



Supplier Diversity

Supplier Diversity (a.k.a Set-Aside) Program

By law, state agencies with a budget of more than \$10,000 and contractors awarded state-financed municipal public works or quasi-public agency contracts must annually set-aside or reserve (1) 25% of the total value of all contracts they let for construction, goods, and services for exclusive bidding by state certified small business enterprises (SBEs) and (2) 25% of that amount (6.25% of the total) for exclusive bidding by small contractors that are certified minority business enterprises (MBE) (i.e., owned by women, ethnic minorities, or people with disabilities) ([CGS § 4a-60g](#) as amended by [PA 19-117](#)).

Public works contracts awarded by agencies that are valued at \$10,000 or less are exempt from the set-aside provisions. State-funded contracts awarded by municipalities or quasi-public agencies valued at \$50,000 or less are also exempt. The Department of Administrative Services (DAS) is responsible for certifying businesses as small and minority-owned businesses. Certification is for a two-year period and is renewable.

Reporting Requirement

The Commission on Human Rights and Opportunities (CHRO) must compile data concerning state contracts with minority-owned business enterprises and annually report to the legislature ([CGS § 46a-56\(a\)\(6\)](#)). According to CHRO's most recent report covering FY 16 – FY 18, the state routinely exceeds the goals it sets for procurement from SBEs and MBEs. During the reporting period, state agencies had an average MBE contracting and purchasing goal of \$30,562,348 and spent an average of \$110,753,874.

Disparity Study

Historically, small businesses owned by women and minorities have had lower participation in federal, state and local contracting opportunities than businesses owned by their white, male counterparts. In response, some states developed programs that set aside a certain percentage of state contracting opportunities for minority businesses. In 1989, the U.S. Supreme Court struck down a set-aside program in *City of Richmond v. J.A. Croson*,

ruling that jurisdictions must establish a “compelling interest” to support the creation of contracting programs that specifically target minority and/or women-owned businesses. The central tool developed for this purpose is a disparity study to evaluate whether a measurable pattern of underutilizing minority contractors exists, and if so, what level of intervention is needed to remedy the imbalance. Such studies are generally updated periodically to determine whether set-aside programs are still justified.

In 2012, the legislature required the Connecticut Academy of Science and Engineering to conduct a disparity study analyzing the state’s set-aside program. As a result of initial research findings, the scope of the study’s work was divided into phases based on the specified goals in [PA 12-1, JSS](#).

- **Phase 1** ([August 2013](#)) included a review and analysis of the set-aside program, legal issues, and stakeholder anecdotal information.
- **Phase 2** ([May 2014](#)) included legislative and administrative initiatives, diversity data management system review, review of issue areas, and data and methodology for statistical analysis.
- **Phase 3** ([May 2016](#)) used publicly available data to examine the following factors to determine whether disparities exist in the economy-wide marketplace by race and ethnicity or gender: business formation, earnings, credit access, homeownership and lending, and business performance.
- **Phase 4** (*not yet conducted*) will evaluate whether there is evidence of disparities, which may be indicative of discrimination, in state procurement based on the availability and utilization ratios of minority- and women-owned businesses. If such disparities are found, the final step would be to determine the need for a set-aside program and if so, the percentage goals for utilization of minority and women-owned businesses.

Contract Compliance Law

In addition to set-aside requirements, the contract compliance law requires nondiscrimination and affirmative action provisions to be included in state or municipal public works contracts or contracts for a quasi-public agency project. Contractors under these contracts must agree to make good faith efforts to employ MBEs as subcontractors and suppliers of materials on such projects ([CGS § 4a-60](#)).

Small Business Enterprise (SBE):

A contractor, subcontractor, manufacturer, service company, or nonprofit corporation that:

- maintains its principal place of business in Connecticut;
- grossed revenues of \$20 million or less during its most recently completed fiscal year; and
- is independent.

Minority Business Enterprise (MBE):

A small business enterprise (see above) with at least 51% of the company capital stock (if any) or assets owned by a person or persons who:

- exercise operational authority over daily affairs of the business;
- have the power to direct the management and policies and receive the beneficial interests of the business;
- possess managerial and technical competence and experience directly related to the principal business activities; and
- are women, members of an ethnic minority, or individuals with disabilities.

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