



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB0245

Introduced 1/22/2025, by Sen. Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

30 ILCS 575/3.5	
30 ILCS 575/5	from Ch. 127, par. 132.605
30 ILCS 575/7	from Ch. 127, par. 132.607
30 ILCS 575/8	from Ch. 127, par. 132.608

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that the Business Enterprise Program shall (rather than may) establish uniform standards for calculating contract specific Business Enterprise Program goals for all State contracts and State construction contracts subject to the Act. Provides that no State agency or public institution of higher education shall maintain a policy of establishing contract specific goals for the participation of certified vendors that is inconsistent with or less stringent than the uniform standards for calculating contract specific goals established by the Business Enterprise Program. Requires each State agency and public institution of higher education that is subject to the requirements of the Act, on an annual basis, to submit a report to the Business Enterprise Council detailing its plan to meet the aspirational contract goals established under the Act and established for that agency, institution, or department. Requires the Secretary of the Business Enterprise Council to establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include, among other things, the imposition of certain damages (rather than a specified penalties). Provides that the Business Enterprise Council may (rather than shall) grant a waiver of contract-specific Business Enterprise Program goals. Sets out factors that the Business Enterprise Program is to consider when developing procedures for determining whether a vendor has made good faith efforts to meet the contract goals.

LRB104 08022 JDS 18068 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Business Enterprise for Minorities, Women,
5 and Persons with Disabilities Act is amended by changing
6 Sections 3.5, 5, 7, and 8 as follows:

7 (30 ILCS 575/3.5)

8 Sec. 3.5. Uniform standard of contract goals.

9 (a) The Business Enterprise Program shall ~~may~~ establish
10 uniform standards for calculating contract specific Business
11 Enterprise Program goals for all State contracts and State
12 construction contracts subject to this Act. The uniform
13 standards ~~In establishing those standards, the Business~~
14 ~~Enterprise Program~~ may consider normal industry practice, the
15 scope of the work to be performed under a contract, the
16 availability of vendors that are able to perform the scope of
17 the work to be performed under a contract, the availability of
18 certified vendors that are able to perform the work to be
19 performed under a contract, and the State's progress to date
20 toward meeting the aspirational goals set forth in this Act.

21 (b) No State agency or public institution of higher
22 education shall maintain a policy of establishing contract
23 specific goals for the participation of certified vendors that

1 is inconsistent with or less stringent than the uniform
2 standards for calculating contract specific goals established
3 by the Business Enterprise Program. ~~Each State agency that is~~
4 ~~subject to this Act and each public institution of higher~~
5 ~~education that is subject to this Act may, in accordance with~~
6 ~~the provisions of this Act, set goals concerning participation~~
7 ~~in State contracts, including State construction contracts, to~~
8 ~~which the State agency or public institution of higher~~
9 ~~education is party. Goals involving State contracts above the~~
10 ~~small purchase threshold, as defined in Section 20-20 of the~~
11 ~~Illinois Procurement Code, may be submitted to the Business~~
12 ~~Enterprise Program for approval, denial, or modification.~~

13 (c) Each State agency and public institution of higher
14 education subject to the requirements of this Act shall, on an
15 annual basis, submit a report to the Council detailing its
16 plan to meet the aspirational contract goals established under
17 this Act and established for that agency, institution or
18 department. ~~As used in this Section, the terms "State~~
19 ~~contract" and "State construction contract" do not include~~
20 ~~grants from State agencies to grantees for capital~~
21 ~~improvements or operational expenses.~~

22 (Source: P.A. 103-865, eff. 1-1-25.)

23 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

24 (Section scheduled to be repealed on June 30, 2029)

25 Sec. 5. Business Enterprise Council.

1 (1) To help implement, monitor, and enforce the goals of
2 this Act, there is created the Business Enterprise Council for
3 Minorities, Women, and Persons with Disabilities, hereinafter
4 referred to as the Council, composed of the Chairperson of the
5 Commission on Equity and Inclusion, the Secretary of Human
6 Services and the Directors of the Department of Human Rights,
7 the Department of Commerce and Economic Opportunity, the
8 Department of Central Management Services, the Department of
9 Transportation and the Capital Development Board, or their
10 duly appointed representatives, with the Comptroller, or his
11 or her designee, serving as an advisory member of the Council.
12 Ten individuals representing businesses that are
13 minority-owned, women-owned, or owned by persons with
14 disabilities, 2 individuals representing the business
15 community, and a representative of public institutions of
16 higher education shall be appointed by the Governor. These
17 members shall serve 2-year terms and shall be eligible for
18 reappointment. Any vacancy occurring on the Council shall also
19 be filled by the Governor. Any member appointed to fill a
20 vacancy occurring prior to the expiration of the term for
21 which his or her predecessor was appointed shall be appointed
22 for the remainder of such term. Members of the Council shall
23 serve without compensation but shall be reimbursed for any
24 ordinary and necessary expenses incurred in the performance of
25 their duties.

