



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4846

Introduced 2/7/2024, by Rep. Curtis J. Tarver, II

SYNOPSIS AS INTRODUCED:

30 ILCS 575/3.5 new	
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 for a uniform standard of contract goals for State agencies, public institutions of higher education, and other departments. Specifies further requirements concerning the uniform standard of contract goals. Provides that the Secretary of the Business Enterprise Council for Minorities, Women, and Persons with Disabilities shall have the duty 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 legal remedies, the imposition of a penalty in the amount of the discrepancy between the commitment contained in a utilization plan, as such amount may be amended over the term of the contract, and the qualifying payments made to the eligible certified vendors listed in the utilization plan. Provides that the terms of every contract entered into by a State agency or public institution of higher education for purposes of the Act shall include a provision requiring vendors who fail to comply with a utilization plan to return all funds paid to that vendor with an expectation of compliance. Provides that the Council may (rather than shall) grant a waiver when the contractor demonstrates that there has been a good faith effort to comply with the goals for participation by businesses owned by minorities, women, and persons with disabilities. Makes conforming and other changes.

LRB103 36525 MXP 66631 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 5, 7, and 8 and by adding Section 3.5 as follows:

7 (30 ILCS 575/3.5 new)

8 Sec. 3.5. Uniform standard of contract goals.

9 (a) The Business Enterprise Program shall 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 may consider normal industry practice, the scope of
14 the work to be performed under a contract, the availability of
15 vendors that are able to perform the scope of the work to be
16 performed under a contract, the availability of certified
17 vendors that are able to perform the work to be performed under
18 a contract, and the State's progress to date toward meeting
19 the aspirational goals set forth in this Act.

20 (b) No State agency or public institution of higher
21 education shall maintain a policy of establishing contract
22 specific goals for the participation of certified vendors that
23 is inconsistent with or less stringent than the uniform

1 standards for calculating contract specific goals established
2 by the Business Enterprise Program.

3 (c) Each State agency and public institution of higher
4 education subject to the requirements of this Act shall, on an
5 annual basis, submit a report to the Council detailing its
6 plan to meet the aspirational contract goals established under
7 this Act and established for that agency and institution.

8 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

10 Sec. 5. Business Enterprise Council.

11 (1) To help implement, monitor, and enforce the goals of
12 this Act, there is created the Business Enterprise Council for
13 Minorities, Women, and Persons with Disabilities, hereinafter
14 referred to as the Council, composed of the Chairperson of the
15 Commission on Equity and Inclusion, the Secretary of Human
16 Services and the Directors of the Department of Human Rights,
17 the Department of Commerce and Economic Opportunity, the
18 Department of Central Management Services, the Department of
19 Transportation and the Capital Development Board, or their
20 duly appointed representatives, with the Comptroller, or his
21 or her designee, serving as an advisory member of the Council.
22 Ten individuals representing businesses that are
23 minority-owned, women-owned, or owned by persons with
24 disabilities, 2 individuals representing the business
25 community, and a representative of public institutions of

1 higher education shall be appointed by the Governor. These
2 members shall serve 2-year terms and shall be eligible for
3 reappointment. Any vacancy occurring on the Council shall also
4 be filled by the Governor. Any member appointed to fill a
5 vacancy occurring prior to the expiration of the term for
6 which his or her predecessor was appointed shall be appointed
7 for the remainder of such term. Members of the Council shall
8 serve without compensation but shall be reimbursed for any
9 ordinary and necessary expenses incurred in the performance of
10 their duties.

11 The Chairperson of the Commission shall serve as the
12 Council chairperson and shall select, subject to approval of
13 the Council, a Secretary responsible for the operation of the
14 program who shall serve as the Division Manager of the
15 Business Enterprise for Minorities, Women, and Persons with
16 Disabilities Division of the Commission on Equity and
17 Inclusion.

18 The Director of each State agency and the chief executive
19 officer of each public institution of higher education shall
20 appoint a liaison to the Council. The liaison shall be
21 responsible for submitting to the Council any reports and
22 documents necessary under this Act.

23 (2) The Council's authority and responsibility shall be
24 to:

25 (a) Devise a certification procedure to assure that
26 businesses taking advantage of this Act are legitimately

1 classified as businesses owned by minorities, women, or
2 persons with disabilities and a registration procedure to
3 recognize, without additional evidence of Business
4 Enterprise Program eligibility, the certification of
5 businesses owned by minorities, women, or persons with
6 disabilities certified by the City of Chicago, Cook
7 County, or other jurisdictional programs with requirements
8 and procedures equaling or exceeding those in this Act.

