**Section 10.64 Sales Limitation; Exception**

a) Annual gross sales must be less than $75 million, the statutory maximum established by Section 2(A)(10) of the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575/2].

1) In determining the annual gross sales, sales of any affiliated business shall also be counted.

2) An affiliated business is one related to the other by virtue of significant commonality of management, or commonality of ownership (at least 5% of one company owned by owner or management personnel of the other). Other factors that may be considered in determining affiliation include, but are not limited to, sharing of office space, workers or equipment.

b) A business with annual gross sales equal to or greater than the statutory maximum is eligible to participate in the program if the business can show that, if it were to receive a particular contract or subcontract, there would be a significant impact on employment of minorities, females or persons with disabilities, or in the use of BEP certified subcontractors or suppliers. Such vendors must meet all certification requirements but will not be certified or be listed in the Directory.

1) For the impact to be significant in terms of employment, the business would have to hire new employees to perform the work of the contract and at least 51% of those new hires must be minority, female or persons with disabilities.

2) For the impact to be significant in terms of use of subcontractors or suppliers, the business must direct 51% of the value of the contract to BEP certified vendors as subcontractors or suppliers.

c) If the business makes contractual commitments regarding hiring or use of subcontractors or suppliers, agrees to appropriate enforcement mechanisms, such as bonding or damage provisions, and meets the other requirements for certification, the Secretary, on behalf of the Council, will approve counting expenditures under that contract toward the agency's goal.

(Source: Amended at 36 Ill. Reg. 10717, effective July 6, 2012)