26 The Chairperson of the Commission shall serve as the

1 Council chairperson and shall select, subject to approval of
2 the Council, a Secretary responsible for the operation of the
3 program who shall serve as the Division Manager of the
4 Business Enterprise for Minorities, Women, and Persons with
5 Disabilities Division of the Commission on Equity and
6 Inclusion.

7 The Director of each State agency and the chief executive
8 officer of each public institution of higher education shall
9 appoint a liaison to the Council. The liaison shall be
10 responsible for submitting to the Council any reports and
11 documents necessary under this Act.

12 (2) The Council's authority and responsibility shall be
13 to:

14 (a) Devise a certification procedure to assure that
15 businesses taking advantage of this Act are legitimately
16 classified as businesses owned by minorities, women, or
17 persons with disabilities and a registration procedure to
18 recognize, without additional evidence of Business
19 Enterprise Program eligibility, the certification of
20 businesses owned by minorities, women, or persons with
21 disabilities certified by the City of Chicago, Cook
22 County, or other jurisdictional programs with requirements
23 and procedures equaling or exceeding those in this Act.

24 (b) Maintain a list of all businesses legitimately
25 classified as businesses owned by minorities, women, or
26 persons with disabilities to provide to State agencies and

1 public institutions of higher education.

2 (c) Review rules and regulations for the
3 implementation of the program for businesses owned by
4 minorities, women, and persons with disabilities.

5 (d) Review compliance plans submitted by each State
6 agency and public institution of higher education pursuant
7 to this Act.

8 (e) Make annual reports as provided in Section 8f to
9 the Governor and the General Assembly on the status of the
10 program.

11 (f) Serve as a central clearinghouse for information
12 on State contracts, including the maintenance of a list of
13 all pending State contracts upon which businesses owned by
14 minorities, women, and persons with disabilities may bid.
15 At the Council's discretion, maintenance of the list may
16 include 24-hour electronic access to the list along with
17 the bid and application information.

18 (g) Establish a toll-free telephone number to
19 facilitate information requests concerning the
20 certification process and pending contracts.

21 (h) Adopt a procedure to grant automatic certification
22 to businesses holding a certification from at least one of
23 the following entities: (i) the Illinois Unified
24 Certification Program; (ii) the Women's Business
25 Development Center in Chicago; (iii) the Chicago Minority
26 Supplier Development Council; or (iv) any other similar

1 entity offering such certification to businesses.

2 (i) Develop and maintain a repository for
3 non-certified vendors that: (i) have applied for
4 certification and have been denied; (ii) have started, but
5 not completed, the certification process; (iii) have
6 achieved certification, but did not seek renewal; or (iv)
7 are known businesses owned by minorities, women, or
8 persons with disabilities.

9 (3) No premium bond rate of a surety company for a bond
10 required of a business owned by a minority, woman, or person
11 with a disability bidding for a State contract shall be higher
12 than the lowest rate charged by that surety company for a
13 similar bond in the same classification of work that would be
14 written for a business not owned by a minority, woman, or
15 person with a disability.

16 (4) Any Council member who has direct financial or
17 personal interest in any measure pending before the Council
18 shall disclose this fact to the Council and refrain from
19 participating in the determination upon such measure.

20 (5) The Secretary shall have the following duties and
21 responsibilities:

22 (a) To be responsible for the day-to-day operation of
23 the Council.

24 (b) To serve as a coordinator for all of the State's
25 programs for businesses owned by minorities, women, and
26 persons with disabilities and as the information and

1 referral center for all State initiatives for businesses
2 owned by minorities, women, and persons with disabilities.

