**Section 3000.286 Contracting Goals for Owners Licensees**

a) For purposes of this Section:

1) The terms "minority", "minority owned business", "women owned business", and "business owned by a person with a disability" shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575].

2) "Veteran" has the meaning ascribed in Section 10 of the Veterans Preference in Private Employment Act [330 ILCS 56].

3) "Veteran owned business" is a business that is at least 51% owned by one or more veterans or, in the case of a corporation, at least 51% of the stock of which is owned by one or more veterans, and the management and daily operations of which are controlled by one or more of the veterans who own it.

4) "Contract" is an agreement for the provision of goods or services to an owners licensee.

5) "Contracting goal" is the goal established by the Board *for the award of contracts by each owners licensee to businesses owned by minorities, women, persons with disabilities* and veterans, *expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year* [230 ILCS 10/7.6(b)] except for contracts excluded from the coverage of this Section by subsection (b)(3) .

6) "Good faith effort" is the effort of an owners licensee to achieve a contracting goal. A "good faith" effort shall require an owners licensee to give consideration in the awarding of contracts to qualified businesses owned by minorities, women, persons with disabilities, and veterans that are located in Illinois. A "good faith effort" shall require the following actions by an owners licensee:

A) Outreach by an owners licensee to associations of minority owned businesses, women owned businesses, businesses owned by persons with disabilities, and veterans whose areas of operation include the unit of local government where the owners licensee's riverboat gambling operation is located, to request their assistance in identifying and contacting businesses owned by minorities, women, persons with disabilities, and veterans that may be appropriate candidates for contract awards by the owners licensee.

B) Publication on a continuing basis in an owners licensee's website and, at least annually, in the official State newspaper, of a statement informing potential bidders how to obtain more detailed information from the owners licensee about future contracts to be entered into by the owners licensee, including price, occupational, and materials specifications. In addition, the owners licensee shall distribute this statement to the Business Enterprise Program of the Department of Central Management Services established under the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, the Director of the Department of Commerce and Economic Opportunity and the Director of the Department of Veterans' Affairs.

7) "Dollar percentage" is the percentage of the total dollar value of an owners licensee's vendor contracts with minority owned businesses, women owned businesses, or businesses owned by a person with a disability during a calendar year, to the total dollar amount of all vendor contracts entered into by the owners licensee during that calendar year, except for contracts covered under subsection (b)(2).

8) "Emergency" is a situation in which one or more of the following have occurred or are at imminent risk of occurring:

A) Damage or disruption to all or part of a riverboat gambling operation; or

B) Danger to the health, safety, comfort or welfare of patrons or employees.

b) For each calendar year, the Board shall establish benchmark contracting goals, as defined in subsection (a)(5), for each owners licensee expressed as a dollar percentage as defined in subsection (a)(7). Separate benchmark contracting goals shall be established for minority owned businesses, women owned businesses, businesses owned by persons with disabilities, and veteran owned businesses. A benchmark contracting goal shall provide for the greatest reasonable dollar percentage, consistent with the ability of vendors that are not minority owned businesses, women owned businesses, businesses owned by persons with disabilities, or veteran owned businesses to bid fairly on contracts and not incur discrimination in contract selection based on their non-inclusion in a category of businesses subject to a contracting goal.

1) Beginning August 1, 2020, the benchmark contracting goals under this Section shall be the following:

A) 11% for minority owned businesses;

B) 7% for women owned businesses;

C) 2% for businesses owned by persons with disabilities; and

D) 3% for veteran owned businesses.

