STATE OF NEW YORK

6239

2025-2026 Regular Sessions

IN SENATE

March 7, 2025

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, in relation to allowing the power authority to create the New York State small business development program; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The public authorities law is amended by adding a new section 1009-b to read as follows:

§ 1009-b. Power authority of the state of New York small business development program. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Authority" means the power authority of the state of New York and the canal corporation.

(b) "Chairperson" means the chairperson of the authority.

(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 ten million dollars or such lesser amount as established by the authority pursuant to this section; and

(iii) meets additional criteria as otherwise established by the chairperson and the head of supplier diversity. The authority shall establish both general and specific definitions for different industries 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

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

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of title 13 of the Code of Federal Regulations, as amended, and such other criteria as determined by the authority.

(d) "Small business development program" is the program established by the authority pursuant to this section to provide small businesses accepted into the program with the opportunity:

(i) for up to five years, to compete for and, where awarded, to perform certain authority contracts to be designated by the authority for inclusion in the program under this subparagraph; and

(ii) to be a participant in a small business development program and if such participant successfully completed contracts under subparagraph (i) of this paragraph, for up to five additional years, such small business shall have access to the following:

(1) additional opportunities to compete with other designated small businesses in the program for certain contracts to be designated for inclusion under this subparagraph and, where awarded, to perform such authority contracts, and

(2) authority-provided assistance, as determined by the authority, for a small business to obtain bonding for contracts that are competitively awarded pursuant to any other provision of law.

(e) "Small business development program contract" means a non-federally funded, unless authorized by the applicable federal funding agency, 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 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 development program and have been selected by the authority to compete for the contract.

2. (a) Pursuant to this section, the authority may establish a small business development program. In connection therewith, the authority may determine the criteria pursuant to which a small business shall be eligible for and selected to participate in the program under subparagraphs (i) and (ii) of paragraph (d) of subdivision one of this section, the number of participants to participate in each of such components of the program, and the criteria for the competitive selection of the firms that will provide small businesses with capacity building development services.

(b) Under the small business development program, the chairperson or such chairperson's designee is authorized, notwithstanding any other provision of law:

(i) to designate which eligible contracts shall be small business development program contracts under subparagraphs (i) and (ii) of paragraph (d) of subdivision one of this section;

(ii) to establish standards for qualifying small business development program participants to compete for a small business development program contract, provided that no less than three qualified small businesses in the program must be solicited to perform the contract;

(iii) to determine when bids or proposals for a small business development program contract should be restricted to small business development program participants which, prior to the receipt of bids or proposals, have been qualified by the authority for such competition;

(iv) to waive requirements for the solicitation and award for small business development program contracts, except as set forth in this section, pursuant to sections twelve hundred nine, twelve hundred

sixty-five-a and twenty-eight hundred seventy-nine of this chapter and any other provision of law;

(v) to assist small business development program participants that have been awarded small business development program contracts to obtain any surety bond or contract of insurance required of them in connection with such contract notwithstanding any provision of section two thousand five hundred four of the insurance law to the contrary; and

(vi) for small businesses that have been accepted into the small business development program under subparagraph (ii) of paragraph (d) of subdivision one of this section, to provide technical assistance in obtaining bid, payment, and performance bonding for authority contracts that are not small business development program contracts, where the small business is otherwise qualified for such contract, and notwithstanding any other provision of law.

3. (a) If the total number of qualified small business development program participants that respond to a competition and are considered capable of meeting the specifications and terms of the invitation to compete is less than three, or if the chairperson or the chairperson's designee determines that acceptance of the best offer will result in the payment of an unreasonable price, the authority may reject all offers and withdraw the designation of such contract as a small business development program contract.

(b) If the authority withdraws the designation of a contract as a small business development program contract, the firms, if any, that made offers shall be notified. Invitations to compete containing the same or rewritten specifications and terms shall then be reissued as a small business development program contract for one or more additional contract periods.

4. A program provider shall provide services and assistance to a small business as designated by the authority, which may include the following:

(a) business training in the skills necessary to operate a successful business and to compete for and perform a contract;

(b) technical assistance to such small business to assess such outcome if the small business competes for but is not awarded a contract;

(c) if the small business development program contract is awarded to such small business, guidance, advice, and technical assistance to such small business in the performance of the contract; and

(d) other technical assistance to such small business to facilitate learning, training and other issues which may arise.

5. The authority may delegate to the chairperson or such chairperson's designee, the authority's responsibilities set forth in this section.

6. The small business development program contracts authorized by this section shall, for the initial year of the program, be in an aggregate amount of not less than ten million dollars, and shall not exceed one hundred million dollars, with the maximum amount in future years to be set by the chairperson.

7. The authority shall submit a report, no later than September thirtieth, two thousand twenty-six, 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 section and the rationale for why the contract was selected as a small business development program contract, information regarding the procurement process for each such small business development program contract and the name or names of the small businesses that fulfilled

such 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 service-disabled veteran-owned 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 program providers 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 providers. For annual reports, any new procurements and changes during the period covered by the report shall be identified separately.

§ 2. This act shall take effect immediately and shall expire December 31, 2030, when upon such date the provisions of this act shall be deemed repealed.