3 (c) To establish an enforcement procedure whereby the
4 Council may recommend to the appropriate State legal
5 officer that the State exercise its legal remedies which
6 shall include (1) termination of the contract involved,
7 (2) prohibition of participation by the respondent in
8 State contracts for a period not to exceed 3 years, (3)
9 imposition of damages in the amount of the discrepancy
10 between the commitment contained in the utilization plan,
11 as such amount may be amended over the term of the
12 contract, and the qualifying payments made to the eligible
13 certified vendors listed in the utilization plan ~~a penalty~~
14 ~~not to exceed any profit acquired as a result of~~
15 ~~violation,~~ or (4) any combination thereof. Such procedures
16 shall require prior approval by Council. All funds
17 collected as penalties under this subsection shall be used
18 exclusively for maintenance and further development of the
19 Business Enterprise Program and encouragement of
20 participation in State procurement by minorities, women,
21 and persons with disabilities.

22 (d) To devise appropriate policies, regulations, and
23 procedures for including participation by businesses owned
24 by minorities, women, and persons with disabilities as
25 prime contractors, including, but not limited to: (i)
26 encouraging the inclusions of qualified businesses owned

1 by minorities, women, and persons with disabilities on
2 solicitation lists, (ii) investigating the potential of
3 blanket bonding programs for small construction jobs, and
4 (iii) investigating and making recommendations concerning
5 the use of the sheltered market process.

6 (e) To devise procedures for the waiver of the
7 participation goals in appropriate circumstances.

8 (f) To accept donations and, with the approval of the
9 Council or the Chairperson of the Commission on Equity and
10 Inclusion, grants related to the purposes of this Act; to
11 conduct seminars related to the purpose of this Act and to
12 charge reasonable registration fees; and to sell
13 directories, vendor lists, and other such information to
14 interested parties, except that forms necessary to become
15 eligible for the program shall be provided free of charge
16 to a business or individual applying for the Business
17 Enterprise Program.

18 (Source: P.A. 102-29, eff. 6-25-21; 102-558, eff. 8-20-21;
19 102-721, eff. 1-1-23; 103-865, eff. 1-1-25.)

20 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

21 (Section scheduled to be repealed on June 30, 2029)

22 Sec. 7. Exemptions; waivers; publication of data.

23 (1) Individual contract exemptions. The Council, at the
24 written request of the affected agency, public institution of
25 higher education, or recipient of a grant or loan of State

1 funds of \$250,000 or more complying with Section 45 of the
2 State Finance Act, may permit an individual contract or
3 contract package, (related contracts being bid or awarded
4 simultaneously for the same project or improvements) be made
5 wholly or partially exempt from State contracting goals for
6 businesses owned by minorities, women, and persons with
7 disabilities prior to the advertisement for bids or
8 solicitation of proposals whenever there has been a
9 determination, reduced to writing and based on the best
10 information available at the time of the determination, that
11 there is an insufficient number of businesses owned by
12 minorities, women, and persons with disabilities to ensure
13 adequate competition and an expectation of reasonable prices
14 on bids or proposals solicited for the individual contract or
15 contract package in question. Any such exemptions shall be
16 given by the Council to the Bureau on Apprenticeship Programs
17 and Clean Energy Jobs.

18 (a) Written request for contract exemption. A written
19 request for an individual contract exemption must include,
20 but is not limited to, the following:

21 (i) a list of eligible businesses owned by
22 minorities, women, and persons with disabilities;

23 (ii) a clear demonstration that the number of
24 eligible businesses identified in subparagraph (i)
25 above is insufficient to ensure adequate competition;

26 (iii) the difference in cost between the contract

1 proposals being offered by businesses owned by
2 minorities, women, and persons with disabilities and
3 the agency or public institution of higher education's
4 expectations of reasonable prices on bids or proposals
5 within that class; and

6 (iv) a list of eligible businesses owned by
7 minorities, women, and persons with disabilities that
8 the contractor has used in the current and prior
9 fiscal years.

10 (b) Determination. The Council's determination
11 concerning an individual contract exemption must consider,
12 at a minimum, the following:

13 (i) the justification for the requested exemption,
14 including whether diligent efforts were undertaken to
15 identify and solicit eligible businesses owned by
16 minorities, women, and persons with disabilities;

17 (ii) the total number of exemptions granted to the
18 affected agency, public institution of higher
19 education, or recipient of a grant or loan of State
20 funds of \$250,000 or more complying with Section 45 of
21 the State Finance Act that have been granted by the
22 Council in the current and prior fiscal years; and

23 (iii) the percentage of contracts awarded by the
24 agency or public institution of higher education to
25 eligible businesses owned by minorities, women, and
26 persons with disabilities in the current and prior

1 fiscal years.

2 (2) Class exemptions.