9 (b) Maintain a list of all businesses legitimately
10 classified as businesses owned by minorities, women, or
11 persons with disabilities to provide to State agencies and
12 public institutions of higher education.

13 (c) Review rules and regulations for the
14 implementation of the program for businesses owned by
15 minorities, women, and persons with disabilities.

16 (d) Review compliance plans submitted by each State
17 agency and public institution of higher education pursuant
18 to this Act.

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

22 (f) Serve as a central clearinghouse for information
23 on State contracts, including the maintenance of a list of
24 all pending State contracts upon which businesses owned by
25 minorities, women, and persons with disabilities may bid.
26 At the Council's discretion, maintenance of the list may

1 include 24-hour electronic access to the list along with
2 the bid and application information.

3 (g) Establish a toll-free telephone number to
4 facilitate information requests concerning the
5 certification process and pending contracts.

6 (h) Adopt a procedure to grant automatic certification
7 to businesses holding a certification from at least one of
8 the following entities: (i) the Illinois Unified
9 Certification Program; (ii) the Women's Business
10 Development Center in Chicago; (iii) the Chicago Minority
11 Supplier Development Council; or (iv) any other similar
12 entity offering such certification to businesses.

13 (i) Develop and maintain a repository for
14 non-certified vendors that: (i) have applied for
15 certification and have been denied; (ii) have started, but
16 not completed, the certification process; (iii) have
17 achieved certification, but did not seek renewal; or (iv)
18 are known businesses owned by minorities, women, or
19 persons with disabilities.

20 (3) No premium bond rate of a surety company for a bond
21 required of a business owned by a minority, woman, or person
22 with a disability bidding for a State contract shall be higher
23 than the lowest rate charged by that surety company for a
24 similar bond in the same classification of work that would be
25 written for a business not owned by a minority, woman, or
26 person with a disability.

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

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

7 (a) To be responsible for the day-to-day operation of
8 the Council.

9 (b) To serve as a coordinator for all of the State's
10 programs for businesses owned by minorities, women, and
11 persons with disabilities and as the information and
12 referral center for all State initiatives for businesses
13 owned by minorities, women, and persons with disabilities.

14 (c) To establish an enforcement procedure whereby the
15 Council may recommend to the appropriate State legal
16 officer that the State exercise its legal remedies which
17 shall include (1) termination of the contract involved,
18 (2) prohibition of participation by the respondent in
19 State public contracts for a period not to exceed 3 years,
20 (3) imposition of a penalty in the amount of the
21 discrepancy between the commitment contained in the
22 utilization plan, as such amount may be amended over the
23 term of the contract, and the qualifying payments made to
24 the eligible certified vendors listed in the utilization
25 plan ~~a penalty not to exceed any profit acquired as a~~
26 ~~result of violation~~, or (4) any combination thereof. Such

1 procedures shall require prior approval by Council. All
2 funds collected as penalties under this subsection shall
3 be used exclusively for maintenance and further
4 development of the Business Enterprise Program and
5 encouragement of participation in State procurement by
6 minorities, women, and persons with disabilities.

7 (d) To devise appropriate policies, regulations, and
8 procedures for including participation by businesses owned
9 by minorities, women, and persons with disabilities as
10 prime contractors, including, but not limited to: (i)
11 encouraging the inclusions of qualified businesses owned
12 by minorities, women, and persons with disabilities on
13 solicitation lists, (ii) investigating the potential of
14 blanket bonding programs for small construction jobs, and
15 (iii) investigating and making recommendations concerning
16 the use of the sheltered market process.

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

19 (f) To accept donations and, with the approval of the
20 Council or the Chairperson of the Commission on Equity and
21 Inclusion, grants related to the purposes of this Act; to
22 conduct seminars related to the purpose of this Act and to
23 charge reasonable registration fees; and to sell
24 directories, vendor lists, and other such information to
25 interested parties, except that forms necessary to become
26 eligible for the program shall be provided free of charge

1 to a business or individual applying for the Business
2 Enterprise Program.

3 (Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22;
4 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-721, eff.
5 1-1-23.)