2) By December 1 of each calendar year, each owners licensee shall submit to the Board separate proposed contracting goals for the coming calendar year for minority owned businesses, women owned businesses, businesses owned by persons with disabilities, and veteran owned businesses. The final contracting goals for each calendar year shall be established through a process of consultation with each owners licensee and subsequent Board evaluation and approval. The final contracting goals shall be based on the numbers and dollar amounts of new and renewed contracts, as well as the owners licensee's evaluation of the availability of minority owned businesses, women owned businesses, businesses owned by persons with disabilities, and veteran owned businesses that are qualified to perform the new and renewed contracts, and located in sufficient geographical proximity to the owners licensee to be reasonable candidates for contract selection. The final contracting goals for each owners licensee shall approach, at a minimum, the benchmark contracting goals of subsection (b)(1) as closely as the Board deems practicable. The Board may conduct fact-finding hearings to determine the appropriateness of a final contracting goal.

3) *When setting the goals for the award of contracts, the Board shall not include contracts* in which*:*

A) *any purchasing mandates would be dependent upon the availability of minority owned businesses, women owned businesses, businesses owned by persons with disabilities,* and veteran owned firms *ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices;*

B) *there are no or a limited number of licensed suppliers as defined by* the *Act for the goods or services provided to the licensee;*

C) *the licensee or its parent company owns a company that provides the goods or services;*

D) *the goods or services are provided to the licensee by a publicly traded company* [230 ILCS 10/7.6(b)]; or

E) The contract is entered into in response to an emergency.

4) An owners licensee may satisfy its goal for the award of contracts, in whole or in part, by counting the total dollar amount of first and second tier subcontracts and purchase orders to businesses certified as vendors under the Business Enterprise for Minorities, Women, and Persons with Disabilities Act or by any other certifying agency approved by the Board.

c) In evaluating whether an owners licensee has made a good faith effort as defined in subsection (a)(6), the fulfillment of a contracting goal as defined in subsection (a)(5) shall be significant but not determinative. An owners licensee that has failed to meet a contracting goal nevertheless may be deemed to have complied with the provisions of this Section if it can establish that it has made diligent efforts to achieve the contracting goal through outreach, advertising or other types of efforts designed to inform minority owned businesses, women owned businesses, businesses owned by persons with disabilities, or veteran owned businesses about potential contracting opportunities with the owners licensee and has engaged in a fair bidding process.

d) *The owners licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver* when *the owners licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority owned businesses, women owned businesses, businesses owned by persons with disabilities*, and veteran owned businesses. [230 ILCS 10/7.6(d)]

e) *If the Board determines that its goals and policies are not being met by an owners licensee, then the Board may:*

1) Recommend *remedies for* those *violations; and*

2) *Recommend that the* owners licensee *provide additional opportunities for participation by minority owned businesses, women owned businesses, businesses owned by persons with disabilities,* and veteran owned businesses*;* the *recommendations may include, but shall not be limited to:*

A) *Assurances of stronger and better focused solicitation efforts to obtain more minority owned businesses, women owned businesses, businesses owned by persons with disabilities,* and veteran owned businesses *as potential sources of supply;*

B) *Division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority owned businesses, women owned businesses, businesses owned by persons with disabilities,* and veteran owned businesses*;*

C) *Elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority owned businesses, women owned businesses, businesses owned by persons with disabilities,* and veteran owned businesses*; and*

D) *Identification of specific proposed contracts as particularly attractive or appropriate for participation by minority owned businesses, women owned businesses, businesses owned by persons with disabilities,* and veteran owned businesses*, such identification to result from and be coupled with the efforts* described in subsections (e)(2)(A) through (C). [230 ILCS 10/7.6(e)]

f) The Board shall not establish any type of quota in connection with its enforcement of this Section and Section 7.6 of the Act.

g) By March 31 of each year, *each owners licensee shall file with the Board an annual report of its utilization of minority owned businesses, women owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section.* [230 ILCS 10/7.6(c)] Beginning in calendar year 2021, this report shall include information on an owners licensees' utilization of veteran owned businesses.

h) The dollar percentages for an owners licensee shall be determined according to data in an owners licensee's annual report submitted to the Board under subsection (g).

(Source: Amended at 44 Ill. Reg. 13653, effective August 6, 2020)