**Section 1400.4560 Small Businesses**

a) Set-Aside

The Chief Procurement Officer may designate as small business set-asides a fair proportion of contracts for the provision of goods and services for award to small businesses in Illinois. A set-aside designation may last indefinitely or for a stated period of time.

b) Required Use

If the Treasurer's office wishes to make a procurement covered by a set-aside designation, the solicitation must note that responses are limited to those from responsible small businesses. Bids, proposals or responses received from large businesses will be rejected as nonresponsive.

c) Withdrawal of Set-Aside

If the Chief Procurement Officer determines that acceptance of the best bid, proposal or response will result in the payment of an unreasonable price, the Chief Procurement Officer will reject all bids, proposals or responses and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification must be published as provided in Section 1400.1505 with an explanation. After withdrawal of the small business set-aside, the procurement will be conducted in accordance with the requirements of this Part.

d) Criteria for Small Business

Unless the Chief Procurement Officer provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

1) Independently owned and operated.

2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration must be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

3) With annual sales for the most recently ended fiscal year no greater than:

A) $13,000,000 for wholesale business;

B) $8,000,000 for retail business or businesses selling services; or

C) $14,000,000 for construction business.

4) With no more than 250 employees if a manufacturing business.

A) A manufacturing business must calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.

B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period that it has been in existence.

5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed $16,000,000. The retail component may not exceed $6,000,000 and the wholesale component may not exceed $10,000,000.

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates must be included. Concerns are affiliates when either one directly or indirectly control or have the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration must be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship does not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

e) Reliance on the Determination of CMS

The Treasurer's office may defer to the determination by CMS or the Chief Procurement Officer for General Services that a business is a small business.

f) Small Business Specialist

The Small Business Specialist for the Treasurer's office shall assist small businesses seeking to provide goods or services to the Treasurer's office and is specifically responsible for the following:

1) Compiling and maintaining a comprehensive bidders list of small businesses and cooperating with the Federal Small Business Administration in locating potential sources for various products or services. The Small Business Specialist may rely on the bidders list developed by CMS to satisfy this responsibility.

2) Assisting small businesses in complying with the procedures for bidding, proposing or responding to solicitations of the Treasurer's office.

3) Assisting in the development of small business set-asides if determined by the Chief Procurement Officer to be in the State's best interest.

4) Making recommendations to the Chief Procurement Officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

5) Assisting in investigations by the Treasurer's office to determine the responsibility of any offeror on any small business set-asides.

g) Small business annual report

The Chief Procurement Officer shall annually before December 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report will include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The requirement for reporting to the General Assembly will be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act [25 ILCS 5/3.1].

(Source: Amended at 48 Ill. Reg. 2924, effective February 7, 2024)