

681—7.7(73GA,ch315) Targeted small business.

7.7(1) Procurement goal program. It is the policy of the board of regents to provide contract opportunities to targeted small businesses (TSBs). Institutions governed by the board of regents shall seek, pursuant to the Iowa targeted small business procurement Act, 1989 Iowa Acts, chapter 315, section 20, and board policy, to contract with “targeted small businesses” as sources of supplies, equipment, construction, and services. All laws and rules pertaining to solicitations, bid evaluations, and contract awards apply to targeted small businesses.

7.7(2) Program to award contracts. Regent institutions in consultation with the board office shall develop a program for awarding contracts to targeted small businesses. Regent institutions may divide total purchases, for services or goods, into tasks or quantities when it is economically feasible and allows maximum targeted small business participation.

7.7(3) Construction contracts.

a. Regent institutions are authorized to negotiate or obtain competitive bids from targeted small businesses on construction contracts under conditions specified. Regent institutions may request the assistance of the department of economic development or the department of management in the negotiation of a contract price.

(1) Regent institutions are authorized to obtain competitive bids from targeted small businesses on construction contracts.

(2) Regent institutions shall encourage targeted small business contractors to submit bids as prime contractors on capital projects.

b. Regent institutions are authorized to establish targeted small business participation goals for construction contracts that are publicly bid on a competitive basis. On contracts for which targeted small business participation goals are encouraged, the targeted small business participation goal shall be clearly identified in the special conditions of the contract documents. Satisfaction of the participation goal may be achieved through targeted small business participation in a contract as a prime contractor or subcontractor, provided that only that portion of the contract price accruing to the targeted small business for work performed shall be used to determine whether the participation goal has been met.

c. On construction contracts competitively bid for which a participation goal is indicated, each bidder who is not a targeted small business shall submit with the bid the name(s) of targeted small business(es) to whom a subcontract will be awarded, a description of the work to be performed, and the dollar amount assigned to the work to be performed. The prime contractor shall sign a statement attesting to this provision.

d. Regent institutions shall require the prime contractor to make a good faith effort to utilize targeted small businesses. The prime contractor shall maintain, and provide upon request, documentation as to what good faith efforts were undertaken to utilize targeted small businesses. Good faith effort may include, but is not limited to:

(1) Prime contractor’s efforts to locate minority- and women-owned businesses.

(2) Prime contractor’s efforts to make minority- and women-owned businesses aware of contracting opportunities.

(3) The prime contractor’s initiatives to encourage and develop TSBs, taking into account the availability of TSBs to work on state-assisted contracts.

(4) Prime contractor’s efforts to increase the participation of minority- and women-owned businesses in the contractor’s state-assisted contract.

7.7(4) Supply, service, and equipment contracts.

a. Regent institutions are authorized to negotiate or obtain competitive bids from targeted small businesses on supply, service, and equipment purchase orders or contracts under conditions specified. Regent institutions may use any or all of the following procedures to encourage targeted small business participation to the maximum extent possible.

(1) Identify purchases that offer potential targeted small business participation.

(2) Identify targeted small businesses who can participate in the purchasing contract.

(3) Send proposals and invitations to bid to targeted small businesses who can participate in the purchasing contract.

b. Regent institutions shall encourage targeted small business(es) to submit bids or quotations on supply, service, and equipment solicitations.

c. Regent institutions may:

(1) Identify significant state purchasing commodities that are void of targeted small business participation.

(2) Identify targeted small businesses that have the potential to develop in these areas.

(3) Refer targeted small businesses who have potential or have expressed interest in these purchasing areas to the Iowa department of economic development.

d. Reserved.

7.7(5) *Certified targeted small businesses.* Only those targeted small businesses that have been certified by the department of economic development shall be eligible as part of the targeted small business program to participate in the regents' program. Application to participate in the regents' program may be made by completing a vendor/contractor application form available from the Iowa Department of Economic Development, Small Business Section, 200 East Grand Avenue, Des Moines, Iowa 50309, or from regent institutions.

7.7(6) *Assistance to targeted small business.* Regent institutions shall cooperate with the director of the department of economic development in the director's efforts to carry out the responsibility to 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, as set forth in 1989 Iowa Acts, chapter 315. 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.

7.7(7) *Performance standards.* Targeted small businesses shall meet the required performance standards, procurement specifications, and the purchasing procedures of regent institutions.

a. Determination of performance capability may include consideration of some or all of the following: production capacity, financial capacity, technical competence, timely delivery and service capabilities.

b. Reserved.

7.7(8) *Inability to perform.*

a. When the institution determines that a targeted small business is unable to perform under a contract, the executive director of the board of regents, the regent equal opportunity compliance officer, and the director of the department of economic development shall be informed.

b. Nothing in this rule shall prohibit the institution from pursuing remedies set forth in contractual agreements entered into between the institution and the targeted small business where the institution reasonably determines that the targeted small business is unable to perform.

7.7(9) *Reporting.* The institutions shall notify the executive director of anticipated purchasing requirements and shall provide additional information as required by statute no later than August 10 and quarterly thereafter. The board shall receive and review anticipated purchasing requirements by the institutions on a quarterly basis. The executive director shall notify the department of economic development and the department of management of anticipated purchases and recommended goals no later than August 15 of each fiscal year and quarterly thereafter.

This rule is intended to implement 1989 Iowa Acts, chapter 315, section 20, and Executive Order number 15 of 1973.