

STATE OF DELAWARE



EXECUTIVE DEPARTMENT DOVER

Executive Order Number Forty-Four

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: ENSURING REPRESENTATION OF MINORITY AND/OR WOMEN BUSINESS ENTERPRISES, VETERAN-OWNED BUSINESSES, AND BUSINESSES OWNED BY INDIVIDUALS WITH DISABILITIES IN DELAWARE'S SUPPLIER DIVERSITY INITIATIVES, AND RESCINDING EXECUTIVE ORDERS NO. 14 AND NO. 29

WHEREAS, Executive Order No. 14, signed on December 22, 2009, created a Supplier Diversity Council, the purpose of which is to advocate for supplier diversity initiatives, particularly as they relate to minority and/or women-owned business enterprises;

WHEREAS, Executive Order No. 29, signed on September 6, 2011, further expanded the scope of the Supplier Diversity Council to include the study and consideration of how the State of Delaware does business with veteran-owned business enterprises;

WHEREAS, businesses owned by Individuals with Disabilities contribute to the economic strength of the state and can compete for the provision of public works, goods, and services to state government;

WHEREAS, the work of the Supplier Diversity Council should be expanded to examine how the State of Delaware does business with enterprises owned by Individuals with Disabilities;

WHEREAS, the name of the Office of Minority and Women Business Enterprise has been, in practice, renamed to the Office of Supplier Diversity to more accurately reflect the mission of the office;

WHEREAS, in its report to the Governor, the Supplier Diversity Council proposed the development of a Small Business Focus program; and

WHEREAS, programs aimed towards encouraging and enhancing opportunities for small business is of importance to the State.

NOW THEREFORE, I, JACK A. MARKELL, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby DECLARE and ORDER the following:

1. Definitions. As used in this Executive Order:
 - a. “Minority and/or women business enterprise” means a for-profit business which is at least 51 percent owned and at least 51 percent managed by a minority and/or woman, as certified by the Office of Supplier Diversity or DelDOT’s Disadvantaged Business Enterprise (“DBE”) Program.
 - b. “Veteran” means an individual who has served in the United States military or who has served in the National Guard of the United States for at least six months and has received a discharge other than a dishonorable discharge
 - c. “Small Business Focus Program” means the program developed in accordance with Section 12(g) of this Executive Order Number Forty-Four.
2. The Executive Branch will provide leadership and support to ensure that all minority and/or women business enterprises, veteran-owned businesses, businesses owned by Individuals with Disabilities, and all small businesses meeting eligibility in the Small Business Focus Program are afforded full, equitable and fair opportunities to compete for State purchasing dollars.
3. The Office of Supplier Diversity within the Office of Management and Budget shall have, as its mission, to assist minority, women, veteran, and Individuals with Disabilities owned businesses and the businesses eligible for the Small Business Focus Program in competing for the provision of commodities, services, and construction to State departments, agencies, authorities, school districts, higher education institutions and all businesses.
4. The Office of Supplier Diversity shall have the following powers, duties and functions:
 - a. The Executive Director of the Office of Supplier Diversity will be responsible for providing strategic advice to the Director of the Office of Management and Budget and the Governor pertaining to supplier diversity;
 - b. Monitor and evaluate each respective Executive Branch Agency’s Supplier Diversity Action Plan;
 - c. Certify minority, women, veteran, and Individuals with Disabilities owned businesses, and the businesses eligible for the Small Business Focus Program and create and maintain a State directory of Office of Supplier Diversity certified and Small Business Focus Program certified businesses; and
 - d. Educate minority, women, veteran, and Individuals with Disabilities owned businesses, and the businesses eligible for the Small Business Focus Program on how to conduct business with the State of Delaware.

