



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 492

132nd General Assembly
(As Introduced)

Reps. Gonzales, Boggs, Kelly, Antonio, Pelanda

BILL SUMMARY

- Requires the Director of Administrative Services to establish the Women-owned Business Enterprise Program.
 - Requires the Director to adopt rules under the Administrative Procedure Act to establish specified elements of the Program including eligibility, certification, state agency procurement goals and waivers, and outreach.
 - Extends eligibility under the Program to women-owned businesses that are certified by another state under a similar business assistance program if the Director has entered into a reciprocal agreement with the state.
 - Exempts generally from disclosure as a public record any business and personal financial information and trade secrets submitted by a Program applicant.
 - Requires the Director to file an annual report with the Governor and General Assembly describing the progress made by state agencies in advancing the Program.
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CONTENT AND OPERATION

Women-owned Business Enterprise Program

The bill requires the Director of Administrative Services to establish the Women-owned Business Enterprise Program, a goal-oriented program to assist women-owned business enterprises in obtaining state contracts. The Director must adopt rules under the Administrative Procedure Act to establish specified elements of the Program including eligibility, certification, state agency procurement goals and waivers, and outreach, and the Director must file an annual report about progress under the

Program. The bill gives the Director authority to enter into reciprocal agreements with other states that have similar programs; an agreement would mandate that certified participants under the other state's program are eligible to participate in Ohio's Program and vice versa. Finally, the bill specifies that business and personal financial information and trade secrets submitted by a Program applicant is exempt from disclosure as a public record unless made public by the Director regarding the applicant's eligibility.

Eligibility

To be eligible, a business enterprise must be owned and controlled, for at least one year, by women who are United States citizens and Ohio residents or residents of a state with whom Ohio has a reciprocal agreement as discussed below. For a business enterprise to be "owned and controlled" by women, women must own at least 51% of the business.¹ Those owners must have control over the day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership.

Reciprocal agreements with other states

The Director may extend eligibility under the Program to women-owned businesses that are certified by another state under a similar business assistance program. In order to do so, the Director must enter into a reciprocal agreement with the state's appropriate officials; the Attorney General must approve each agreement. Under the agreement, certified participants under the other state's program must be eligible to participate in Ohio's Program, and Ohio's certified participants must be eligible to participate in the other state's program.

Administration

The Director must adopt rules under the Administrative Procedure Act² to administer the program, specifically, to establish all of the following:

- Procedures to apply for certification;
- Eligibility standards;
- A system to validate eligibility including self-reporting and inspection;

¹ Including corporate stock if the business is a corporation.

² Chapter 119. of the Revised Code.



--A system, point-based or otherwise, to encourage businesses to participate in the procurement of professional design and information technology services;

--An outreach program to educate potential participants about the Program;

--A process to mediate complaints and review certification appeals;

--A system to assist state agencies in identifying and utilizing certified businesses;

--Procurement goals for awarding state contracts to certified businesses, applied at the contract level relative to an overall dollar goal for each state agency and based on:

- The availability of certified businesses in a geographic area;
- Standard industrial code or equivalent code classifications;
- Percentage level of participation and a percentage of contractor availability;
- Certification categories of construction, architecture, and engineering; professional services; goods and services; and information technology services.

--A system to track and analyze the certification categories mentioned above;

--A process for reevaluating procurement goals;

--A mechanism to waive procurement goals; and

--A process for monitoring overall program compliance wherein equal employment opportunity officers are responsible for monitoring their state agencies.

State universities and the Ohio Facilities Construction Commission

The bill requires the Director to set guidelines allowing state universities³ and the Ohio Facilities Construction Commission to establish procurement goals for awarding contracts to women-owned business enterprises.

³ Includes the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University. R.C. 3345.011, not in the bill.

Financial information and trade secrets

Unless the Director presents financial information or trade secrets at a public hearing regarding an applicant's eligibility, the bill specifically exempts that information from disclosure as a public record.⁴

Report to Governor and General Assembly

The Director must issue a report annually by October 1 to the Governor and each member of the General Assembly describing: the progress made by state agencies in advancing the Program, the total number of contracts each agency awards to women-owned businesses, and the initiatives implemented to encourage participation by women-owned businesses in programs funded with federal money received by the state for fiscal stabilization and recovery purposes.⁵

HISTORY

ACTION	DATE
Introduced	02-05-18

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⁴ R.C. 123.154.

⁵ R.C. 123.153.

