

HOUSE BILL NO. 1491

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Davis)

A BILL to amend and reenact §§ 2.2-1604, 2.2-1606, 2.2-1617, and 2.2-4310 of the Code of Virginia, relating to the Department of Small Business and Supplier Diversity; definitions; small business.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1604, 2.2-1606, 2.2-1617, and 2.2-4310 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1604. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Certification" means the process by which (i) a business is determined to be a small, women-owned, or minority-owned business or (ii) an employment services organization, for the purpose of reporting small, women-owned, and minority-owned business and employment services organization participation in state contracts and purchases pursuant to §§ 2.2-1608 and 2.2-1610.

"Department" means the Department of Small Business and Supplier Diversity or any division of the Department to which the Director has delegated or assigned duties and responsibilities.

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Historically black colleges and university" includes any college or university that was established prior to 1964; whose principal mission was, and is, the education of black Americans; and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education.

27 "Minority individual" means an individual who is a citizen of the United States or a legal resident  
28 alien and who satisfies one or more of the following definitions:

29 1. "African American" means a person having origins in any of the original peoples of Africa and  
30 who is regarded as such by the community of which this person claims to be a part.

31 2. "Asian American" means a person having origins in any of the original peoples of the Far East,  
32 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,  
33 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of  
34 the Pacific, India, Pakistan, Bangladesh, or Sri Lanka, and who is regarded as such by the community of  
35 which this person claims to be a part.

36 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of  
37 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and  
38 who is regarded as such by the community of which this person claims to be a part.

39 4. "Native American" means a person having origins in any of the original peoples of North  
40 America and who is regarded as such by the community of which this person claims to be a part or who  
41 is recognized by a tribal organization.

42 "Minority-owned business" means a business that is at least 51 percent owned by one or more  
43 minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation,  
44 partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest  
45 in the corporation, partnership, or limited liability company or other entity is owned by one or more  
46 minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily  
47 business operations are controlled by one or more minority individuals, or any historically black college  
48 or university, regardless of the percentage ownership by minority individuals or, in the case of a  
49 corporation, partnership, or limited liability company or other entity, the equity ownership interest in the  
50 corporation, partnership, or limited liability company or other entity.

51 "Small business" means a business that is at least 51 percent independently owned and controlled  
52 by one or more individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§  
53 13.1-301 et seq.) of Title 13.1 as a nonstock corporation, is at least 51 percent independently controlled

54 by one or more members, who are U.S. citizens or legal resident aliens and, together with affiliates, has  
55 250 or fewer employees ~~or~~ and average annual gross receipts, less the cost of goods sold by the business,  
56 of \$10 million or less averaged over the previous three years. One or more of the individual owners or  
57 members shall control both the management and daily business operations of the small business. With  
58 respect to any small business that provides construction services, "cost of goods sold" shall include the  
59 costs associated with all materials, contractor and subcontractor labor, and services performed at the  
60 construction site.

61 "State agency" means any authority, board, department, instrumentality, institution, agency, or  
62 other unit of state government. "State agency" does not include any county, city, or town.

63 "SWaM" means small, women-owned, or minority-owned or related to a small, women-owned, or  
64 minority-owned business.

65 "SWaM plan" means a written program, plan, or progress report submitted by a state agency to the  
66 Department pursuant to § 2.2-4310.

67 "Women-owned business" means a business that is at least 51 percent owned by one or more  
68 women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited  
69 liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or  
70 more women who are U.S. citizens or legal resident aliens, and both the management and daily business  
71 operations are controlled by one or more women.

72 **§ 2.2-1606. Powers of Director.**

73 As deemed necessary or appropriate to better fulfill the duties of the Department, the Director may:

74 1. With the participation of other state departments and agencies, develop comprehensive plans  
75 and specific program goals for small, women-owned, and minority-owned business programs; establish  
76 regular performance monitoring and reporting systems to assure that goals of state agencies and  
77 institutions are being achieved; and evaluate the impact of federal and state support in achieving  
78 objectives.

79 2. Employ the necessary personnel or subcontract, according to his discretion, with localities to  
80 supplement the functions of business development organizations.