3 (a) Creation. The Council, at the written request of
4 the affected agency or public institution of higher
5 education, may permit an entire class of contracts be made
6 exempt from State contracting goals for businesses owned
7 by minorities, women, and persons with disabilities
8 whenever there has been a determination, reduced to
9 writing and based on the best information available at the
10 time of the determination, that there is an insufficient
11 number of qualified businesses owned by minorities, women,
12 and persons with disabilities to ensure adequate
13 competition and an expectation of reasonable prices on
14 bids or proposals within that class. Any such exemption
15 shall be given by the Council to the Bureau on
16 Apprenticeship Programs and Clean Energy Jobs.

17 (a-1) Written request for class exemption. A written
18 request for a class exemption must include, but is not
19 limited to, the following:

20 (i) a list of eligible businesses owned by
21 minorities, women, and persons with disabilities;

22 (ii) a clear demonstration that the number of
23 eligible businesses identified in subparagraph (i)
24 above is insufficient to ensure adequate competition;

25 (iii) the difference in cost between the contract
26 proposals being offered by eligible businesses owned

1 by minorities, women, and persons with disabilities
2 and the agency or public institution of higher
3 education's expectations of reasonable prices on bids
4 or proposals within that class; and

5 (iv) the number of class exemptions the affected
6 agency or public institution of higher education
7 requested in the current and prior fiscal years.

8 (a-2) Determination. The Council's determination
9 concerning class exemptions must consider, at a minimum,
10 the following:

11 (i) the justification for the requested exemption,
12 including whether diligent efforts were undertaken to
13 identify and solicit eligible businesses owned by
14 minorities, women, and persons with disabilities;

15 (ii) the total number of class exemptions granted
16 to the requesting agency or public institution of
17 higher education that have been granted by the Council
18 in the current and prior fiscal years; and

19 (iii) the percentage of contracts awarded by the
20 agency or public institution of higher education to
21 eligible businesses owned by minorities, women, and
22 persons with disabilities the current and prior fiscal
23 years.

24 (b) Limitation. Any such class exemption shall not be
25 permitted for a period of more than one year at a time.

26 (3) Waivers. Where a particular contract requires a vendor

1 to meet a goal established pursuant to this Act, the vendor
2 shall have the right to request a waiver from such
3 requirements prior to the contract award. The Business
4 Enterprise Program shall evaluate a vendor's request for a
5 waiver based on the vendor's documented good faith efforts to
6 meet the contract-specific Business Enterprise Program goal.
7 The Council may ~~shall~~ grant the waiver when the contractor
8 demonstrates that there has been made a good faith effort to
9 comply with the goals for participation by businesses owned by
10 minorities, women, and persons with disabilities. Any such
11 waiver may ~~shall~~ also be transmitted in writing to the Bureau
12 on Apprenticeship Programs and Clean Energy Jobs.

13 (a) Request for waiver. A vendor's request for a
14 waiver under this subsection (3) must include, but is not
15 limited to, the following:

16 (i) a list of eligible businesses owned by
17 minorities, women, and persons with disabilities that
18 pertain to the ~~the~~ class of contracts in the requested
19 waiver that were contacted by the vendor. Eligible
20 businesses are only eligible if the business is
21 certified for the products or work advertised in the
22 solicitation or bid;

23 (ii) (blank);

24 (iia) a clear demonstration that the vendor
25 selected portions of the work to be performed by
26 certified vendors to facilitate meeting the contract

1 specific goal, and that certified vendors that have
2 the capability to perform the work of the contract
3 were solicited through all reasonable and available
4 means;

5 (iib) documentation demonstrating that certified
6 vendors are not rejected as being unqualified without
7 sound reasons based on a thorough investigation of
8 their capabilities. The certified vendor's standing
9 within its industry, membership in specific groups,
10 organizations, or associations, and political or
11 social affiliations are not legitimate causes for
12 rejecting or not contacting or negotiating with a
13 certified vendor;

14 (iic) proof that the prime vendor solicited
15 eligible certified vendors with: (1) sufficient time
16 to respond; (2) adequate information about the scope,
17 specifications, and requirements of the solicitation
18 or bid, including plans, drawings, and addenda, to
19 allow eligible businesses an opportunity to respond to
20 the solicitation or bid; and (3) sufficient follow up
21 with certified vendors;

22 (iid) a clear demonstration that the prime vendor
23 communicated with certified vendors;

24 (iie) evidence that the prime vendor negotiated
25 with certified vendors to enter into subcontracts to
26 provide a commercially useful function of the contract

