

not limited to racing programs. The track shall compile a list of persons applying to adopt a dog. A dog's owner or dog's trainer acting with the consent of the owner may participate in the program by placing the dog for adoption. The ownership of the dog shall be transferred from the owner of the dog to the person who is adopting the dog. A dog shall not be transferred to a person for purposes related to racing, breeding, hunting, laboratory research, or scientific experimentation. A dog shall not be transferred unless the dog has been examined by a veterinarian and found to be free of disease requiring extensive medical treatment. A dog shall not be transferred, until a veterinarian has certified that the dog has been sterilized. The track may transfer a dog to a governmental agency or nonprofit organization without examination or certification. However, other requirements relating to the transfer of a dog to a person by a track under this section apply to the transfer of a dog to a person by the agency or organization. A person violating this section is guilty of a simple misdemeanor.

Approved April 6, 1990

---

## CHAPTER 1156

### TARGETED SMALL BUSINESS PROCUREMENT GOALS

*S.F. 2274*

**AN ACT** relating to targeted small businesses, and imposing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 12.44, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Agencies of state government shall be required to waive the requirement of satisfaction or performance bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of a lack of experience, lack of net worth, or lack of capital. This waiver shall not apply to businesses with a record of repeated failure of substantial performance or material breach of contract in prior circumstances. The waiver shall be applied only to a project or individual transaction amounting to fifty thousand dollars or less, notwithstanding section 573.2. In order to qualify, the targeted small business shall provide written evidence to the department of inspections and appeals that the bond would otherwise be denied the business. The granting of the waiver shall in no way relieve the business from its contractual obligations and shall not preclude the state agency from pursuing any remedies under law upon default or breach of contract.

Sec. 2. Section 15.102, subsection 5, Code 1989, is amended to read as follows:

5. "Targeted small business" means a small business which is fifty-one percent or more owned, operated, and actively managed by one or more women or minority persons, provided the business meets all of the following requirements:

1. Is located in this state.
2. Is operated for profit.
3. Has twenty or fewer full-time equivalent employees.
4. Has an annual gross income of less than three million dollars computed as an average of the three preceding fiscal years.

PARAGRAPH DIVIDED. As used in this subsection, "minority person" means an individual who is a Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native.

Sec. 3. Section 15.108, subsection 7, paragraph c, Code Supplement 1989, is amended to read as follows:

c. Aid in for the development and implementation of the Iowa targeted small business procurement Act established in sections 73.15 through 73.21 and the targeted small business financial assistance program established in section 15.247. The duties of the director under this paragraph include the following:

(1) The director, in conjunction with the director of the department of management, shall publicize the procurement set-aside goal program to for targeted small businesses and to agencies of state government, attempt to locate targeted small businesses able to perform set-aside awards contracts, and encourage program participation. The director may request the cooperation of the department of general services, the department of transportation, the state board of regents, or any other agency of state government in publicizing this program.

(2) The director, in conjunction with the director of the department of management, shall publicize the financial assistance program established in section 15.247 to targeted small businesses.

(3) When the director determines, or is notified by the head of another agency of state government, that a targeted small business is unable to perform a procurement set-aside awards contract, the director shall assist the small business in attempting to remedy the causes of the inability to perform. In assisting the small business, the director may use any management or financial assistance programs available through state or governmental agencies or private sources.

(4) The director, in conjunction with the director of the department of management and jointly with the universities under the jurisdiction of the state board of regents, the area community colleges, and the area vocational schools, shall develop and make available in all areas of the state, programs to offer and deliver concentrated, in-depth advice and services to assist targeted small businesses. The advice and services shall extend to all areas of business management in its practical application, including but not limited to accounting, engineering, drafting, grant writing, obtaining financing, locating bond markets, market analysis, and projections of profit and loss.

(5) The director shall submit an annual report to the governor and the general assembly relating progress toward realizing the goals and objectives of the procurement set-aside goal program and the financial assistance program established in section 15.247 during the preceding fiscal year. The director of the department of management shall assist in compiling the data to be included in the report. The report shall include the following information:

(a) The total dollar value and number of potential set-aside awards targeted small business procurement contracts identified and the percentage of total state procurements this reflects.

(b) The total dollar value and number of set-aside procurement contracts awarded to targeted small businesses with appropriate designation as to the total number and value of set-aside contracts awarded to each certified targeted small business, and the percentages of the total state procurements the figures of total dollar value and the number of set-asides targeted small business contracts reflects.

(c) The number of contracts which were designated and set aside to satisfy targeted small business procurement goals established pursuant to sections 73.15 through 73.21, but which were not awarded to a targeted small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business and the price at which these contracts were awarded pursuant to the normal procurement procedures.