- 81           3. Assure the coordinated review of all proposed state training and technical assistance activities  
82 in direct support of small, women-owned, and minority-owned business programs to ensure consistency  
83 with program goals and to avoid duplication.
- 84           4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or  
85 their designees, whose programs and activities may affect or contribute to the purposes of this chapter.
- 86           5. Convene business leaders, educators, and other representatives of the private sector who are  
87 engaged in assisting the development of small, women-owned, and minority-owned business programs or  
88 who could contribute to their development for the purpose of proposing, evaluating, or coordinating  
89 governmental and private activities in furtherance of the objectives of this chapter.
- 90           6. Provide the managerial and organizational framework through which joint undertakings with  
91 state departments or agencies or private organizations can be planned and implemented.
- 92           7. Recommend appropriate legislative or executive actions.
- 93           8. Adopt regulations to implement certification programs for small, women-owned, and minority-  
94 owned businesses and employment services organizations, which regulations shall be exempt from the  
95 Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such  
96 certification programs shall allow applications for certification to be submitted by electronic means as  
97 authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in § 59.1-  
98 480. Such certification programs shall deny certification to vendors from states that deny like certifications  
99 to Virginia-based small, women-owned, or minority-owned businesses and employment services  
100 organizations or that provide a preference for small, women-owned, or minority-owned businesses and  
101 employment services organizations based in that state that is not available to Virginia-based businesses.  
102 The regulations shall (i) establish minimum requirements for certification of small, women-owned, and  
103 minority-owned businesses and employment services organizations; (ii) provide a process for evaluating  
104 existing local, state, and private sector certification programs that meet the minimum requirements; and  
105 (iii) mandate certification without any additional paperwork of any small, women-owned, or minority-  
106 owned business that has obtained (a) certification under any federal certification program or (b)  
107 certification under any other certification program that is determined to meet the minimum requirements

108 established in the regulations, and of any employment services organization that has been approved by the  
109 Department for Aging and Rehabilitative Services. All employment services organization certifications  
110 shall remain in effect until the Department is notified by the Department for Aging and Rehabilitative  
111 Services that such organization is no longer approved. The regulations shall also require as a prerequisite  
112 for approval that any out-of-state business applying for certification in Virginia as a small, women-owned,  
113 or minority-owned business have the equivalent certification in the business's state of origin. An out-of-  
114 state business located in a state that does not have a small, women-owned, or minority-owned business  
115 certification program shall be exempt from the requirements of this provision. The regulations shall  
116 establish a process for businesses that are denied initial certification as a small, women-owned, or  
117 minority-owned business to appeal such denial on the basis that the Department made a mistake in denying  
118 the business's application for certification. With respect to the certification of small businesses, the  
119 regulations shall prohibit the Department from combining an individual's ownership interest in multiple  
120 businesses, or subsidiaries thereof, in determining the total percentage of such individual's ownership  
121 interest in a particular business.

122 9. Establish an interdepartmental board in accordance with § 2.2-1608 to supply the Director with  
123 information useful in promoting minority business activity.

124 **§ 2.2-1617. One-stop small business permitting program.**

125 A. As used in this article, unless the context requires a different meaning:

126 "Business Permitting Center" or "Center" means the business registration and permitting center  
127 established by this section and located in and under the administrative control of the Department.

128 "Comprehensive application" means a document incorporating pertinent data from existing  
129 applications for permits covered under this section.

130 "Comprehensive permit" means the single document designed for public display issued by the  
131 Business Permitting Center that certifies state agency permit approval and that incorporates the  
132 endorsements for individual permits included in the comprehensive permitting program.

133 "Comprehensive permitting program" or "Program" means the mechanism by which  
134 comprehensive permits are issued and renewed, permit and regulatory information is disseminated, and  
135 account data is exchanged by state agencies.

136 "Permit" means the whole or part of any state agency permit, license, certificate, approval,  
137 registration, charter, or any form or permission required by law, to engage in activity associated with or  
138 involving the establishment of a small business in the Commonwealth.

139 "Permit information packet" means a collection of information about permitting requirements and  
140 application procedures custom assembled for each request.

141 "Regulatory" means all permitting and other governmental or statutory requirements establishing  
142 a small business or professional activities associated with establishing a small business.

143 "Regulatory agency" means any state agency, board, commission, or division that regulates one or  
144 more professions, occupations, industries, businesses, or activities.

145 "Renewal application" means a document used to collect pertinent data for renewal of permits  
146 covered under this section.

147 "Small business" means an independently owned and operated business that, together with  
148 affiliates, has 250 or fewer employees ~~or~~ and average annual gross receipts, less the cost of goods sold by  
149 the business, of \$10 million or less averaged over the previous three years. With respect to any small  
150 business that provides construction services, "cost of goods sold" shall include the costs associated with  
151 all materials, contractor and subcontractor labor, and services performed at the construction site.

