

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

**PROPOSED AMENDMENT**

**1 CSR 10-17.050 Minority and Women’s Business Enterprise Participation in Procurement Process.** The Commissioner is amending sections (1)-(10).

*PURPOSE: This amendment updates collaborative practices throughout the rule to encourage and facilitate the utilization of Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) (collectively, M/WBEs) by assuring that they have the maximum opportunity to participate in procurements financed in whole or in part with state funds.*

(1) The Office of Equal Opportunity (OEO) will provide assistance to Minority and Women’s Business Enterprises (M/WBEs). Assistance provided may include but is not limited to: workshops, bid history and pricing abstracts, minority vendor registration, access to state agency procurement staff, inclusion in the M/WBE online directory, *[and]* notification of bid opportunities to promote increased participation **and referrals to agencies that may provide specialized training or assist with financing and bonding issues.**

(2) By collaborating with the Divisions of Purchasing *[and Materials Management (DPMM)]* and Facilities Management, Design and Construction *[(FMDC)]* within the Office of Administration, OEO will encourage participation in the procurement process and fairness in consideration of bids and proposals submitted by M/WBEs. Programs and procedures designed by OEO to accomplish these objectives may include: providing diversity training for state procurement personnel; identifying minority and women personnel to serve on evaluation committees; closely reviewing the requirements for bonding; notifying M/WBEs of procurement opportunities online; *[referring M/WBEs to agencies that may provide specialized training or assist with financing and bonding issues;]* and actively collaborating with executive branch agencies.

(3) OEO will compile and maintain a directory of certified M/WBEs. The directory will include *[contact information for M/WBEs and information regarding the products and services they offer]* **each firm’s name, address, phone number, email address, firm’s status as a M/WBE, age of the firm and the categories of work the firm has been certified to perform.** The directory will be available online to bidders, contractors, and the public.

(4) OEO will *[establish M/WBE participation goals and]* **support the Division of Purchasing in setting individual contract percentages for M/WBEs to help meet the State’s Annual Aspirational Program Goals and work to further its programs** in accordance with section 37.020, RSMo; any successor or similar statutes; executive orders based upon a study to determine the availability of qualified M/WBEs; and any other pertinent information. OEO will periodically review M/WBE *[participation goals]* **contract goal setting procedures, M/WBE utilization percentages and outreach and assistance** programs to determine whether existing *[programs]* **activities** should be continued or revised and whether new programs should be implemented.

(5) By collaborating with *[DPMM, FMDC]* the **Office of Administration, Division of Purchasing and the Division of Facilities Management Design and Construction**, and executive branch agencies, OEO may *[recommend M/WBE subcontracting goals to the]* **work with** agencies *[. To]* to assist in the achievement of *[those goals,]* the **State's Annual Aspirational Program**. OEO may also recommend to agencies solicitations in which M/WBE<sub>[subcontracting]</sub> requirements may be appropriate; recommend that qualified M/WBEs be included on solicitation lists; and, when feasible, recommend structuring contracts to maximize potential M/WBE **and small business** participation.

(6) *[The following expenditures may be counted toward meeting established M/WBE goals in a contract financed in whole or in part with state funds:*

*(A) The total dollar value of a contract awarded to an M/WBE;*

*(B) The total dollars paid by a prime contractor to an M/WBE for supplies and materials provided to the state in fulfillment of the contract;*

*(C) That portion of the total dollar value subcontracted to a certified joint venture by a prime contractor equal to the percentage of the ownership and control of the M/WBE partner in the joint venture; and*

*(D) Only expenditures to M/WBEs that perform a commercially useful function related to the delivery of the supplies required by the contract.*

(7) The total dollar value of a purchase procured from an M/WBE may be counted toward meeting established M/WBE goals in procurements under twenty-five thousand dollars (\$25,000) financed in whole or in part with state funds.

*[(8)]* (7) After the contract is established, OEO *[may]* **shall** monitor the activity of the contractor to assure compliance with the M/WBE utilization stipulated in the contract **and in accordance with applicable statutes and regulations**.

*[(9)]* (8) Contractors that fail to comply with *[the]* **their** M/WBE *[utilization stipulated in the contracts]* **contractual requirements** may be considered in breach of contract and may be subject to the remedies in the contract and as otherwise allowable by law.

*[(10)]* (9) OEO shall maintain statistics and issue periodic reports about M/WBE participation **and recommendations for improvement**.

*AUTHORITY: sections 34.050 and 37.020, RSMo 2000. \*This rule originally filed as 1 CSR 40-1.070. Original rule filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000, effective Oct. 30, 2000. Amended: Filed June 1, 2011, effective Nov. 30, 2011. Amended: Filed April 5, 2016.*

*\*Original authority: 34.050, RSMo 1939, amended 1945, 1973, 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.*