



## MEMORANDUM OF OPPOSITION

**BILL:** S.5994-C (Ryan) / A.1338-C (Magnarelli)

**SUBJECT:** Duplicative Contractor and Subcontractor Registration

**DATE:** May 19, 2022

**STATUS:** Senate Third Reading Calendar / Assembly Ways and Means Committee

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and open shop construction companies strongly opposes S.5994-C (Ryan) / A.1338-C (Magnarelli) which, establishes a duplicative and costly registration system for contractors and subcontractors engaged in public work and covered projects. Simply stated, this bill is a flawed solution in search of a perceived problem.

This bill is duplicative because the New York State Vendor Responsibility (VendRep) System administered by the New York State Comptroller's Office is an established online system to support more effective and efficient use of information in assessing vendor responsibility. Vendor responsibility includes financial and organizational capacity; legal authority to do business in New York State; integrity; and past performance. The VendRep System is designed to support both business entities and State contracting entities in meeting their respective obligations for providing and assessing information to make vendor responsibility determinations. The VendRep System serves as an information clearinghouse for vendor responsibility, providing authorized State contracting entity users with a secure, centralized, and standardized database of accurate, relevant, and current information for making responsibility determinations.

Unlike the well-established VendRep system this bill:

- Empowers and mandates that the over-burdened NYS Department of Labor (NYSDOL) establish and maintain a duplicative contractor and subcontractor registration system for public work.
- Establishes an expensive unfunded mandate for the NYSDOL because staff and a new information technology system would be required to process registrations, hold hearings, appeals, and maintain a public database.
- Reduces competition and limits opportunities for minority and women-owned businesses due to the complicated registration and compliance processes resulting in greater workforce shortages.
- Technical deficiencies or a missed date on a registration submission could cause delays, work stoppages, and declare the contractor or subcontractor "unfit" leading to legal disputes, monetary penalties, bonding complications, and other expenses which could cause an undercapitalized small company to go out of business.
- Increases the administrative burden to local governments and school districts.
- Cedes legislative prerogative to the Commissioner of Labor for unspecified regulations promulgated by the NYSDOL.
- Creates a prequalification process largely prohibited by NYS competitive Bidding laws and is incompatible with design-build procurement; and

For these reasons, AGC NYS opposes S.5994-C (Ryan) / A.1338-C (Magnarelli) and urges the state Senate and Assembly to reject this duplicative and costly bill.

*A Chapter of the Associated General Contractors of America  
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