information as the direc-
2 tor shall require. Each agency shall also include in such annual report
3 whether or not it has been required to prepare a remedial plan, and, if
4 so, the plan and the extent to which the agency has complied with each
5 element of the plan.

6 3-a. Within thirty days after completion, a copy of the quarterly
7 minority and women-owned business enterprise report shall be transmitted
8 to the commissioner of economic development, the commissioner of general
9 services, and the director. A contracting agency, which has not let more
10 than two million dollars in service and/or construction contracts within
11 the applicable period may apply to the commissioner of economic develop-
12 ment, and the director for a waiver of the required annual report. The
13 waiver application shall be made on such form as the commissioner of
14 economic development and the director may prescribe.

15 8. If a contracting agency shall fail to file or substantially
16 complete, as determined by the commissioner of economic development and
17 the director, the report required by this section, the director shall
18 provide notice to the contracting agency. The notice shall state the
19 following:

20 (a) that the failure to file a report as required is a violation of
21 this section, or in the case of an insufficient report, the manner in
22 which the report submitted is deficient;

23 (b) that the contracting agency has thirty days to comply with this
24 section or provide an adequate written explanation to the commissioner
25 of economic development and the commissioner of general services and the
26 director of the contracting agency's reasons for the inability to
27 comply; and

28 (c) that the contracting agency's continued failure to provide either
29 the required report or an adequate explanation will result in an inde-
30 pendent audit of the contracting agency, the cost of which shall be
31 borne by the contracting agency.

32 § 6. Section 316 of the executive law, as amended by chapter 567 of
33 the laws of 2022, is amended to read as follows:

34 § 316. [~~Enforcement~~] Violations and enforcement. 1. It shall be a
35 violation for any person or entity to:

36 (a) intentionally use or acquire an MWBE name through deceit or other
37 dishonest means in order to negotiate a lower bid from a non-MWBE.

38 (b) submit to the department of economic development, documents or
39 other material as evidence of a good faith effort to comply with the
40 provisions of this article without, in fact, having entered into any
41 contract, agreement, subcontract, or sub-agreement with an MWBE for the
42 use or purchase of such business enterprise's goods or services in the
43 performance of the awarded state contract.

44 (c) fail to provide an MWBE with sufficient information or other
45 required supporting documentation in order for the MWBE to prepare a
46 proper bid.

47 2. Upon receipt by the director of a complaint by a contracting agency
48 that a contractor has violated the provisions of a state contract which
49 have been included to comply with the provisions of this article or of a
50 contractor that a contracting agency has violated such provisions or has
51 failed or refused to issue a waiver where one has been applied for
52 pursuant to subdivision six of section three hundred thirteen of this
53 article or has denied such application, the director shall attempt to
54 resolve the matter giving rise to such complaint. If efforts to resolve
55 such matter to the satisfaction of all parties are unsuccessful, the
56 director shall refer the matter, within thirty days of the receipt of

1 the complaint, to the division's hearing officers. Upon conclusion of
2 the administrative hearing, the hearing officer shall submit to the
3 director [~~his or her~~] such officer's decision regarding the alleged
4 violation of the contract and recommendations regarding the imposition
5 of sanctions, fines or penalties. The director, within ten days of
6 receipt of the decision, shall file a determination of such matter and
7 shall cause a copy of such determination along with a copy of this arti-
8 cle to be served upon the contractor by personal service or by certified
9 mail return receipt requested. The decision of the hearing officer shall
10 be final and may only be vacated or modified as provided in article
11 seventy-eight of the civil practice law and rules upon an application
12 made within the time provided by such article. The determination of the
13 director as to the imposition of any fines, sanctions or penalties shall
14 be reviewable pursuant to article seventy-eight of the civil practice
15 law and rules. The penalties imposed for any violation which is premised
16 upon either a fraudulent or intentional misrepresentation by the
17 contractor or the contractor's willful and intentional disregard of the
18 minority and women-owned participation requirement included in the
19 contract may include a determination that the contractor shall be ineli-
20 gible to submit a bid to any contracting agency or be awarded any such
21 contract for a period not to exceed one year following the final deter-
22 mination; provided however, if a contractor has previously been deter-
23 mined to be ineligible to submit a bid pursuant to this section, the
24 penalties imposed for any subsequent violation, if such violation occurs
25 within five years of the first violation, may include a determination
26 that the contractor shall be ineligible to submit a bid to any contract-
27 ing agency or be awarded any such contract for a period not to exceed
28 five years following the final determination. The division of minority
29 and women's business development shall maintain a website listing all
30 contractors that have been deemed ineligible to submit a bid pursuant to
31 this section and the date after which each contractor shall once again
32 become eligible to submit bids.

