§ 139-i. Obligations with respect to procurement contracts with New York state and foreign business enterprises. 1. As used in this section, the following terms shall have the following meanings, unless a different meaning appears from the context:

(a) "Foreign business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods sought by the state agency or department and which are substantially produced outside New York state, or services sought by the state agency or department and which are substantially performed outside New York state.

(b) "New York state business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the state agency or department and which are substantially manufactured, produced or assembled in New York state, or services which are sought by the state agency or department and which are substantially performed within New York state.

(c) "New York resident" shall mean a natural person who maintains a fixed, permanent and principal home located within New York state and to which such person, whenever temporarily located, always intends to return.

(d) "Procurement contract" shall have the same meaning as that set forth in subdivision two of section one hundred forty-one of the economic development law.

2. In every state agency and department, the chief executive officer shall:

(a) notify the commissioner of economic development of the award of a procurement contract for the purchase of goods or services from a foreign business enterprise in an amount equal to or greater than one million dollars simultaneously with notifying the successful bidder therefor. No state agency or department shall thereafter enter into a procurement contract for said goods or services until at least fifteen days has elapsed, except for procurement contracts awarded on an emergency or critical basis, or where the commissioner of economic development waives the provisions of this sentence. The notification to the commissioner of economic development shall include the name, address and telephone and facsimile number of the foreign business enterprise, a brief description of the goods or services to be obtained pursuant to the proposed procurement contract, the amount of the proposed procurement contract, the term of the proposed procurement contract, and the name of the individual at the foreign business enterprise or acting on behalf of the same who is principally responsible for the proposed procurement contract. Such notification shall be used by the commissioner of economic development solely to provide notification to New York state business enterprises of opportunities to participate as subcontractors and suppliers on such procurement contracts, to promote and encourage the location and development of new business in the state, to assist New York state business enterprises in obtaining offset credits from foreign countries, and to otherwise investigate, study and undertake means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of New York state business enterprises, industry and commerce.

(b) include in all bid documents provided to potential bidders a statement that information concerning the availability of New York state subcontractors and suppliers is available from the New York state department of economic development, which shall include the directory of certified minority and women-owned businesses, and it is the policy of New York state to encourage the use of New York state subcontractors and
suppliers, and to promote the participation of minority and women-owned businesses, where possible, in the procurement of goods and services.

(c) provide annually, on or before the first business day of June of each year, to the department of economic development information pertaining to procurement contracts entered into in an amount equal to or greater than one hundred thousand dollars by such agency or department during the previous year. Such information shall include the subject matter and value of such contracts, designation of each contractor as a New York state business enterprise or a foreign business enterprise, the process used to select such contractors, as well as the status of such contracts; and

(d) adopt policies to promote the participation by New York state business enterprises and New York state residents in procurement contracts, with the cooperation of the department of economic development and the community services division of the department of labor including, but not limited to, providing through cooperative efforts with contractors for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts in an amount estimated to be equal to or greater than one million dollars and for the notification of New York state residents of employment opportunities arising in New York state out of procurement contracts in an amount estimated to be equal to or greater than one million dollars; and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract, such contractors shall document their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has (a) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority and women-owned business, or (b) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or (c) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York state, or (d) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent. Such contractors shall also provide notification to New York state residents of employment opportunities through listing any such positions with the community services division, or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements. On or before the effective date of this section, each state agency or department shall submit such policies to the division of the budget and copies thereof to the department of audit and control, the department of economic development, the senate finance committee and the assembly ways and means committee.

(e) include in each set of documents soliciting bids on procurement contracts to let by the state agency or department a statement notifying potential bidders located in foreign countries that the state agency or department may assign or otherwise transfer offset credits created by such procurement contract to third parties located in New York state; provide for the assignment or other form of transfer of offset credits created by such procurement contracts, directly or indirectly, to third
parties located in New York state, in accordance with the written
directions of the commissioner of economic development; and provide for
the state agency or department to otherwise cooperate with the
department of economic development in efforts to get foreign countries
to recognize offset credits assigned or transferred to third parties
located in New York state created by such procurement contracts.

(f) promulgate procedures which will assure compliance with the
federal equal employment opportunity act of 1972 (P.L.92-261), as
amended, by contractors of the state agency or department.