1 for a reasonable cost;

2 (iii) documentation demonstrating that the
3 difference in cost between the contract proposals
4 being offered by certified vendors is excessive or
5 unreasonable;

6 (iv) a list of certified vendors owned by
7 minorities, women, and persons with disabilities that
8 the contractor has used in the current and prior
9 fiscal years;

10 (v) documentation demonstrating that the vendor
11 made efforts to utilize certified vendors despite the
12 ability or desire of a vendor to perform the work with
13 its own operations by selecting portions of the work
14 to be performed by certified vendors, which may, when
15 appropriate, include breaking out portions of the work
16 to be performed into economically feasible units to
17 facilitate certified vendor participation; and

18 (vi) documentation that the vendor used the
19 services of: (1) the State; (2) organizations or
20 contractors' groups representing or composed of
21 minorities, women, or persons with disabilities; (3)
22 local, State, or federal assistance offices
23 representing or assisting minorities, women, or
24 persons with disabilities; and (4) other organizations
25 that provide assistance in the recruitment and
26 engagement of certified vendors.

1 If any of the information required under this
2 subdivision (a) is not available to the vendor, despite
3 the vendor's good faith efforts to obtain the information,
4 the vendor's request for a waiver must contain a written
5 explanation of why that information is not included.

6 (b) Determination. The Council's determination
7 concerning waivers must include following:

8 (i) the justification for the requested waiver,
9 including whether the requesting vendor made a good
10 faith effort to identify and solicit certified vendors
11 based on the criteria set forth in this Section;

12 (ii) the total number of waivers the vendor has
13 been granted by the Council in the current and prior
14 fiscal years;

15 (iii) (blank); and

16 (iv) the vendor's use of businesses owned by
17 minorities, women, and persons with disabilities in
18 the current and prior fiscal years.

19 (3.5) (Blank).

20 (4) Conflict with other laws. In the event that any State
21 contract, which otherwise would be subject to the provisions
22 of this Act, is or becomes subject to federal laws or
23 regulations which conflict with the provisions of this Act or
24 actions of the State taken pursuant hereto, the provisions of
25 the federal laws or regulations shall apply and the contract
26 shall be interpreted and enforced accordingly.

1 (5) Each chief procurement officer, as defined in the
2 Illinois Procurement Code, shall maintain on his or her
3 official Internet website a database of the following: (i)
4 waivers granted under this Section with respect to contracts
5 under his or her jurisdiction; (ii) a State agency or public
6 institution of higher education's written request for an
7 exemption of an individual contract or an entire class of
8 contracts; and (iii) the Council's written determination
9 granting or denying a request for an exemption of an
10 individual contract or an entire class of contracts. The
11 database, which shall be updated periodically as necessary,
12 shall be searchable by contractor name and by contracting
13 State agency.

14 (6) Each chief procurement officer, as defined by the
15 Illinois Procurement Code, shall maintain on its website a
16 list of all vendors that have been prohibited from bidding,
17 offering, or entering into a contract with the State of
18 Illinois as a result of violations of this Act.

19 Each public notice required by law of the award of a State
20 contract shall include for each bid or offer submitted for
21 that contract the following: (i) the bidder's or offeror's
22 name, (ii) the bid amount, (iii) the name or names of the
23 certified vendors identified in the bidder's or offeror's
24 submitted utilization plan, and (iv) the percentage of the
25 contract awarded to each certified vendor that is a business
26 owned by minorities, women, and persons with disabilities

1 identified in the utilization plan.

2 (Source: P.A. 102-29, eff. 6-25-21; 102-662, eff. 9-15-21;
3 103-570, eff. 1-1-24.)

4 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

5 (Section scheduled to be repealed on June 30, 2029)

6 Sec. 8. Enforcement.

7 (1) The Commission on Equity and Inclusion shall make such
8 findings, recommendations and proposals to the Governor as are
9 necessary and appropriate to enforce this Act. If, as a result
10 of its monitoring activities, the Commission determines that
11 its goals and policies are not being met by any State agency or
12 public institution of higher education, the Commission may
13 recommend any or all of the following actions:

14 (a) Establish enforcement procedures whereby the
15 Commission may recommend to the appropriate State agency,
16 public institutions of higher education, or law
17 enforcement officer that legal or administrative remedies
18 be initiated for violations of contract provisions or
19 rules issued hereunder or by a contracting State agency or
20 public institutions of higher education. State agencies
21 and public institutions of higher education shall be
22 authorized to adopt remedies for such violations which
23 shall include (1) termination of the contract involved,
24 (2) prohibition of participation of the respondents in
25 public contracts for a period not to exceed one year, (3)