33 [~~2-~~] 3. The director shall impose a sanction, penalty, or fine on any
34 individual or entity that has three or more violations of this article
35 within five years. Any fines, or portion thereof, imposed pursuant to
36 [~~the foregoing subdivision~~] this section, or imposed by a court of
37 competent jurisdiction related to convictions involving fraud related to
38 this article or otherwise involving a minority or women-owned business
39 enterprise, [~~may~~] shall be required by the entity imposing such fines to
40 be paid to the minority and women-owned business enterprise fund estab-
41 lished pursuant to section ninety-seven-k of the state finance law.
42 Such funds shall be used to subsidize the facilitation of the provisions
43 of this article. Other sanctions shall include barring such entity or
44 individual from contracting with such agency for a period not to exceed
45 five years.

46 § 7. Subdivision 1 of section 137 of the state finance law, as sepa-
47 rately amended by section 17 of part MM of chapter 57 and chapter 619 of
48 the laws of 2008, is amended to read as follows:

49 1. In addition to other bond or bonds, if any, required by law for the
50 completion of a work specified in a contract for the prosecution of a
51 public improvement for the state of New York a municipal corporation, a
52 public benefit corporation or a commission appointed pursuant to law, or
53 in the absence of any such requirement, the comptroller may or the other
54 appropriate official, respectively, shall nevertheless require prior to
55 the approval of any such contract a bond guaranteeing prompt payment of
56 moneys due to all persons furnishing labor or materials to the contrac-

1 tor or any subcontractors in the prosecution of the work provided for in
2 such contract. Whenever a municipal corporation issues a permit subject
3 to compliance with section two hundred twenty of the labor law, such
4 permittee or its contractor or subcontractors furnishing workers shall
5 post a payment bond subject to this section. Provided, however, that all
6 performance bonds and payment bonds may, at the discretion of the head
7 of the state agency, public benefit corporation or commission, or [~~his~~
8 ~~or her~~] their designee, be dispensed with for the completion of a work
9 specified in a contract for the prosecution of a public improvement for
10 the state of New York for which bids are solicited where the aggregate
11 amount of the contract is under one hundred thousand dollars and
12 provided further, that in a case where the contract is not subject to
13 the multiple contract award requirements of section one hundred thirty-
14 five of this article, such requirements may be dispensed with where the
15 head of the state agency, public benefit corporation or commission finds
16 it to be in the public interest and where the aggregate amount of the
17 contract awarded or to be awarded is less than two hundred thousand
18 dollars. In a case where a contract is awarded to a small business
19 concern or to a minority or women-owned business concern, all perform-
20 ance bonds and payment bonds may be dispensed with when the aggregate
21 amount of the contract is under five hundred thousand dollars. Adver-
22 tisements for bids shall provide information as to the requirements for,
23 or dispensation of, performance and payment bonds. Provided further,
24 that in a case where a performance or payment bond is dispensed with,
25 twenty per centum may be retained from each progress payment or estimate
26 until the entire contract work has been completed and accepted, at which
27 time the head of the state agency, public benefit corporation or commis-
28 sion shall, pending the payment of the final estimate, pay not to exceed
29 seventy-five per centum of the amount of the retained percentage.