152 "Veteran" means an individual who has served in the active military, naval, or air service and who  
153 was discharged or released therefrom under conditions other than dishonorable.

154 B. There is created within the Department the comprehensive permitting program (the Program).  
155 The Program is established to serve as a single access point to aid entrepreneurs in filling out the various  
156 permit applications associated with establishing a small business in Virginia. The Program in no way  
157 supersedes or supplants any regulatory authority granted to any state agency with permits covered by this  
158 section. As part of the Program, the Department shall coordinate with the regulatory agency, and the  
159 regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate

160 for inclusion in the Program as well as the rules governing the submission of and payment for those  
161 permits. The website of the Department shall provide access to information regarding the Program. The  
162 Department shall have the power and duty to:

163 1. Create a comprehensive application that will allow an entrepreneur, or an agent thereof, seeking  
164 to establish a small business, to create accounts that will allow them to acquire the appropriate permits  
165 required in the Commonwealth. The comprehensive application shall:

166 a. Allow the business owner to choose a business type and to provide common information, such  
167 as name, address, and telephone number, on the front page, eliminating the need to repeatedly provide  
168 common information on each permit application;

169 b. Allow the business owner to preview and answer questions related to the operation of the  
170 business;

171 c. Provide business owners with a customized to-do agency checklist, which checklist shall provide  
172 the permit applications pertinent to each business type and provide the rules, regulations, and general laws  
173 applicable to each business type as well as local licensing information;

174 d. Allow the business owner to submit permit applications by electronic means as authorized by §  
175 59.1-496 and to affix thereto his electronic signature as defined in § 59.1-480;

176 e. Allow the business owner to check on the status of applications online and to receive information  
177 from the permitting agencies electronically; and

178 f. Allow a business owner to submit electronic payment of application or permitting fees for  
179 applications that have been accepted by the permitting agency.

180 2. Develop and administer a computerized system program capable of storing, retrieving, and  
181 exchanging permit information while protecting the confidentiality of information submitted to the  
182 Department to the extent allowable by law. Information submitted to the Department shall be subject to  
183 the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) as the same would apply  
184 were the information submitted directly to the Department or to any permitting agency.

185 3. Issue and renew comprehensive permits in an efficient manner.

186 4. Identify the types of permits appropriate for inclusion in the Program. The Department shall  
187 coordinate with the regulatory agency, and the regulatory agency shall determine, consistent with  
188 applicable law, what types of permits are appropriate for inclusion in the Program.

189 5. Incorporate permits into the Program.

190 6. Do all acts necessary or convenient to carry out the purposes of this chapter.

191 C. Regulatory agencies shall, by November 30 of each year, provide the Department with  
192 information outlining any changes to the agency's policies and regulations. The Business Permitting  
193 Center shall compile information regarding the regulatory programs associated with each of the permits  
194 obtainable under the Program. This information shall include, at a minimum, a listing of the statutes and  
195 administrative rules requiring the permits and pertaining to the regulatory programs that are directly  
196 related to the permit. The Center shall provide information governed by this section to any person  
197 requesting it. Materials used by the Center to describe the services provided by the Center shall indicate  
198 that this information is available upon request.

199 D. Each state agency shall cooperate and provide reasonable assistance to the Department in the  
200 implementation of this section.

201 E. The State Corporation Commission and the Department of Small Business and Supplier  
202 Diversity shall by January 1, 2020, establish one or more processes by which data or information relevant  
203 to the Program can be collected and exchanged electronically.

204 F. Any person requiring permits that have been incorporated into the Program may submit a  
205 comprehensive application to the Department requesting the issuance of the permits. The comprehensive  
206 application form shall contain in consolidated form information necessary for the issuance of the permits.

207 G. The applicant, if not a veteran, shall include with the application the handling fee established  
208 by the Department. An applicant who is a veteran shall be exempt from payment of the handling fee  
209 prescribed by this subsection. The amount of the handling fee assessed against the applicant shall be set  
210 by the Department at a level necessary to cover the costs of administering the comprehensive permitting  
211 program.

212 H. The authority for approving the issuance and renewal of any requested permit that requires  
213 investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally  
214 authorized to issue the permit shall remain with that agency. The Center may issue those permits for which  
215 proper fee payment and a completed application form have been received and for which no approval action  
216 is required by the regulatory agency.