6 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

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

9 (1) Individual contract exemptions. The Council, at the
10 written request of the affected agency, public institution of
11 higher education, or recipient of a grant or loan of State
12 funds of \$250,000 or more complying with Section 45 of the
13 State Finance Act, may permit an individual contract or
14 contract package, (related contracts being bid or awarded
15 simultaneously for the same project or improvements) be made
16 wholly or partially exempt from State contracting goals for
17 businesses owned by minorities, women, and persons with
18 disabilities prior to the advertisement for bids or
19 solicitation of proposals whenever there has been a
20 determination, reduced to writing and based on the best
21 information available at the time of the determination, that
22 there is an insufficient number of businesses owned by
23 minorities, women, and persons with disabilities to ensure
24 adequate competition and an expectation of reasonable prices
25 on bids or proposals solicited for the individual contract or

1 contract package in question. Any such exemptions shall be
2 given by the Council to the Bureau on Apprenticeship Programs
3 and Clean Energy Jobs.

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

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

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

12 (iii) the difference in cost between the contract
13 proposals being offered by businesses owned by
14 minorities, women, and persons with disabilities and
15 the agency or public institution of higher education's
16 expectations of reasonable prices on bids or proposals
17 within that class; and

18 (iv) a list of eligible businesses owned by
19 minorities, women, and persons with disabilities that
20 the contractor has used in the current and prior
21 fiscal years.

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

25 (i) the justification for the requested exemption,
26 including whether diligent efforts were undertaken to

1 identify and solicit eligible businesses owned by
2 minorities, women, and persons with disabilities;

3 (ii) the total number of exemptions granted to the
4 affected agency, public institution of higher
5 education, or recipient of a grant or loan of State
6 funds of \$250,000 or more complying with Section 45 of
7 the State Finance Act that have been granted by the
8 Council in the current and prior fiscal years; and

9 (iii) the percentage of contracts awarded by the
10 agency or public institution of higher education to
11 eligible businesses owned by minorities, women, and
12 persons with disabilities in the current and prior
13 fiscal years.

14 (2) Class exemptions.

15 (a) Creation. The Council, at the written request of
16 the affected agency or public institution of higher
17 education, may permit an entire class of contracts be made
18 exempt from State contracting goals for businesses owned
19 by minorities, women, and persons with disabilities
20 whenever there has been a determination, reduced to
21 writing and based on the best information available at the
22 time of the determination, that there is an insufficient
23 number of qualified businesses owned by minorities, women,
24 and persons with disabilities to ensure adequate
25 competition and an expectation of reasonable prices on
26 bids or proposals within that class. Any such exemption

1 shall be given by the Council to the Bureau on
2 Apprenticeship Programs and Clean Energy Jobs.

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

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

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

11 (iii) the difference in cost between the contract
12 proposals being offered by eligible businesses owned
13 by minorities, women, and persons with disabilities
14 and the agency or public institution of higher
15 education's expectations of reasonable prices on bids
16 or proposals within that class; and

17 (iv) the number of class exemptions the affected
18 agency or public institution of higher education
19 requested in the current and prior fiscal years.

20 (a-2) Determination. The Council's determination
21 concerning class exemptions must consider, at a minimum,
22 the following:

23 (i) the justification for the requested exemption,
24 including whether diligent efforts were undertaken to
25 identify and solicit eligible businesses owned by
26 minorities, women, and persons with disabilities;

1 (ii) the total number of class exemptions granted
2 to the requesting agency or public institution of
3 higher education that have been granted by the Council
4 in the current and prior fiscal years; and

5 (iii) the percentage of contracts awarded by the
6 agency or public institution of higher education to
7 eligible businesses owned by minorities, women, and
8 persons with disabilities the current and prior fiscal
9 years.

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

12 (3) Waivers. Where a particular contract requires a vendor
13 to meet a goal established pursuant to this Act, the vendor
14 shall have the right to request a waiver from such
15 requirements prior to the contract award. The Business
16 Enterprise Program shall evaluate a vendor's request for a
17 waiver based on the vendor's documented good faith efforts to
18 meet the contract-specific Business Enterprise Program goal.
19 The Council may ~~shall~~ grant the waiver when the contractor
20 demonstrates that there has been made a good faith effort to
21 comply with the goals for participation by businesses owned by
22 minorities, women, and persons with disabilities. Any such
23 waiver may ~~shall~~ also be transmitted in writing to the Bureau
24 on Apprenticeship Programs and Clean Energy Jobs.

