

DATE: October 21, 2022
FROM: Christopher M. Flynn, Deputy General Counsel and Chief Procurement Officer
SUBJECT: Small Business Annual Report

Procurement Report Summary

This report encompasses information gathered on the award of contracts to small businesses by the Illinois State Treasurer's Office ("Treasurer's Office") and will share the following: (1) current policies in place relating to small business vendors contracted by the Treasurer's Office and (2) current utilization data and information regarding implementation.

This report includes two parts:

1. Policies and Procedures Relating to Small Business Contractors
 2. Utilization Data and Implementation
-

Policies and Procedures Relating to Small Business Contractors

Policies

Section 1400.4560(g) of the Office of the Treasurer Procurement Rules (44 Ill. Adm. Code 1400; "Rules") requires that the Chief Procurement Officer 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]. 44 Ill. Adm. Code 1400.4560(g).

1) 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. 44 Ill. Adm. Code 1400.4560(a).

2) 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. 44 Ill. Adm. Code 1400.4560(b).

3) 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 When a small business set-aside is withdrawn, notification must be published as provided in Section 1400.1505 with an explanation.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 the Rules. 44 Ill. Adm. Code 1400.4560(c).

4) 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:

- a) Independently owned and operated.
- b) 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.
- c) With annual sales for the most recently ended fiscal year no greater than:
 1. \$13,000,000 for wholesale business;
 2. \$8,000,000 for retail business or businesses selling services; or
 3. \$14,000,000 for construction business.
- d) With no more than 250 employees if a manufacturing business.
 1. 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.
 2. 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.

- e) 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.
- f) 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.
44 Ill. Adm. Code 1400.4560(d).

To this end, the Treasurer's Office may further define, for the purposes of its procurements, which may even vary by solicitation, the appropriate definition of "small business." The Treasurer's Office holds contracts procured in prior fiscal years as a small business set aside, but did not identify any small business set aside opportunities among public solicitations issued in Fiscal Year 2022.

Utilization Data and Implementation

As noted, the Chief Procurement Officer currently 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. The Treasurer's Office previously issued a Request for Proposals Investment Managers for Investment Grade Credit and Municipal Bonds ("RFP"). Two contracts resulted from that RFP, and both extended into Fiscal Year 2022 during which the Treasurer's Office compensated the contractors a combined \$353,931.02.

While Section 1400.4560 of the Rules requires no specific frequency or volume of small business set-aside solicitations, the Treasurer's Office encourages small business participation in all solicitations outside of the small business set-aside process. Accordingly, the Treasurer's Office awarded in Fiscal Year 2021 a competitively-bid contract, for a total not-to-exceed \$432,000.00, for re-keying and other repair services at the vault at the Treasurer's Office located at the Marine Bank Building at One East Old State Capitol Plaza in Springfield, Illinois; this small business purchase allowed the Treasurer's Office to complete a requested and necessary transfer to the Marine Bank Building of vault operations previously located at the State Capitol. The Treasurer's Office similarly, in Fiscal Year 2022, awarded two additional publicly-solicited contracts to small businesses, for ongoing locksmith and security services at the Marine Bank Building as well as another solicitation for intermittent promotional products needed to increase public awareness of programs offered by the Treasurer's Office.

Through all contracts active, and other purchases made, during Treasurer's Office Fiscal Year 2022, the Treasurer's Office calculates that it expended a total \$804,166.92 with small businesses registered through the State's Chief Procurement Officer for General Services, which represents an increase of 25% from Fiscal Year 2021 small business spending.