217 I. Upon receipt of the application, and proper fee payment for any permit for which issuance is  
218 subject to regulatory agency action under subsection H, the Department shall immediately notify the State  
219 Corporation Commission or the regulatory agency with authority to approve the permit issuance or  
220 renewal requested by the applicant. The State Corporation Commission or the regulatory agency shall  
221 advise the Department within a reasonable time after receiving the notice of one of the following:

222 1. That the State Corporation Commission or the regulatory agency approves the issuance of the  
223 requested permit and will advise the applicant of any specific conditions required for issuing the permit;

224 2. That the State Corporation Commission or the regulatory agency denies the issuance of the  
225 permit and gives the applicant reasons for the denial;

226 3. That the application is pending; or

227 4. That the application is incomplete and further information from or action by the applicant is  
228 necessary.

229 J. The Department shall issue a comprehensive permit endorsed for all the approved permits to the  
230 applicant and advise the applicant of the status of other requested permits. The applicant shall be  
231 responsible for contesting any decision regarding conditions imposed or permits denied through the  
232 normal process established by statute or by the State Corporation Commission or the regulatory agency  
233 with the authority for approving the issuance of the permit.

234 K. Regulatory agencies shall be provided information from the comprehensive application for their  
235 permitting and regulatory functions.

236 L. The Department shall be responsible for directing the applicant to make all payments for  
237 applicable fees established by the regulatory agency directly to the proper agency.

238 M. There is hereby created in the state treasury a special nonreverting fund to be known as the  
239 Comprehensive Permitting Fund, hereafter referred to as "the Fund." The Fund shall be established on the  
240 books of the Comptroller. The Fund shall consist of all moneys collected from the handling fee established  
241 by the Department pursuant to subsection G and such other funds as may be appropriated by the General  
242 Assembly. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any  
243 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to  
244 the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to administer the  
245 Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants  
246 issued by the Comptroller upon written request signed by the Director of the Department.

247 N. Unless otherwise directed by the regulatory agency, the Department shall not issue or renew a  
248 comprehensive permit to any person under any of the following circumstances:

- 249 1. The person does not have a valid tax registration, if required;
- 250 2. The person is a corporation, limited liability company, business trust, limited partnership, or  
251 registered limited liability partnership that (i) is delinquent in the payment of fees or penalties collected  
252 by the State Corporation Commission pursuant to the business entity statutes it administers, (ii) does not  
253 exist, or (iii) is not authorized to transact business in the Commonwealth pursuant to one of the business  
254 entity statutes administered by the State Corporation Commission; or
- 255 3. The person has not submitted the sum of all fees and deposits required for the requested  
256 individual permit endorsements, any outstanding comprehensive permit delinquency fee, or other fees and  
257 penalties to be collected through the comprehensive permitting program.

258 O. The Department shall develop and provide guidance to businesses with newly approved permits  
259 regarding responsibilities and requirements for maintaining such business. Such guidance shall include  
260 information regarding sales tax and unemployment tax requirements, workers' compensation insurance  
261 requirements, and postings required by the Virginia Department of Labor and Industry and the U.S.  
262 Department of Labor. Any guidance provided for in this subsection may be provided electronically.

263 P. The Department may adopt regulations in accordance with § 2.2-1606 as may be necessary to  
264 carry out the purposes of this section.

265 § 2.2-4310. **Discrimination prohibited; participation of small, women-owned, minority-**  
266 **owned, and service disabled veteran-owned businesses and employment services organizations.**

267 A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder  
268 or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age,  
269 disability, status as a service disabled veteran, or any other basis prohibited by state law relating to  
270 discrimination in employment. Whenever solicitations are made, each public body shall include  
271 businesses selected from a list made available by the Department of Small Business and Supplier  
272 Diversity, which list shall include all companies and organizations certified by the Department.

273 B. All public bodies shall establish programs consistent with this chapter to facilitate the  
274 participation of small businesses, businesses owned by women, minorities, and service disabled veterans,  
275 and employment services organizations in procurement transactions. The programs established shall be in  
276 writing and shall comply with the provisions of any enhancement or remedial measures authorized by the  
277 Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body  
278 pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State  
279 agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business  
280 procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services  
281 organization procurement to the Department of Small Business and Supplier Diversity in a form specified  
282 by the Department of Small Business and Supplier Diversity. All state agencies shall cooperate with the  
283 Department of Small Business and Supplier Diversity's annual review of their programs pursuant to § 2.2-  
284 1605 and shall update such programs to incorporate any feedback and suggestions for improvement.  
285 Contracts and subcontracts awarded to employment services organizations and service disabled veteran-  
286 owned businesses shall be credited toward the small business, women-owned, and minority-owned  
287 business contracting and subcontracting goals of state agencies and contractors. The Department of Small  
288 Business and Supplier Diversity shall make information on service disabled veteran-owned procurement  
289 available to the Department of Veterans Services upon request.