25 (a) Request for waiver. A vendor's request for a
26 waiver under this subsection (3) must include, but is not

1 limited to, the following:

2 (i) a list of eligible businesses owned by
3 minorities, women, and persons with disabilities that
4 pertain to ~~the~~ the class of contracts in the requested
5 waiver that were contracted ~~contacted~~ by the vendor.
6 Eligible businesses are only eligible if the business
7 is certified for the products or work advertised in
8 the solicitation or bid;

9 (ii) (blank);

10 (iia) a clear demonstration that the vendor
11 selected portions of the work to be performed by
12 certified vendors to facilitate meeting the contract
13 specific goal, and that certified vendors that have
14 the capability to perform the work of the contract
15 were solicited through all reasonable and available
16 means;

17 (iib) documentation demonstrating that certified
18 vendors are not rejected as being unqualified without
19 sound reasons based on a thorough investigation of
20 their capabilities. The certified vendor's standing
21 within its industry, membership in specific groups,
22 organizations, or associations, and political or
23 social affiliations are not legitimate causes for
24 rejecting or not contacting or negotiating with a
25 certified vendor;

26 (iic) proof that the prime vendor solicited

1 eligible certified vendors with: (1) sufficient time
2 to respond; (2) adequate information about the scope,
3 specifications, and requirements of the solicitation
4 or bid, including plans, drawings, and addenda, to
5 allow eligible businesses an opportunity to respond to
6 the solicitation or bid; and (3) sufficient follow up
7 with certified vendors;

8 (iid) a clear demonstration that the prime vendor
9 communicated with certified vendors;

10 (iie) evidence that the prime vendor negotiated
11 with certified vendors to enter into subcontracts to
12 provide a commercially useful function of the contract
13 for a reasonable cost;

14 (iii) documentation demonstrating that the
15 difference in cost between the contract proposals
16 being offered by certified vendors is excessive or
17 unreasonable;

18 (iv) a list of certified vendors owned by
19 minorities, women, and persons with disabilities that
20 the contractor has used in the current and prior
21 fiscal years;

22 (v) documentation demonstrating that the vendor
23 made efforts to utilize certified vendors despite the
24 ability or desire of a vendor to perform the work with
25 its own operations by selecting portions of the work
26 to be performed by certified vendors, which may, when

1 appropriate, include breaking out portions of the work
2 to be performed into economically feasible units to
3 facilitate certified vendor participation; and

4 (vi) documentation that the vendor used the
5 services of: (1) the State; (2) organizations or
6 contractors' groups representing or composed of
7 minorities, women, or persons with disabilities; (3)
8 local, State, or federal assistance offices
9 representing or assisting minorities, women, or
10 persons with disabilities; and (4) other organizations
11 that provide assistance in the recruitment and
12 engagement of certified vendors.

13 If any of the information required under this
14 subdivision (a) is not available to the vendor, despite
15 the vendor's good faith efforts to obtain the information,
16 the vendor's request for a waiver must contain a written
17 explanation of why that information is not included.

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

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

24 (ii) the total number of waivers the vendor has
25 been granted by the Council in the current and prior
26 fiscal years;

1 (iii) (blank); and

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

5 (3.5) (Blank).

6 (4) Conflict with other laws. In the event that any State
7 contract, which otherwise would be subject to the provisions
8 of this Act, is or becomes subject to federal laws or
9 regulations which conflict with the provisions of this Act or
10 actions of the State taken pursuant hereto, the provisions of
11 the federal laws or regulations shall apply and the contract
12 shall be interpreted and enforced accordingly.

13 (5) Each chief procurement officer, as defined in the
14 Illinois Procurement Code, shall maintain on his or her
15 official Internet website a database of the following: (i)
16 waivers granted under this Section with respect to contracts
17 under his or her jurisdiction; (ii) a State agency or public
18 institution of higher education's written request for an
19 exemption of an individual contract or an entire class of
20 contracts; and (iii) the Council's written determination
21 granting or denying a request for an exemption of an
22 individual contract or an entire class of contracts. The
23 database, which shall be updated periodically as necessary,
24 shall be searchable by contractor name and by contracting
25 State agency.

26 (6) Each chief procurement officer, as defined by the

1 Illinois Procurement Code, shall maintain on its website a
2 list of all vendors that have been prohibited from bidding,
3 offering, or entering into a contract with the State of
4 Illinois as a result of violations of this Act.

5 Each public notice required by law of the award of a State
6 contract shall include for each bid or offer submitted for
7 that contract the following: (i) the bidder's or offeror's
8 name, (ii) the bid amount, (iii) the name or names of the
9 certified vendors identified in the bidder's or offeror's
10 submitted utilization plan, and (iv) the percentage of the
11 contract awarded to each certified vendor that is a business
12 owned by minorities, women, and persons with disabilities
13 identified in the utilization plan.