(d) The efforts undertaken to identify targeted small businesses and to publicize and encourage participation in the set-aside procurement goal and loan guarantee programs during the preceding year.

(e) The efforts undertaken to develop technical assistance programs and to remedy the inability of targeted small businesses to perform on potential set-asides procurement contracts.

(f) Information about the number of applications received and processed by the Iowa finance authority under the loan guarantee program, the value of loans guaranteed, and follow-up information on targeted small businesses which have been awarded loan guarantees.

(g) The director's recommendations for strengthening the ~~set-aside~~ procurement goal program and delivery of services to targeted small businesses. The director of the department of management shall provide recommendations to the director regarding strengthening contract compliance activities by state agencies.

(h) The department of general services, the department of transportation, the state board of regents, and all other agencies of state government shall provide all relevant information requested by the director for the preparation of the annual report.

Sec. 4. Section 15.247, subsection 2, Code Supplement 1989, is amended to read as follows:

2. The department shall establish, contingent upon the availability of funds authorized for the program, a targeted small business financial assistance program, to provide for loans, loan guarantees, revolving loans, loans secured by accounts receivable, or grants to targeted small businesses. A targeted small business in any year shall receive under this program not more than twenty-five thousand dollars in a loan or grant, and not more than forty thousand dollars in a guarantee, or a combination of loans, grants, or guarantees. The program shall provide guarantees not to exceed seventy-five percent for loans made by qualified lenders. The department shall establish a financial assistance reserve account from funds provided for this program, from which any default on a guaranteed loan under this section shall be paid. In administering the program the department shall not guarantee loan values in excess of the amount credited to the reserve account and only moneys set aside in the loan reserve account may be used for the payment of a default.

Sec. 5. Section 15.264, subsection 8, paragraph c, Code 1989, is amended to read as follows:

c. Ensure that the loans guaranteed under this part are disbursed and utilized in accordance with the targeted small business ~~set-aside requirements~~ procurement goals of sections 73.15 through 73.21.

Sec. 6. Section 73.16, subsections 1 and 2, Code 1989, are amended to read as follows:

1. Every agency, department, commission, board, committee, officer or other governing body of the state shall purchase goods and services supplied by small businesses and targeted small businesses in Iowa. In addition to the other provisions of this section relating to ~~set-asides~~ procurement contracts for targeted small businesses, all purchasing authorities shall assure that a proportionate share of small businesses and targeted small businesses identified under the uniform small business vendor application program of the department of economic development are given the opportunity to bid on all solicitations issued by agencies and departments of state government.

2. The director of each agency or department of state government having purchasing authority shall ~~designate and set aside for awarding to~~ establish a procurement goal from certified targeted small businesses identified pursuant to section 10A.104, subsection 8, of at least ~~two ten percent, and should set a goal of up to ten percent,~~ of the value of anticipated procurements of goods and services, including construction, but not including utility services, each fiscal year. The director of each department and agency of state government shall cooperate with the director of the department of inspections and appeals, the director of the department of economic development, and the director of the department of management and do all acts necessary to carry out the provisions of this division.

A merged area school, area education agency, or school district shall establish a procurement goal from certified targeted small businesses, identified pursuant to section 10A.104, subsection 8, of at least ten percent of the value of anticipated procurements of goods and services including construction, but not including utility services, each fiscal year.

Sec. 7. Section 73.17, Code 1989, is amended to read as follows:

**73.17 TARGETED SMALL BUSINESS SET-ASIDE PROCUREMENT GOALS — PRELIMINARY PROCEDURES.**

Quarterly the director of each agency and department of state government shall review the agency's or department's anticipated purchasing requirements. The directors shall notify the

director of the department of economic development of their anticipated purchases and recommended set-asides procurements with unit quantities and total costs for procurement contracts designated to satisfy the targeted small business procurement goal not later than August 15 of each fiscal year and quarterly thereafter. The directors may divide the procurements so designated into contract award units of economically feasible production runs to facilitate offers or bids from targeted small businesses. In designating set-aside procurements intended to satisfy the targeted small business procurement goal, the directors may vary the included procurements so that a variety of goods and services produced by different targeted small businesses may be set aside procured each year. The director of the department of economic development, in conjunction with the director of the department of management, shall review the information submitted and may require modifications from the agencies and departments.

Sec. 8. Section 73.18, Code 1989, is amended to read as follows:

**73.18 NOTICE OF SOLICITATION FOR BIDS – IDENTIFICATION OF TARGETED SMALL BUSINESSES.**

The director of each agency or department releasing a solicitation for bids or request for proposal under the set-aside targeted small business procurement goal program shall notify the director of the department of inspections and appeals economic development prior to or upon release of the solicitation. The director of the department of inspections and appeals economic development shall notify the soliciting agency or department of any targeted small businesses which have been certified pursuant to section 10A.104, subsection 8, and which may be qualified to bid.