1 the assessment of damages in the amount of the discrepancy
2 between the commitment contained in the utilization plan,
3 as such amount may be amended over the term of the
4 contract, and the qualifying payments made to the
5 certified vendors listed in the utilization plan
6 ~~imposition of a penalty not to exceed any profit acquired~~
7 ~~as a result of violation, or (4) any combination thereof.~~

8 (b) If the Commission concludes that a compliance plan
9 submitted under Section 6 is unlikely to produce the
10 participation goals for businesses owned by minorities,
11 women, and persons with disabilities within the then
12 current fiscal year, the Commission may recommend that the
13 State agency or public institution of higher education
14 revise its plan to provide additional opportunities for
15 participation by businesses owned by minorities, women,
16 and persons with disabilities. Such recommended revisions
17 may include, but shall not be limited to, the following:

18 (i) assurances of stronger and better focused
19 solicitation efforts to obtain more businesses owned
20 by minorities, women, and persons with disabilities as
21 potential sources of supply;

22 (ii) division of the scope of work, when
23 economically feasible, into tasks or quantities to
24 permit participation of businesses owned by
25 minorities, women, and persons with disabilities;

26 (iii) elimination of extended experience or

1 capitalization requirements, when programmatically
2 feasible, to permit participation of businesses owned
3 by minorities, women, and persons with disabilities;

4 (iv) identification of specific proposed contracts
5 as particularly attractive or appropriate for
6 participation by businesses owned by minorities,
7 women, and persons with disabilities, such
8 identification to result from and be coupled with the
9 efforts of subparagraphs (i) through (iii);

10 (v) implementation of those regulations
11 established for the use of the sheltered market
12 process.

13 (2) State agencies and public institutions of higher
14 education shall monitor a vendor's compliance with its
15 utilization plan and the terms of its contract. Without
16 limitation, a vendor's failure to comply with its contractual
17 commitments as contained in the utilization plan; failure to
18 cooperate in providing information regarding its compliance
19 with its utilization plan; or the provision of false or
20 misleading information or statements concerning compliance,
21 certification status, or eligibility of the Business
22 Enterprise Program-certified vendor, good faith efforts, or
23 any other material fact or representation shall constitute a
24 material breach of the contract and entitle the State agency
25 or public institution of higher education to declare a
26 default, terminate the contract, or exercise those remedies

1 provided for in the contract, at law, or in equity.

2 (3) Prior to the expiration or termination of a contract,
3 State agencies and public institutions of higher education
4 shall evaluate the contractor's fulfillment of the contract
5 goals for participation by certified businesses owned by
6 minorities, women, and persons with disabilities. The agency
7 or public institution of higher education shall prepare a
8 report of the vendor's compliance with the contract goals and
9 file it with the Secretary. If the Secretary determines that
10 the vendor did not fulfill the contract goals, the vendor
11 shall be in breach of the contract and may be subject to
12 remedies or sanctions, unless the vendor can show that it made
13 good faith efforts to meet the contract goals. Such remedies
14 or sanctions for failing to make good faith efforts may
15 include (i) disqualification of the contractor from doing
16 business with the State for a period of no more than one year,
17 ~~or~~ (ii) cancellation, without any penalty to the State, of any
18 contract entered into by the vendor, or (iii) the assessment
19 of damages in the amount of the discrepancy between the
20 commitment contained in the utilization plan, as such amount
21 may be amended over the term of the contract, and the
22 qualifying payments made to the certified vendors listed in
23 the utilization plan.

24 The Business Enterprise Program shall develop procedures
25 for determining whether a vendor has made good faith efforts
26 to meet the contract goals upon the expiration or termination

1 of a contract, which may include, but shall not be limited to
2 consideration of: (i) whether State or local action caused a
3 shortfall, such as a change in the scope of work that
4 eliminated work to be performed by certified vendors or a
5 change in specifications; (ii) whether the vendor was unable
6 to obtain certified business participation without requiring
7 the introduction of extra participants not performing a
8 commercially useful function; or (iii) whether the vendor made
9 efforts to use appropriate forums for purposes of advertising
10 subcontracting opportunities suitable for certified
11 businesses.

12 (Source: P.A. 102-29, eff. 6-25-21; 103-865, eff. 1-1-25.)