*** § 1265-b. Metropolitan transportation authority small business mentoring program.** 1. Definitions. As used in this section, unless the context requires otherwise: (a) "authority" means the metropolitan transportation authority and its subsidiaries consisting of the Long Island rail road company, Metro-North commuter railroad company, metropolitan suburban bus authority, Staten Island rapid transit operating authority, MTA bus, MTA capital construction company, and first mutual transportation assurance company, and its affiliates consisting of the New York City transit authority, triborough bridge and tunnel authority, and Manhattan and Bronx surface transit operating authority;

(b) "chairman" means the chairman of the authority and its subsidiaries and affiliates;

(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 these provisions; and (iii) meets additional criteria as otherwise established by the chairman in consultation with the members of the MTA small business mentoring program advisory committee. The chair of the committee shall be the chief diversity officer of the MTA. The authority shall establish a detailed definition in general and specific to different segments of the construction industry 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 of Title 13 of the Code of Federal Regulations as amended, and such other criteria as determined by the authority;

(d) "small business mentoring program" is a program established by the authority pursuant to these provisions 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 public work contracts to be designated by the authority for inclusion in this program under this subparagraph, with the assistance of an authority-provided mentor, which shall be a firm

competitively selected by the authority that has extensive construction management and mentoring experience, with the mentor to provide the small business with advice and assistance in competing for and managing authority public work contracts; and

(ii) for a small business mentoring program participant which the authority has determined has successfully completed the program under subparagraph (i) of this paragraph, for up to five additional years, (A) additional opportunities to compete with other designated small businesses in the program for certain public work contracts to be designated for inclusion under this subparagraph and, where awarded, to perform such authority public work contracts, with the further assistance of an authority-provided mentor, which shall be a firm competitively selected by the authority that has extensive construction management and mentoring experience, with the mentor to provide the small business with advice and technical assistance in competing for and managing authority public work contracts, and (B) authority-provided assistance, as determined by the authority, for such a small business to obtain bonding for public work contracts that are competitively awarded pursuant to provisions of law other than this section.

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

2. Small business mentoring program. (a) Pursuant to these provisions, the authority may establish a small business mentoring 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 such components of the program, the criteria for the

competitive selection of the firms that will provide small businesses with mentoring services, the assignment of a mentor to a specific small business in the small business mentoring program, and the funding for the program.

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

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

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

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

(iv) to competitively select, designate and contract with one or more experienced construction management firms that, under the general supervision of the authority, will provide mentoring services to the small businesses participating in the small business mentoring program, and to assign such mentors one or more designated small businesses participating in the program;

(v) for small business mentoring program contracts, except as set forth herein, to waive requirements for the solicitation and award of a public work contract 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;

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

(vii) for small businesses that have been accepted into the small business mentoring program under subparagraph (ii) of paragraph (d) of subdivision one of this section, in addition to the benefits of such

program and notwithstanding any other provision of law, to provide technical assistance in obtaining bid, payment and performance bonding for authority public work contracts that are not small business mentoring program contracts, for which the small business is otherwise qualified.

3. Withdrawal of designation of small business mentoring program contracts. (a) If the total number of qualified small business mentoring 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 chairman or the chairman'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 the contract as a small business mentoring program contract.

(b) If the authority withdraws the designation of contract as a small business mentoring 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 re-issued as a small business mentoring program contract for one or more additional contract period.

4. Construction manager mentors. A mentor shall provide services and assistance to a small business as designated by the authority, which may include the following: (a) provide business training in the skills necessary to operate a successful construction business and to compete for and perform a public work contract;

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

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

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

5. The authority may delegate to the chairman or the chairman's

designee, the authority's responsibilities set forth herein.

6. The small business mentoring program contracts authorized by this legislation 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 chairman.

7. The authority shall submit a report, no later than September thirtieth, two thousand twenty-five, 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 subdivision and the rationale for why the public work contract was selected as a small business mentoring program contract, information regarding the procurement process for each such mentoring program contract and the name or names of the small businesses that fulfilled the 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 disadvantaged 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 construction manager mentors 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 mentor. For annual reports, any new procurements and changes during the period covered by the report shall be identified separately.

* NB Repealed December 31, 2029