

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 [~~so 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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(d) to review [~~periodically~~] quarterly the practices and procedures of each contracting agency with respect to compliance with the provisions of this article, and to require them to file [~~periodic~~] quarterly reports with the division of minority and women's business development as to the level of minority and women-owned business enterprises participation in the awarding of agency contracts for goods and services including but not limited to the number of state contracts awarded to certified minority or women-owned business enterprises, the maximum dollar amount obligated pursuant to all those contracts, and the total expenditures made pursuant to all such contracts; the number of state contracts awarded which include a utilization plan for business participation by certified minority or women-owned business enterprises, the maximum amount obligated pursuant to those contracts, and the total expenditures made pursuant to all such contracts; the number of state contracts awarded upon which a waiver was granted from goals required by the contracts for business participation by certified minority or women-owned business enterprises, and the maximum amount obligated pursuant to those contracts; the number of state contracts awarded which required goals for employment of minority group members and women; and the number of state contracts awarded for which waivers of employment goals required by the contracts have been granted;

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

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

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

(g) to prepare and update[~~, no less than annually,~~] quarterly a directory 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 subcontractor's
34 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:

3. Solely for the purpose of providing the opportunity for ~~[meaning-
ful]~~ increased participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the director pursuant to section three hundred fifteen of this article shall include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as ~~[may]~~ shall be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses; (b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

(a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to achieve the maximum feasible participation by minority and women owned business enterprises adopted pursuant to this article and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan ~~[after bids are opened]~~ at the time bids are submitted, when bids are required~~[, but prior to the award of a state contract]~~; shall require the contracting agency to review the utilization plan submitted by the contractor and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit quarterly compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such

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

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

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

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

3. Each contracting agency shall report to the commissioner of economic development, the commissioner of general services and the director with respect to activities undertaken to promote employment of minority group members and women and promote and increase participation by certified businesses with respect to state contracts and subcontracts. Such reports shall be submitted ~~[no later than May fifteenth of every year]~~ quarterly and shall include such information as is necessary for the director to determine whether the contracting agency and any contractor to the contracting agency have complied with the purposes of this article, including, without limitation, the number of state contracts awarded to certified minority or women-owned business enterprises; the maximum dollar amount obligated pursuant to all those contracts; and the total expenditures made pursuant to all such contracts; the number of state contracts awarded which include a utilization plan for business participation by certified minority or women-owned business enterprises, the maximum amount obligated pursuant to those contracts, and the total expenditures made pursuant to all such contracts; a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the contracting agency during the period covered by the report, including a description of the basis of the waiver request ~~[and]~~, the rationale for granting any such waiver, the maximum amount obligated pursuant to those contracts; the number of state contracts awarded which required goals for employment of minority group members and women; the number of state contracts awarded for which waivers of employment goals required by the contracts have been granted, and any instances in which the contract agency has deemed 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-

tor or any subcontractors in the prosecution of the work provided for in such contract. Whenever a municipal corporation issues a permit subject to compliance with section two hundred twenty of the labor law, such permittee or its contractor or subcontractors furnishing workers shall post a payment bond subject to this section. Provided, however, that all performance bonds and payment bonds may, at the discretion of the head of the state agency, public benefit corporation or commission, or ~~his or her~~ their designee, be dispensed with for the completion of a work specified in a contract for the prosecution of a public improvement for the state of New York for which bids are solicited where the aggregate amount of the contract is under one hundred thousand dollars and provided further, that in a case where the contract is not subject to the multiple contract award requirements of section one hundred thirty-five of this article, such requirements may be dispensed with where the head of the state agency, public benefit corporation or commission finds it to be in the public interest and where the aggregate amount of the contract awarded or to be awarded is less than two hundred thousand dollars. In a case where a contract is awarded to a small business concern or to a minority or women-owned business concern, all performance bonds and payment bonds may be dispensed with when the aggregate amount of the contract is under five hundred thousand dollars. Advertisements for bids shall provide information as to the requirements for, or dispensation of, performance and payment bonds. Provided further, that in a case where a performance or payment bond is dispensed with, twenty per centum may be retained from each progress payment or estimate until the entire contract work has been completed and accepted, at which time the head of the state agency, public benefit corporation or commission shall, pending the payment of the final estimate, pay not to exceed seventy-five per centum of the amount of the retained percentage.

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

4. Notwithstanding any other provision of this section or other law, requirements for the furnishing of a performance bond or a payment bond may be dispensed with at the discretion of the head of the state agency or corporation, or ~~his or her~~ their designee, where the public owner is a state agency or corporation described in subdivision one-a of this section and the aggregate amount of the contract awarded or to be awarded is under fifty thousand dollars and, in a case where the contract is not subject to the multiple contract award requirements of section one hundred thirty-five of this article, such requirements may be dispensed with where the head of the state agency or corporation finds it to be in the public interest and where the aggregate amount of the contract awarded or to be awarded is under two hundred thousand dollars. In a case where a contract is awarded to a small business concern or to a minority or women-owned business concern, all performance bonds and payment bonds may be dispensed with when the aggregate amount of the contract is under five hundred thousand dollars. Advertisements for proposals shall provide information as to the requirements for, or dispensation of, performance and payment bonds. Provided further, that in a case where a performance or payment bond is dispensed with, twenty per centum may be retained from each progress payment or estimate until the entire contract work has been completed and accepted, at which time the head of the state agency or corporation shall, pending the payment of the final estimate, pay not to exceed seventy-five per centum of the amount of the retained percentage.

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

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

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

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

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

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

(i) "State assisted project contract" shall mean any written agreement arising out of a state assisted housing project or state assisted economic development project or state assisted higher education project or state assisted hospital or health care facility project, for which the total project cost exceeds two million dollars and for which the project owner is committed to spend or does expend funds for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon for such project.

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

(iii) "State assisted economic development project" shall mean those projects which receive from the New York foundation of science technology and innovation, or the urban development corporation and its subsidiaries a grant or loan or tax-exempt financing for all or part of the total project cost.

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

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

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