

STATE OF NEW YORK

2284--A

2025-2026 Regular Sessions

IN SENATE

January 16, 2025

Introduced by Sens. WEBB, FERNANDEZ, PARKER, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to providing for prompt payment by contractors receiving public funds of amounts owed to small businesses and minority-owned business enterprises

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

1 Section 1. The state finance law is amended by adding a new section
2 149 to read as follows:

3 § 149. Prompt contracting and payments for small business and minori-
4 ty-owned business enterprise subcontractors. 1. For the purposes of this
5 section:

6 (a) "Covered project" shall mean a project which is paid for in whole
7 or in part out of public funds as such term is defined in this section
8 where the amount of all such public funds, when aggregated, is at least
9 thirty percent of the total project costs and where such project costs
10 are over twenty-five thousand dollars. "Covered project" shall not
11 include a project which entails constructing, reconstructing, rehabili-
12 tating, or repairing buildings or highways for, or on behalf of, a state
13 agency.

14 (b) "Paid for in whole or in part out of public funds" means any of
15 the following:

16 (i) the payment of money, by a public entity, or a third party acting
17 on behalf of and for the benefit of a public entity, directly to or on
18 behalf of the contractor, subcontractor, developer or owner that is not
19 subject to repayment; or

20 (ii) the savings achieved from fees, rents, interest rates, or other
21 loan costs, or insurance costs that are lower than market rate costs;
22 savings from reduced taxes as a result of tax credits, tax abatements,

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

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1 tax exemptions or tax increment financing; savings from payments in lieu
2 of taxes; and any other savings from reduced, waived, or forgiven costs
3 that would have otherwise been at a higher or market rate but for the
4 involvement of the public entity.

5 (c) "Contract" means an enforceable agreement entered into by a
6 contractor and a subcontractor.

7 (d) "Contractor" means any person, partnership, firm, corporation, or
8 association: (i) selling materials, equipment, or supplies or leasing
9 property or equipment to a state agency; or (ii) rendering or providing
10 services pursuant to a contract with a state agency. "Contractor" shall
11 not mean any person constructing, reconstructing, rehabilitating, or
12 repairing buildings or highways for, or on behalf of, a state agency.

13 (e) "Subcontractor" means a person engaged by a contractor or another
14 subcontractor to perform a portion of the contractor's obligations under
15 a contract. "Subcontractor" shall not include any person constructing,
16 reconstructing, rehabilitating, or repairing buildings or highways for,
17 or on behalf of, a state agency.

18 (f) "Small business concern" or "small business" means a business
19 which is resident in this state, independently owned and operated, not
20 dominant in its field and employs one hundred or less persons.

21 (g) "Minority-owned business enterprise" has the meaning set forth in
22 subdivision seven of section three hundred ten of the executive law.

23 (h) "Entity" means a public entity or third party acting on behalf of
24 and for the benefit of a public entity.

25 (i) "Public entity" means any organization, body, or institution that
26 operates on behalf of the government and is involved in a covered
27 project.

28 2. Upon receipt of an undisputed invoice generated by a small busi-
29 ness, minority-owned business enterprise or vendor management service
30 and managed service provider on behalf of the small business or minori-
31 ty-owned business enterprise for services rendered, the entity receiving
32 payment for a covered project shall issue payment no later than ten
33 business days from receipt of such invoice. Date of invoice service
34 period shall not exceed ten business days. Failure by the contractor to
35 make any payment, including any remaining amounts of the contract
36 balance to any small business or minority-owned business enterprise,
37 shall result in the commencement and accrual of interest on amounts due
38 to such subcontractors. Such interest shall be the sole responsibility
39 of the entity, and shall be paid at the rate of interest in effect on
40 the date payment is made by the entity.

41 § 2. This act shall take effect immediately.