*** § 315. Responsibilities of contracting agencies.** 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 take such action as is appropriate 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. Each contracting agency shall provide to prospective bidders a current copy of the directory of certified businesses, and a copy of the regulations required pursuant to sections three hundred twelve and three hundred thirteen of this article at the time bids or proposals are solicited.

2-a. To the extent practicable, upon completion of the restrictive period of a procurement, 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 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 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, 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 and any instances in which the

contract agency has deemed a contractor to have committed a violation pursuant to section three hundred sixteen of this article and such other information as the director shall require. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

4. The division of minority and women's business development shall issue an annual report which: (a) summarizes the report submitted by each contracting agency pursuant to subdivision three of this section; (b) contains such comparative or other information as the director deems appropriate, including but not limited to goals compared to actual participation of minority and women-owned business enterprises in state contracting and a listing of annual participation rates for each agency, the total number of certified minority and women-owned businesses for that reporting year, the number of applications for new certifications and recertifications including those approved, the average length of time to determine an approval, the number of applications denied, the basis for denials and the average length of time to determine a denial, and the total dollar value of state expenditures on certified minority and women-owned business contracts and subcontracts for that reporting year, to evaluate the effectiveness of the activities undertaken by each such contracting agency to promote increased participation by certified minority or women-owned businesses with respect to state contracts and subcontracts; (c) contains a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by each contracting agency during the period covered by the report, including a description of the basis of the waiver request and the contracting agency's rationale for granting any such waiver; (d) describes any efforts to create a database or other information storage and retrieval system containing information relevant to contracting with minority and women-owned business enterprises; (e) contains a summary of (i) all determinations of violations of this article by a contractor or a contracting agency made during the period covered by the annual report pursuant to section three hundred sixteen-a of this article and (ii) the penalties or sanctions, if any, assessed in connection with such determinations and the rationale for such penalties or sanctions; and

(f) contains information on the annual minority and woman-owned business enterprise utilization and expenditure categorized by minority-owned enterprises, women-owned enterprises, and total utilization and expenditure and organized by the following industry categories: (i) services including professional services, social services, educational services, legal services, health services, and business services; (ii) agriculture; (iii) mining; (iv) construction, including building construction, heavy construction, and special trade contractors; (v) manufacturing; (vi) transportation, communication and sanitary services; (vii) wholesale or retail goods; (viii) construction materials; and (ix) financial, insurance and real estate services. Copies of the annual report shall be provided to the commissioner, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and shall also be made widely available to the public via, among other things, publication on a website maintained by the division of minority and women's business development.

5. Each agency shall include in its annual report to the governor and legislature pursuant to section one hundred sixty-four of this chapter: (a) its annual goals for contracts with minority-owned and women-owned business enterprises; (b) the number of actual contracts issued to minority-owned and women-owned business enterprises; (c) a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the reporting agency during the preceding year, including a description of the basis of the waiver request and the rationale for granting such waiver; (d) whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan; (e) which expenditures are exempt from participation goals and the rationale for such exemption; and (f) every four years, beginning September fifteenth, two thousand twenty, each agency shall include in such annual report its four-year growth plan pursuant to section three hundred eleven of this article.

6. Each contracting agency that substantially fails to make a good faith effort as defined by regulation of the director, to achieve the

maximum feasible participation of minority and women-owned business enterprises in such agency's contracting shall be required to submit to the director a remedial action plan to remedy such failure.

7. If it is determined by the director that any agency has failed to act in good faith to implement the remedial action plan, pursuant to subdivision six of this section within one year, the director shall provide written notice of such a finding, which shall be publicly available, and direct implementation of remedial actions to:

(a) assure that sufficient and effective solicitation efforts to women and minority-owned business enterprises are being made by said agency;

(b) divide contract requirements, when economically feasible, into quantities that will expand the participation of women and minority-owned business enterprises;

(c) eliminate extended experience or capitalization requirements, when programmatically and economically feasible, that will expand participation by women and minority-owned business enterprises;

(d) identify specific proposed contracts as particularly attractive or appropriate for participation by women and minority-owned business enterprises with such identification to result from and be coupled with the efforts of paragraphs (a), (b), and (c) of this subdivision; and

(e) upon a finding by the director that an agency has failed to take affirmative measures to implement the remedial plan and to follow any of the remedial actions set forth by the director, and in the absence of any objective progress towards the agency's goals, require some or all of the agency's procurement, for a specified period of time, be placed under the direction and control of another agency or agencies.

* NB Repealed July 1, 2028