30 § 8. Subdivision 4 of section 139-f of the state finance law, as
31 amended by chapter 83 of the laws of 1995, is amended to read as
32 follows:

33 4. Notwithstanding any other provision of this section or other law,
34 requirements for the furnishing of a performance bond or a payment bond
35 may be dispensed with at the discretion of the head of the state agency
36 or corporation, or [~~his or her~~] their designee, where the public owner
37 is a state agency or corporation described in subdivision one-a of this
38 section and the aggregate amount of the contract awarded or to be
39 awarded is under fifty thousand dollars and, in a case where the
40 contract is not subject to the multiple contract award requirements of
41 section one hundred thirty-five of this article, such requirements may
42 be dispensed with where the head of the state agency or corporation
43 finds it to be in the public interest and where the aggregate amount of
44 the contract awarded or to be awarded is under two hundred thousand
45 dollars. In a case where a contract is awarded to a small business
46 concern or to a minority or women-owned business concern, all perform-
47 ance bonds and payment bonds may be dispensed with when the aggregate
48 amount of the contract is under five hundred thousand dollars. Adver-
49 tisements for proposals shall provide information as to the requirements
50 for, or dispensation of, performance and payment bonds. Provided
51 further, that in a case where a performance or payment bond is dispensed
52 with, twenty per centum may be retained from each progress payment or
53 estimate until the entire contract work has been completed and accepted,
54 at which time the head of the state agency or corporation shall, pending
55 the payment of the final estimate, pay not to exceed seventy-five per
56 centum of the amount of the retained percentage.

1 § 9. The opening paragraph of section 139-g of the state finance law,
2 as amended by chapter 636 of the laws of 2003, is amended to read as
3 follows:

4 In every state agency, department and authority which has let more
5 than two million dollars in service and construction contracts and state
6 assisted project contracts in the prior fiscal year, the chief executive
7 officer of that agency, department or authority shall, with respect to
8 those contracts and state assisted project contracts let by [~~his~~] such
9 chief executive officer's agency, department or authority:

10 § 10. The opening paragraph of subdivision (b) of section 139-g of the
11 state finance law, as amended by chapter 636 of the laws of 2003, is
12 amended to read as follows:

13 identify all small-business and certified women and minority-owned
14 business concerns which, in the judgment of the chief executive officer
15 of that agency, department or authority, can bid on those contracts and
16 state assisted project contracts which are usually and customarily let
17 by that agency, department or authority, or in which that authority
18 provides a grant or loan or tax exempt financing, with a reasonable
19 expectation of success. Such chief executive officers shall carry out
20 the provisions of this subdivision:

21 § 11. Section 139-g of the state finance law is amended by adding a
22 new subdivision (e) to read as follows:

23 (e) For the purposes of this section, the following words shall have
24 the following meanings:

25 (i) "State assisted project contract" shall mean any written agreement
26 arising out of a state assisted housing project or state assisted
27 economic development project or state assisted higher education project
28 or state assisted hospital or health care facility project, for which
29 the total project cost exceeds two million dollars and for which the
30 project owner is committed to spend or does expend funds for the acqui-
31 sition, construction, demolition, replacement, major repair, or reno-
32 vation of real property and improvements thereon for such project.

33 (ii) "State assisted housing project" shall mean those projects which
34 receive from the New York state housing finance agency tax-exempt
35 financing for all or part of the total project cost.

36 (iii) "State assisted economic development project" shall mean those
37 projects which receive from the New York foundation of science technolo-
38 gy and innovation, or the urban development corporation and its subsid-
39 iaries a grant or loan or tax-exempt financing for all or part of the
40 total project cost.

41 (iv) "State assisted higher education project" shall mean those
42 projects which receive from the dormitory authority of the state of New
43 York a grant or loan or tax-exempt financing for all or part of the
44 total project cost.

45 (v) "State assisted hospital or health care facility project" shall
46 mean those projects which receive from the dormitory authority of the
47 state of New York a grant or loan or tax-exempt financing for all or
48 part of the total project cost.

49 § 12. This act shall take effect immediately, provided however, the
50 amendments to article 15-A of the executive law made by sections one,
51 two, three, four, five and six of this act shall not affect the repeal
52 of such article and shall be deemed repealed therewith.