

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2272
97TH GENERAL ASSEMBLY

6529H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 37.020, RSMo, and to enact in lieu thereof one new section relating to bidding for public contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 37.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 37.020, to read as follows:

37.020. 1. As used in this section, the following words and phrases mean:

- (1) "Certification", the determination, through whatever procedure is used by the office of administration, that a legal entity is a socially and economically disadvantaged small business concern for purposes of this section;
- (2) "Department", the office of administration and any public institution of higher learning in the state of Missouri;
- (3) "Minority business enterprise", a business that is:
- (a) A sole proprietorship owned and controlled by a minority;
- (b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or
- (c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;
- (4) "Socially and economically disadvantaged individuals", individuals, regardless of gender, who have been subjected to racial, ethnic, or sexual prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities and whose

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 ability to compete in the free enterprise system has been impaired due to diminished capital and
20 credit opportunities as compared to others in the same business area. In determining the degree
21 of diminished credit and capital opportunities the office of administration shall consider, but not
22 be limited to, the assets and net worth of such individual;

23 (5) "Socially and economically disadvantaged small business concern", any small
24 business concern:

25 (a) Which is at least fifty-one percentum owned by one or more socially and
26 economically disadvantaged individuals; or, in the case of any publicly owned business, at least
27 fifty-one percentum of the stock of which is owned by one or more socially and economically
28 disadvantaged individuals; and

29 (b) Whose management and daily business operations are controlled by one or more of
30 such individuals;

31 (6) "Women's business enterprise", a business that is:

32 (a) A sole proprietorship owned and controlled by a woman;

33 (b) A partnership or joint venture owned and controlled by women in which at least
34 fifty-one percent of the ownership interest is held by women and the management and daily
35 business operations of which are controlled by one or more of the women who own it; or

36 (c) A corporation or other entity whose management and daily business operations are
37 controlled by one or more women who own it, and which is at least fifty-one percent owned by
38 women, or if stock is issued, at least fifty-one percent of the stock is owned by one or more
39 women.

40 2. The office of administration, in consultation with each department, shall establish and
41 implement a plan to increase and maintain the participation of certified socially and economically
42 disadvantaged small business concerns or minority business enterprises, directly or indirectly,
43 in contracts for supplies, services, and construction contracts, consistent with goals determined
44 after an appropriate study conducted to determine the availability of socially and economically
45 disadvantaged small business concerns and minority business enterprises in the marketplace.
46 Such study shall be completed by December 31, 1991. The commissioner of administration shall
47 appoint an oversight review committee to oversee and review the results of such study. The
48 committee shall be composed of nine members, four of whom shall be members of business,
49 three of whom shall be from staff of selected departments, one of whom shall be a member of
50 the house of representatives, and one of whom shall be a member of the senate.

51 3. The goals to be pursued by each department under the provisions of this section shall
52 be construed to overlap with those imposed by federal law or regulation, if any, shall run
53 concurrently therewith and shall be in addition to the amount required by federal law only to the
54 extent the percentage set by this section exceeds those required by federal law or regulations.

55 **4. For any Missouri-based 501(c)(3) organization or a limited liability corporation**
56 **comprised solely of Missouri-based 501(c)(3) organizations that meets the following**
57 **criteria, additional points shall be awarded through the state purchasing process in the**
58 **same manner as a for-profit corporation that has been certified as either a minority**
59 **business enterprise or a women's business enterprise:**

60 **(1) To receive the same number of points on a bid proposal as a minority business**
61 **enterprise, the following is required:**

62 **(a) The organization's entire staff is comprised of at least twenty-five percent**
63 **minorities or such staff is comprised of more than five percent greater than the average**
64 **minority population of the geographic area that is served by the organization; and**

65 **(b) The organization's staff that is classified as management or the twenty percent**
66 **of the staff with the highest salaries is comprised of at least twenty percent minorities or**
67 **such staff is comprised of a percentage that is greater than the average minority population**
68 **of the geographic area that is served by the organization; and**

69 **(2) To receive the same number of points on a bid proposal as a women's business**
70 **enterprise, the following is required:**

71 **(a) The organization's entire staff is comprised of at least fifty-five percent women;**
72 **and**

73 **(b) The organization's staff that is classified as management or the twenty percent**
74 **of the staff with the highest salaries is comprised of at least forty-five percent women.**

75 **5. Under no circumstances shall any bidder under this section be awarded more**
76 **than five points for qualifying as a minority business enterprise or a women's business**
77 **enterprise under this section for a maximum award of ten points.**

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