STATE PROCUREMENTS FOR MINORITY OWNED AND WOMAN OWNED BUSINESSES
Act 428 of 1980

AN ACT to provide for the designation of state procurements of goods, services, and construction for minority owned and woman owned businesses; to provide powers and duties of the governor; to prescribe powers and duties of certain state departments and agencies; and to provide penalties.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

The People of the State of Michigan enact:

450.771 Definitions.

Sec. 1. As used in this act:

(a) "Controlled" means exercising the power to make policy decisions in a business.

(b) "Department" means a principal department of the executive branch of the state government.

(c) "Expenditures" means payments and contracts for goods, services, and construction which may be acquired competitively and are not regulated by separate authority, and, where the department acts as the sole or primary contracting officer and has selective discretion as to the supplier, vendor, or contractor.

(d) "Joint venture" means an agreement that combines 2 or more businesses for specified purposes involving 1 or more minority owned or woman owned businesses and 1 or more businesses other than a minority owned or woman owned business.

(e) "Minority" means a person who is black, hispanic, oriental, eskimo, or an American Indian who is not less than 1/4 quantum Indian blood as certified by the person's tribal association and verified by the Indian affairs commission.

(f) "Minority owned business" means a business enterprise of which more than 50% of the voting shares or interest in the business is owned, controlled, and operated by individuals who are members of a minority and with respect to which more than 50% of the net profit or loss attributable to the business accrues to shareholders who are members of a minority.

(g) "Operated" means the activity of being involved in the day to day management of a business.

(h) "Person" means an individual, sole proprietorship, partnership, association, or corporation.

(i) "Subcontract" means an agreement to share a prime contract between a prime contractor, who is not a minority owned business or a woman owned business, and a minority owned or woman owned business.

(j) "Woman owned business" means a business of which more than 50% of the voting shares or interest in the business is owned, controlled, and operated by women and with respect to which more than 50% of the net profit or loss attributable to the business accrues to the women shareholders.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

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450.772 Construction, goods, and services procurement policy; minority owned and woman owned businesses; provisions; program changes; portion of prime contract reflecting minority owned or woman owned business participation; bidder requirements; contract award.

Sec. 2. (1) The construction, goods, and services procurement policy for each department shall provide for the following percentage of expenditures to be awarded to minority owned and woman owned businesses by each department except as provided in subsection (6):

(a) For minority owned business, the goal for 1980-81 shall be 150% of the actual expenditures for 1979-80, the goal for 1981-82 shall be 200% of the actual expenditures for 1980-81, the goal for 1982-83 shall be 200% of the actual expenditures for 1981-82, the goal for 1983-84 shall be 116% of the actual expenditures for 1982-83, and this level of effort at not less than 7% of expenditures shall be maintained thereafter.

(b) For woman owned business, the goal for 1980-81 shall be 150% of the actual expenditures for 1979-80, the goal for 1981-82 shall be 200% of the actual expenditures for 1980-81, the goal for 1982-83 shall be 200% of the actual expenditures for 1981-82, the goal for 1983-84 shall be 200% of the actual expenditures for 1982-83, the goal for 1984-85 shall be 140% of the expenditures for 1983-84, and this level of effort at not less than 5% of expenditures shall be maintained thereafter.

(2) If the first year goals are not achieved, the governor shall recommend to the legislature changes in programs to assist minority and woman owned businesses.

(3) Each department, to assist in meeting the construction, goods, and services procurement expenditures percentages set forth in subsection (1), shall include provisions for the accommodation of subcontracts and joint ventures. The provisions shall be established by the governor and shall require a bidder to indicate the

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extent of minority owned or woman owned business participation.

(4) Only the portion of a prime contract that reflects minority owned or woman owned business participation shall be considered in meeting the requirements of subsection (1).

(5) Minority owned or woman owned businesses shall comply with the same requirements expected of other bidders including, but not limited to, being adequately bonded.

(6) If the bidders for any contract do not include a qualified minority owned and operated or woman owned and operated business, the contract shall be awarded to the lowest bidder otherwise qualified to perform the contract.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

450.773 Establishing procurement policy for meeting projected goals; report; staff.

Sec. 3. (1) The governor shall establish a procurement policy for each executive department to implement and establish the method of meeting the projected goals established in section 2.

(2) The governor shall submit a report to the legislature every 3 months during the first year of operation and every 6 months during succeeding years. The report shall detail the results of the governor's procurement policy including the specific contracts awarded by each department and the type of business engaged in by the person awarded the contract.

(3) Appropriate staff to implement the governor's policy shall be provided by the department of management and budget.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

450.774 Certification as minority owned or woman owned business; affidavit; filing.

Sec. 4. A person who wishes to be certified as a minority owned or woman owned business shall complete a sworn affidavit that the person is a minority owned or woman owned business and is prepared to bid on state contracts. All ownership interests in the business shall be specifically identified in the affidavit. The affidavit shall be filed with the governor or a department designated by the governor.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

450.775 Violating or conspiring to violate act; fraudulent procurement of contract; felony; penalty; barring violator from obtaining future contracts.

Sec. 5. A person who knowingly violates or conspires to violate this act, or who knowingly and fraudulently procures or attempts to procure a contract with this state as a minority owned or woman owned business is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of not less than $5,000.00, or both. A person who violates this act shall be barred from obtaining future contracts with the state.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

450.776 Minority owned or woman owned business as prime contractor.

Sec. 6. If a minority owned or woman owned business receives a contract, the minority owned or woman owned business shall be the prime contractor through its duration.

History: 1980, Act 428, Imd. Eff. Jan. 13, 1981.

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