

## Oregon Health Authority Supplier Diversity Policy

The Oregon Health Authority values health equity, workforce diversity and creating an environment that supports the economic development of Oregon's Minority Business Enterprise, Women Business Enterprise and Emerging Small Business firms. Governor Kitzhaber's Executive Order 12-03 promotes diversity and inclusion opportunities for Oregon Minority-Owned, Women-Owned and Emerging Small Businesses (MWESB), requiring the implementation of initiatives to improve entrepreneurial opportunities for certified business enterprises, prevent race and sex based discrimination and foster an inclusive business environment. The Oregon Health Authority has a commitment to ensure that MWESBs are provided equitable opportunity to participate in the performance of contracts financed with state funds.

The goal of this policy is to increase opportunities for Oregon minority, women and emerging small business programs and to promote a business climate where inclusive and transparent practices are recognized as a core value.

The Oregon Health Authority shall adhere to the Statewide MWESB Procurement policy #107-009-030-PO related to Notice, Inclusive Competition, Sole-Source, Evaluation Selection and other procurement processes.

### Quotes, Bids or Proposals

Each Oregon Health Authority program shall take steps to ensure the participation of MWESB certified firms. Program Managers or designee shall consult with staff from the Office of Contracts and Procurement (OC&P) to determine the most appropriate buy decision hierarchy and to adhere to existing law.

### Outreach Efforts

Unless otherwise prohibited by law or a specific procurement process, the Oregon Health Authority shall include MWESB Participation language (link to be inserted) in its solicitation documents.

To measure the progress of the Oregon Health Authority's MWESB outreach and contracting efforts, OC&P in consultation with the Office of Equity and Inclusion shall survey each program area annually to assess outreach and selection procedures in the awarding of contracts and identify any barriers to entry for minority, women, and emerging small businesses. Any identified barriers shall be addressed in a prompt and timely manner and recommendations shall be made for further training, technical assistance, or other support.

The Office of Contracts and Procurement shall collaborate with the Office of Equity and Inclusion to coordinate training for eligible business owners on the benefits of MWESB certification on an annual basis, at minimum.

### Authority

Oregon Revised Statutes (ORS) 279A.100 and 279B.070; Oregon Administrative Rules (OAR 125-246-0200); DAS Statewide Policy 107-009-030-PO. And Oregon MWESB certified firms, as defined in ORS 200.005.

### Accountability

The Oregon Health Authority Director designates the Office of Contracts and Procurement in consultation with the Office of Equity and Inclusion to monitor agency compliance of the Oregon Health Authority Supplier Diversity Policy.

### Reference

#### **279A.100 Affirmative action; limited competition permitted.**

(1) As used in this section:

(a) “Affirmative action” means a program designed to ensure equal opportunity in employment and business for persons otherwise disadvantaged by reason of race, color, religion, sex, national origin, age or physical or mental disability or a policy to give a preference in awarding public contracts to disabled veterans.

(b) “Disabled veteran” has the meaning given that term in ORS 408.225.

(2) The provisions of the Public Contracting Code may not be construed to prohibit a contracting agency from engaging in public contracting practices designed to promote affirmative action goals, policies or programs for disadvantaged or minority groups or to give a preference in awarding public contracts to disabled veterans.

(3) In carrying out an affirmative action goal, policy or program, a contracting agency by appropriate ordinance, resolution or rule may limit competition for a public contract for goods and services, or for any other public contract estimated to cost \$50,000 or less, to contracting entities owned or controlled by persons described in subsection (1) of this section. [2003 c.794 §13; 2009 c.235 §1]

#### **279B.070 Intermediate procurements.**

(1) Any procurement of goods or services exceeding \$5,000 but not exceeding \$150,000 may be awarded in accordance with intermediate procurement procedures. A contract awarded under this section may be amended to exceed \$150,000 only in accordance with rules adopted under ORS 279A.065.

(2) A procurement may not be artificially divided or fragmented so as to constitute an intermediate procurement under this section.

(3) When conducting an intermediate procurement, a contracting agency shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The contracting agency shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the contracting agency shall make a written record of the effort made to obtain the quotes or proposals.

(4) If a contract is awarded, the contracting agency shall award the contract to the offer or whose quote or proposal will best serve the interests of the contracting agency, taking into account price as well as considerations including, but not limited to, experience, expertise, product

functionality, suitability for a particular purpose and contractor responsibility under ORS 279B.110. [2003 c.794 §54]

### **200.005 Definitions for ORS 200.005**

- (1) “Disadvantaged business enterprise” means a small business concern:
  - (a) That is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or
  - (b) For which, in the case of a corporation, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals, and of which the management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (2) “Economically disadvantaged individual” means a socially disadvantaged individual whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to other individuals in the same business area who are not socially disadvantaged individuals.
- (3) “Emerging small business” means an independent business:
  - (a) With its principal place of business located in this state;
  - (b) That qualifies as a tier one firm or a tier two firm;
  - (c) That is properly licensed and legally registered in this state; and
  - (d) That is not a subsidiary or parent company belonging to a group of firms that are owned or controlled by the same individuals if, in the aggregate, the group of firms does not qualify as a tier one firm or a tier two firm.
- (4) “Minority individual” means a person who is a citizen or lawful permanent resident of the United States, who is:
  - (a) Black, having origins in any of the black racial groups of Africa;
  - (b) Hispanic, having Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;
  - (c) Asian American, having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;
  - (d) Portuguese, having Portuguese, Brazilian or other Portuguese culture or origin, regardless of race;
  - (e) American Indian or Alaska Native, having origins in any of the original peoples of North America; or
  - (f) A member of another group, or another individual who is socially and economically disadvantaged as determined by the Advocate for Minority, Women and Emerging Small Business.
- (5) “Minority or women business enterprise” means a small business concern:
  - (a) That is at least 51 percent owned by one or more minority individuals or women; or
  - (b) For which, in the case of a corporation, at least 51 percent of the stock is owned by one or more individuals who are minority individuals or women, and of which the management and daily business operations are controlled by one or more of the minority individuals or women who own it.
- (6) “Responsible bidder” means a bidder who, as determined by the Advocate for Minority, Women and Emerging Small Business, has undertaken both a policy and practice of actively pursuing participation by minority or women business enterprises in all bids, both public and private, submitted by the bidder.

(7) “Small business concern” means a small business as defined by the United States Small Business Administration in 13 C.F.R. part 121 and in effect on January 1, 2006.

(8) “Socially disadvantaged individual” means an individual who has been subjected to racial or ethnic prejudice or cultural bias, without regard to individual qualities, because of the individual’s identity as a member of a group.

(9) “Tier one firm” means a business that employs fewer than 20 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed \$1.5 million for a business performing construction, as defined in ORS 446.310, or \$600,000 for a business not performing construction.

(10) “Tier two firm” means a business that employs fewer than 30 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed \$3 million for a business performing construction, as defined in ORS 446.310, or \$1 million for a business not performing construction.

(11) “Woman” means a person of the female sex who is a citizen or lawful permanent resident of the United States. [1987 c.893 §2; 1989 c.1043 §1; 1991 c.517 §9; 2001 c.104 §71; 2003 c.794 §213; 2005 c.22 §§150,151; 2005 c.683 §§4,5]