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

16 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

18 Sec. 8. Enforcement.

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

1 (a) Establish enforcement procedures whereby the
2 Commission may recommend to the appropriate State agency,
3 public institutions of higher education, or law
4 enforcement officer that legal or administrative remedies
5 be initiated for violations of contract provisions or
6 rules issued hereunder or by a contracting State agency or
7 public institutions of higher education. State agencies
8 and public institutions of higher education shall be
9 authorized to adopt remedies for such violations which
10 shall include (1) termination of the contract involved,
11 (2) prohibition of participation of the respondents in
12 public contracts for a period not to exceed one year, (3)
13 the assessment of a penalty in the amount of the
14 discrepancy between the commitment contained in the
15 utilization plan, as such amount may be amended over the
16 term of the contract, and the qualifying payments made to
17 the certified vendors listed in the utilization plan
18 ~~imposition of a penalty not to exceed any profit acquired~~
19 ~~as a result of violation~~, or (4) any combination thereof.

20 (b) If the Commission concludes that a compliance plan
21 submitted under Section 6 is unlikely to produce the
22 participation goals for businesses owned by minorities,
23 women, and persons with disabilities within the then
24 current fiscal year, the Commission may recommend that the
25 State agency or public institution of higher education
26 revise its plan to provide additional opportunities for

1 participation by businesses owned by minorities, women,
2 and persons with disabilities. Such recommended revisions
3 may include, but shall not be limited to, the following:

4 (i) assurances of stronger and better focused
5 solicitation efforts to obtain more businesses owned
6 by minorities, women, and persons with disabilities as
7 potential sources of supply;

8 (ii) division of the scope of work ~~job or project~~
9 ~~requirements~~, when economically feasible, into tasks
10 or quantities to permit participation of businesses
11 owned by minorities, women, and persons with
12 disabilities;

13 (iii) elimination of extended experience or
14 capitalization requirements, when programmatically
15 feasible, to permit participation of businesses owned
16 by minorities, women, and persons with disabilities;

17 (iv) identification of specific proposed contracts
18 as particularly attractive or appropriate for
19 participation by businesses owned by minorities,
20 women, and persons with disabilities, such
21 identification to result from and be coupled with the
22 efforts of subparagraphs (i) through (iii);

23 (v) implementation of those regulations
24 established for the use of the sheltered market
25 process.

26 (2) State agencies and public institutions of higher

1 education shall monitor a vendor's compliance with its
2 utilization plan and the terms of its contract. Without
3 limitation, a vendor's failure to comply with its contractual
4 commitments as contained in the utilization plan; failure to
5 cooperate in providing information regarding its compliance
6 with its utilization plan; or the provision of false or
7 misleading information or statements concerning compliance,
8 certification status, or eligibility of the Business
9 Enterprise Program-certified vendor, good faith efforts, or
10 any other material fact or representation shall constitute a
11 material breach of the contract and entitle the State agency
12 or public institution of higher education to declare a
13 default, terminate the contract, or exercise those remedies
14 provided for in the contract, at law, or in equity.

15 (3) Prior to the expiration or termination of a contract,
16 State agencies and public institutions of higher education
17 shall evaluate the contractor's fulfillment of the contract
18 goals for participation by certified businesses owned by
19 minorities, women, and persons with disabilities. The agency
20 or public institution of higher education shall prepare a
21 report of the vendor's compliance with the contract goals and
22 file it with the Secretary. If the Secretary determines that
23 the vendor did not fulfill the contract goals, the vendor
24 shall be in breach of the contract and may be subject to
25 remedies or sanctions, unless the vendor can show that it made
26 good faith efforts to meet the contract goals. Such remedies

1 or sanctions for failing to make good faith efforts may
2 include (i) disqualification of the contractor from doing
3 business with the State for a period of no more than one year,
4 ~~or~~ (ii) cancellation, without any penalty to the State, of any
5 contract entered into by the vendor, or (iii) the assessment
6 of a penalty in the amount of the discrepancy between the
7 commitment contained in the utilization plan, as such amount
8 may be amended over the term of the contract, and the
9 qualifying payments made to the certified vendors listed in
10 the utilization plan. The Business Enterprise Program shall
11 develop procedures for determining whether a vendor has made
12 good faith efforts to meet the contract goals upon the
13 expiration or termination of a contract, which may include,
14 but shall not be limited to: (i) consideration of whether
15 State or local action caused a shortfall, such as a change in
16 the scope of work that eliminated work to be performed by
17 certified vendors or a change in specifications; (ii) whether
18 the vendor was unable to obtain certified business
19 participation without requiring the introduction of extra
20 participants not performing a commercially useful function; or
21 (iii) whether the vendor made efforts to use appropriate
22 forums for purposes of advertising subcontracting
23 opportunities suitable for certified businesses.

24 (Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)