290 C. Whenever there exists (i) a rational basis for small business or employment services  
291 organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity

292 between the availability and utilization of women-owned and minority-owned businesses, the Governor  
293 is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial  
294 measures consistent with prevailing law. Any enhancement or remedial measure authorized by the  
295 Governor pursuant to this subsection for state public bodies may allow for small businesses certified by  
296 the Department of Small Business and Supplier Diversity or a subcategory of small businesses established  
297 as a part of the enhancement program to have a price preference over noncertified businesses competing  
298 for the same contract award on designated procurements, provided that the bid of the certified small  
299 business or the business in such subcategory of small businesses established as a part of an enhancement  
300 program does not exceed the low bid by more than five percent.

301 D. In awarding a contract for services to a small, women-owned, or minority-owned business that  
302 is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled  
303 veteran-owned business where the award is being made pursuant to an enhancement or remedial program  
304 as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the  
305 following:

306 "If the contractor intends to subcontract work as part of its performance under this contract, the  
307 contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned,  
308 and service disabled veteran-owned businesses."

309 E. In the solicitation or awarding of contracts, no state agency, department, or institution shall  
310 discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state  
311 agency, department, or institution has made a written determination that employing ex-offenders on the  
312 specific contract is not in its best interest.

313 F. As used in this section:

314 "Employment services organization" means an organization that provides community-based  
315 employment services to individuals with disabilities that is an approved Commission on Accreditation of  
316 Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative  
317 Services.

318 "Minority individual" means an individual who is a citizen of the United States or a legal resident  
319 alien and who satisfies one or more of the following definitions:

320 1. "African American" means a person having origins in any of the original peoples of Africa and  
321 who is regarded as such by the community of which this person claims to be a part.

322 2. "Asian American" means a person having origins in any of the original peoples of the Far East,  
323 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,  
324 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of  
325 the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of  
326 which this person claims to be a part.

327 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of  
328 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and  
329 who is regarded as such by the community of which this person claims to be a part.

330 4. "Native American" means a person having origins in any of the original peoples of North  
331 America and who is regarded as such by the community of which this person claims to be a part or who  
332 is recognized by a tribal organization.

333 "Minority-owned business" means a business that is at least 51 percent owned by one or more  
334 minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation,  
335 partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest  
336 in the corporation, partnership, or limited liability company or other entity is owned by one or more  
337 minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily  
338 business operations are controlled by one or more minority individuals, or any historically black college  
339 or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or,  
340 in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership  
341 interest in the corporation, partnership, or limited liability company or other entity.

342 "Service disabled veteran" means a veteran who (i) served on active duty in the United States  
343 military ground, naval, or air service, (ii) was discharged or released under conditions other than

344 dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of  
345 Veterans Affairs.

346 "Service disabled veteran business" means a business that is at least 51 percent owned by one or  
347 more service disabled veterans or, in the case of a corporation, partnership, or limited liability company  
348 or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or  
349 limited liability company or other entity is owned by one or more individuals who are service disabled  
350 veterans and both the management and daily business operations are controlled by one or more individuals  
351 who are service disabled veterans.

352 "Small business" means a business, independently owned and controlled by one or more  
353 individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et  
354 seq.) of Title 13.1 as a nonstock corporation, controlled by one or more members, who are U.S. citizens  
355 or legal resident aliens, and together with affiliates, has 250 or fewer employees, ~~or~~ and average annual  
356 gross receipts, less the cost of goods sold by the business, of \$10 million or less averaged over the previous  
357 three years. One or more of the individual owners or members shall control both the management and  
358 daily business operations of the small business. With respect to any small business that provides  
359 construction services, "cost of goods sold" shall include the costs associated with all materials, contractor  
360 and subcontractor labor, and services performed at the construction site.

361 "State agency" means any authority, board, department, instrumentality, institution, agency, or  
362 other unit of state government. "State agency" shall not include any county, city, or town.

363 "Women-owned business" means a business that is at least 51 percent owned by one or more  
364 women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited  
365 liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or  
366 more women who are U.S. citizens or legal resident aliens, and both the management and daily business  
367 operations are controlled by one or more women.

368 #