Sec. 9. Section 73.19, Code 1989, is amended to read as follows:

**73.19 NEGOTIATED PRICE OR BID CONTRACT.**

In awarding a contract under the targeted small business set-aside procurement goal program, a director of an agency or department having purchasing authority may use either a negotiated price or bid contract procedure. The amount of an award shall not exceed by more than five percent that director's estimated price for the goods or services if they were to be purchased on the open market or under the competitive bidding procedures of any provisions of law or rules relating to competitive bidding procedures, and not under this set-aside program. A director of an agency or department using a negotiated contract shall consider any targeted small business engaged in that business. The director of the department of economic development or the director of the department of management may assist in the negotiation of a contract price under this section. Surety bonds guaranteed by the United States small business administration are acceptable security for a construction award under this section.

Sec. 10. Section 73.20, Code 1989, is amended to read as follows:

**73.20 DETERMINATION OF ABILITY TO PERFORM.**

Before announcing the set-aside a contract award pursuant to the targeted small business procurement goal program, the purchasing authority shall evaluate whether the targeted small business scheduled to receive the award is able to perform the set-aside contract. This determination shall include consideration of production and financial capacity and technical competence. If the purchasing authority determines that the targeted small business may be unable to perform, the director of the department of economic development shall be notified and shall assist the targeted small business pursuant to section 15.108, subsection 7, paragraph "c", subparagraph (3).

Sec. 11. Section 73.21, Code 1989, is amended to read as follows:

**73.21 OTHER PROCUREMENT PROCEDURES.**

All laws and rules pertaining to solicitations, bid evaluations, contract awards, and other procurement matters apply to procurement set-asides contracts for targeted small businesses to the extent there is no conflict. If this division conflicts with other laws or rules, then this division governs.

Sec. 12. Section 714.8, Code 1989, is amended by adding the following new subsection:

**NEW SUBSECTION. 13. FRAUDULENT PRACTICES IN CONNECTION WITH TARGETED SMALL BUSINESS PROGRAMS.**

a. Knowingly transfers or assigns assets, ownership, or equitable interest in property of a business to a woman or minority person primarily for the purpose of obtaining benefits under targeted small business programs if the transferor would otherwise not be qualified for such programs.

b. Solicits and is awarded a state contract on behalf of a targeted small business for the purpose of transferring the contract to another for a percentage if the person transferring or intending to transfer the work had no intention of performing the work.

c. Knowingly falsifying information on an application for the purpose of obtaining benefits under targeted small business programs.

A violation under this subsection is grounds for decertification of the targeted small business connected with the violation. Decertification shall be in addition to any penalty otherwise authorized by this section.

Approved April 6, 1990

---

## **CHAPTER 1157**

### **COUNCILS OF GOVERNMENTS**

*S.F. 2366*

**AN ACT** establishing councils of governments and providing certain duties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 473B.1 COUNCILS OF GOVERNMENTS ESTABLISHED.**

1. For purposes of this chapter, a council of governments includes the following areas established by executive order number 11,1969 or a chapter 28E agreement:

a. Upper explorerland regional planning commission serving Allamakee, Clayton, Fayette, Howard, and Winneshiek counties.

b. North Iowa area council of governments serving Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, and Worth counties.

c. Northwest Iowa planning and development commission serving Buena Vista, Clay, Dickinson, Emmet, Lyon, O'Brien, Osceola, Palo Alto, and Sioux counties.

d. Siouxland interstate metropolitan planning council serving Ida, Monona, Plymouth, Woodbury, and Cherokee counties.

e. MIDAS council of governments serving Calhoun, Hamilton, Humboldt, Pocahontas, Webster, and Wright counties.

f. Region six planning commission serving Hardin, Poweshiek, Tama, and Marshall counties.

g. Iowa northland regional council of governments serving Black Hawk, Bremer, Buchanan, Butler, Chickasaw, and Grundy counties.

h. East central intergovernmental association serving Cedar, Clinton, Delaware, Dubuque, and Jackson counties.

i. Bi-state metropolitan planning commission serving Scott and Muscatine counties.

j. East central Iowa council of governments serving Benton, Iowa, Johnson, Jones, Linn, and Washington counties.

k. Region twelve council of governments serving Audubon, Carroll, Crawford, Greene, Guthrie, and Sac counties.

l. Southwest Iowa planning council serving Cass, Fremont, Harrison, Montgomery, Page, and Shelby counties.