

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 17—Office of Equal Opportunity

PROPOSED AMENDMENT

1 CSR 10-17.010 Definitions. The Commissioner is amending section (1).

PURPOSE: This amendment updates defined terms related to the state of Missouri's Minority and Women's Business Enterprise Program, established by the Office of Administration and administered by the Office of Equal Opportunity.

(1) For purposes of the state of Missouri's Minority and Women's Business Enterprise Program, established by the Office of Administration and administered by the Office of Equal Opportunity, the following definitions apply:

(A) Certification or certified—A determination made after an applicant has met the eligibility requirements to be qualified as a Minority Business Enterprise (MBE) or a Women's Business Enterprise (WBE) by the Office of Administration, Office of Equal Opportunity (OEO);

(B) Commissioner—The commissioner of the Office of Administration;

[(C) Compliance—When a firm has met the requirements of these regulations, the applicable statutes, and the Minority and/or Women's Business Enterprise (M/WBE) provisions of its state contract;

[(D)] (C) Contract—A legally-binding relationship obligating a contractor, subcontractor, or supplier to furnish goods or services and the buyer to pay for them. For the purposes of these regulations, leases and subcontracts may be considered contracts;

*[(E)] (D) Contractor—A [firm] **person or entity** that has a contract directly with the state of Missouri;*

*[(F)] (E) Firm—A person or **for profit** business lawfully existing under the laws of the state of Missouri or its state of origin, including but not limited to a sole proprietorship, corporation, partnership, limited partnership, joint venture, limited liability company (LLC), or professional corporation;*

[(G)] (F) Minority—Any individual who is a citizen or lawfully-admitted permanent resident of the United States and who is a member of any of the following groups:

1. Black Americans—Includes persons having origins in any of the black racial groups of Africa;

2. Hispanic Americans—Includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or *[Portugese]* **Portuguese** culture or origin, regardless of race;

3. Native Americans—Includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

4. Asian-Pacific Americans—Includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, **Singapore**, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), **Republic of the Marshall Islands**, the Commonwealth of the Northern Mariana Islands, Macao, Fiji, Tonga, *[Kirbati]* **Kiribati**, *[Juvalu]* **Tuvalu**, Nauru, Federated States of Micronesia, or Hong Kong;

5. *[Asian-Indian Americans]* **Subcontinent Asian Americans**—Includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka; or

6. Any additional groups whose members are designated as socially and economically disadvantaged by the U.S. Small Business Administration (SBA), at such time as the SBA designation becomes effective;

[(H)] **(G) Minority Business Enterprise (MBE)**—The definition in section 37.020.1(3), RSMo, will be applied;

[(I)] **Noncompliance**—*Failure by the contractor, subcontractor, or supplier to achieve the goals of M/WBE participation set forth in the contract;*

[(J)] **(H) OA**—The state of Missouri's Office of Administration;

(I) OEO – Office of Equal Opportunity.

[(K)] **Out-of-state applicant**—*Any applicant whose principal place of business is located outside Missouri. Such applicants must be certified by their home state. Certification by another state does not guarantee certification by OEO;*

[(L)] **(J) Principal place of business**— *[Where]* **The primary headquarters of the firm where** the individuals who manage the day-to-day operations and make executive decisions for the firm are located and where its records are kept;

[(M)] **(K) Rapid response applicant**—Any applicant *[whose principal place of business is in Missouri and who possesses a current M/WBE certification from another certifying entity]* **who possesses a current M/WBE certification or equivalent from another qualified certifying entity as determined by OEO.** Rapid response applicants may receive certification from OEO through a memorandum of understanding. Less documentation is needed than for a standard/initial applicant, and an on-site review is *[not]* required **from the other qualified certifying entity.** Certification by another certifying entity does not guarantee certification by OEO;

[(N)] **(L) Subcontractor**—A firm that does not have a contract directly with the state of Missouri but instead contracts a portion of the work of a state contract from the contractor or another subcontractor;

[(O)] **(M) Standard/initial applicant**—Any applicant whose principal place of business is in Missouri and who does not currently *[hold any other M/WBE certifications]* **possess a current M/WBE certification or equivalent from another qualified certifying entity as determined by OEO.** OEO may perform an on-site review at the applicant's place of business *[after reviewing]* **and must review** the application and **all supporting** documentation **before certification is granted;** and

[(P)] **(N) Women's Business Enterprise (WBE)**—The definition in section 37.020.1(6), RSMo, will be applied.

AUTHORITY: sections 34.050 and 37.020, RSMo 2000. Original rule filed June 1, 2011, effective Nov. 30, 2011. Amended: Filed April 5, 2016.*

**Original authority: 34.050, RSMo 1939, amended 1945, 1993, 1995 and 37.020, RSMo 1990.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Commissioner of Administration, P.O. Box 809, Jefferson City, MO, 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.