



## Organization or Inter-Track Wagering Licensee Business Enterprise Program for Minorities, Females, and Persons with Disabilities

**Effective Date:** July 13 2023

### I. Policy Statement

Pursuant to 230 ILCS 5/12.2 of the Illinois Horse Racing Act of 1975, the Illinois Racing Board requires the Illinois organization or inter-track wagering licensees to procure goods and services from businesses owned by minorities, females, and persons with disabilities. The Board is committed to fostering an inclusive and equitable business environment that will support underrepresented businesses.

### II. Legislative Overview

Section 12.2(b) of the [Illinois Horse Racing Act of 1975](#) (The Racing Act) requires that the Board shall, by rule, establish goals for the award of contracts by each organization licensee or inter-track wagering licensee to businesses owned by minorities, women, and persons with disabilities, expressed as percentages of a licensee's total dollar amount of contracts awarded during each calendar year. Each licensee must make every effort to meet the goals established by the Board pursuant to this Section.

For each calendar year, similar to the [Business Enterprise for Minorities, Females, and Persons with Disabilities Act](#) (BEP Act) and the BEP compliance goals, the Board sets the following contracting goals for each licensee:

- Minority-owned enterprises (MBE): 11%
- Women-owned enterprises (WBE): 7%
- Businesses owned by persons with disabilities (DBE): 2%

Per the Act, these goals do not include contracts in which:

- licensees are purchasing goods or services from vendors or suppliers or in markets where there are no or a limited number of MBE, WBE, and DBE with disabilities that would be sufficient to satisfy the goal;
- there are no or a limited number of vendors or suppliers licensed by the Board;



- the licensee or its parent company owns a company that provides the goods or services; or,
- the goods or services are provided to the licensee by a publicly traded company.

### **III. Organization Licensee Requirements**

The Board will make a concerted effort to ensure that licensees are aware of the BEP contracting goals and are receiving the support they need to achieve these goals. Requirements include:

- A. By November 1 of each calendar year, each licensee shall submit to the Board how it proposes to meet the contracting goals for the coming calendar year for MBE, WBE, and DBE.
- B. By January 31 of each year, each licensee shall file with the Board an annual report pursuant to Section 12.2(c) of the Act. The report shall include a self-evaluation of the efforts of the organization licensee or inter-track wagering licensee to meet its goals. The annual report shall consist of:
  1. The total number of contracts awarded and the average contract amount;
  2. A detailed list of contracts awarded to MBE, WBE, and DBE businesses; and,
  3. A detailed description of overall goal achievement concerning purchases from MBE, WBE, and DBE over the three most recent calendar years, the goals specified, and the goals attained by each organization licensee or inter-track wagering licensee.
  4. In situations in which the licensee does not meet the requirements because certain types of procurements are exempted in the Act, an explanation of the exemptions taken.

### **IV. Program Components**

The Board is committed to fostering an inclusive and equitable business environment that will support underrepresented businesses by implementing the following:

- Encourage licensees to create a page on their company websites specifically for the diversity supplier program;



- Encourage racetracks to post upcoming contracts available for bidding and/or opportunities for service on their websites and on other websites, such as those for small businesses;
- Provide links on the Board website that will direct small business owners to racetrack web pages that contain their list of contracting opportunities;
- Require racetracks to justify contract goal exemptions, modifications, and waivers by reporting in detail their "good faith efforts" to meet the contracting goals;
- Help licensees identify diverse suppliers; and
- Encourage licensees to work with the Illinois Black Chamber of Commerce and Illinois Hispanic Chamber of Commerce, other local Chambers of Commerce, and small business organizations to ensure that contracting opportunities are widely publicized.

## **V. Good Faith Efforts**

Licensees must demonstrate the "Good Faith Efforts" they made to try to meet or exceed the goals set by the Board. To do so, they must document all contacts and responses made soliciting BEP-certified vendors on the IRB BEP Good Faith Efforts Contact Log.

Licensees must submit to the Board documentation of phone contacts made and emails sent and received from prospective BEP-certified vendors. Contact attempts shall not be limited to the number of spaces shown on the log. Licensees must include a copy of the National Institute of Government Purchasing (NIGP) Class and Class Item commodity/service code list and/or scope of work used to solicit prospective BEP vendors. Vendors are found in the NIGP Class and Class Item commodity/service code(s) search on the BEP Vendor Database located at <https://cms.diversitycompliance.com>.

In situations in which the licensee does not meet the requirements, the Board may request a list of contractual expenditures subject to the goals for purposes of discussion and technical assistance.

## **VI. Remedies**

When a Licensee fails to meet the goals or the requirements of this policy, the following remedies provided for in the Illinois Horse Racing Act of 1975 may be exercised by the Board:

- A. Pursuant to Section 12.2(e), the Board may recommend that the organization licensee or inter-track wagering licensee provide additional



opportunities for participation by minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities; such recommendations may include, but shall not be limited to:

1. Assurances of stronger and better focused solicitation efforts to obtain more minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities as potential sources of supply;
2. Division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities;
3. Elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities;
4. Identification of specific proposed contracts as particularly attractive or appropriate for participation by minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities, such identification to result from and be coupled with the efforts of items (A) through (C); and
5. Implementation of regulations established for the use of the sheltered market process.

B. Pursuant to Section 9(l), the Board is vested with the power to impose civil penalties of up to \$5,000 against an individual and up to \$10,000 against a licensee for each violation of any provision of this Act, any rules adopted by the Board, any order of the Board or any other action which, in the Board's discretion, is a detriment or impediment to horse racing or wagering.

## VII. Definitions

"Board" means the Illinois Racing Board.

"Business Enterprise Program" or "BEP" means the Business Enterprise Program of the Commission on Equity and Inclusion. When a business is owned at least 51% by any combination of minority persons, women, or persons with disabilities, even though none of the three classes alone holds at least a 51% interest, the ownership requirement for purposes of this is to be met. The certification category for the business is that of the class holding the largest



ownership interest in the business. If two or more classes have equal ownership interests, the certification category shall be determined by the business.

“Business owned by a person with a disability” means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

"Certification" means a determination made by the Business Enterprise Council for Minorities, Women, and Persons with Disabilities or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, or person with a disability for whatever purpose.

“Compliance” means that a contractor has correctly implemented the requirements of this policy.

"Good Faith Efforts" means actions undertaken by a bidder or contractor to achieve a Contract Specific Goal by its scope, intensity, and appropriateness to the objective, that can reasonably be expected to fulfill the program’s requirements.

"Inter-track wagering licensee" means any organization licensee receiving a license from the Board to conduct inter-track wagering at the organization licensee's racetrack, or a facility within 300 yards of the organization licensee's racetrack.

"Minority-owned business" or “MBE” means a business that is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

"Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:



- a. American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).
- b. Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).
- c. Black or African American (a person having origins in any of the black racial groups of Africa). Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American".
- d. Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).
- e. Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

“Owned” means having all the customary incidents of ownership, including the right of disposition, and the sharing in all risks and profits commensurate with the degree of ownership interest.

"Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as a person with a severe physical or mental disability that results from:

- a. amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, Crohn's disease, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, an intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, ulcerative colitis, specific learning disabilities, or end-stage renal failure disease; and
- b. substantially limits one or more of the person's major life activities. Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this definition if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this definition.



"Woman" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

"Woman-owned business" or "WBE" means a business concern that is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it. A business owned and controlled by women shall be certified as a "woman-owned business". A business owned and controlled by women who are also minorities shall be certified as both a "women-owned business" and a "minority-owned business".