5. Each Department and Agency within the Executive Branch (collectively “Executive Branch Agencies”) shall re-designate, within thirty (30) days of the issuance of this Order, a Supplier Diversity Liaison, who shall have direct access to his or her Secretary, department head, or similar cabinet-level official concerning minority, women, veteran, and Individuals with Disabilities owned businesses, and the businesses eligible for the Small Business Focus Program matters.
6. Office of Supplier Diversity Liaisons shall:
 - a. Assist the Executive Director of the Office of Supplier Diversity and the Supplier Diversity Council (the “Council”) in their efforts to maximize supplier diversity among State agencies;
 - b. Direct and coordinate supplier diversity initiatives within their respective agency, including but not limited to discussing best practices and educating staff;
 - c. Assist in the development and implementation of their agency’s Supplier Diversity Action Plan, as identified in this Executive Order;
 - d. Incorporate the entire supplier diversity community of business enterprises into the agency Supplier Diversity Plans; and
 - e. Prepare reports for the Office of Supplier Diversity and the Governor’s Supplier Diversity Council; and
 - f. Undertake such additional tasks relating to this Executive Order as required from time to time by the Governor.
7. The Office of Supplier Diversity, in conjunction with Government Support Services of the Office of Management and Budget, shall develop the format and best practices content of a Supplier Diversity Action Plan. The goal of the Supplier Diversity Action Plan shall be to maximize the contracting opportunities for minority and/or women business enterprises, as well as increase transparency for subcontracting opportunities. Each Executive Branch Agency is responsible for expanding upon this framework for agency-specific interests and fulfilling the tasks within its respective finalized plan. Agencies’ completed plans shall be submitted to the Office of Supplier Diversity and Government Support Services in the Office of Management and Budget for final approval no later than July 30th of each calendar year. Agencies’ approved Supplier Diversity Action Plans shall be filed annually with the Governor no later than September 30th of each calendar year.
8. In an effort to further increase transparency in State procurement practices, the Director of the Office of Management and Budget and the Secretary of State shall develop policies and procedures that provide for a central, online publication of all advertised and awarded State contracts, including information on whether such contracts were awarded to businesses owned by minorities, women, veteran, and Individuals with Disabilities owned businesses, and the businesses eligible for the Small Business Focus Program.

9. The Governor's Supplier Diversity Council (the "Council") as established in Executive Orders 14 and 29 is hereby reconstituted.
10. The Council shall consist of thirteen (13) members who shall be citizens of the State and shall be appointed by the Governor. The Governor shall appoint a Chairperson from among its members who shall serve at the Governor's pleasure. The members of the Council shall be appointed subject to the following qualifications:
 - a. Two members of the Council shall be representatives of local, private or federal minority and/or women business assistance programs or community development programs;
 - b. Five members of the Council shall be representatives of the minority and/or women private business sector, among whom at least two shall be women and at least two shall be minority persons. At least one of these members shall be a small business owner that meets the eligibility requirements of the Small Business Focus Program;
 - c. One representative shall be from a private sector company located in the State of Delaware that administers a supplier diversity program;
 - d. One member shall be a representative of the veteran-owned private business sector;
 - e. One member shall be a representative of a business owned by Individuals with Disabilities;
 - f. The Executive Director of the Office of Management and Budget ("OMB") or his/her designee;
 - g. The Executive Director of the Delaware Economic and Development Office ("DEDO") or his/her designee; and
 - h. One representative of the Governor.
11. Members of the Council currently serving shall continue to serve their terms without interruption. Each appointed Council member shall serve for a term of four (4) years from the date of appointment. Vacancies on the Council for any cause shall be filled by the Governor for the unexpired term and until a successor shall qualify. The Governor may appoint members for terms shorter than four (4) years where that is necessary to ensure that no more than four Council members' terms expire in one given year. The Council shall adopt internal procedures or bylaws necessary for efficient operations.
12. The purpose of the Council shall be to:
 - a. Advocate for the State of Delaware's supplier diversity initiatives;
 - b. Offer training and information on the tools necessary for successfully doing business with the State of Delaware as a minority and/or women business enterprise, a veteran-owned business enterprise, a business owned by Individuals with Disabilities, and the businesses eligible for the Small Business Focus Program;

- c. Help maximize supplier diversity among the State agencies, and help increase contracting opportunities for qualified minority, women, veteran-owned business enterprises, businesses owned by Individuals with Disabilities, and the businesses eligible for the Small Business Focus Program;
- d. Develop criteria for evaluation of supplier diversity initiatives pursuant to this Executive Order;
- e. Identify potential impediments, if any, concerning supplier diversity within State government, and develop strategies to eliminate these impediments, including the elimination of impediments that limit all supplier diversity businesses from participating in contracting opportunities;
- f. As the Council has done and will continue to do for minority, women and veteran owned business enterprises, evaluate how to best serve businesses owned by Individuals with Disabilities in the State of Delaware, and the businesses eligible for the Small Business Focus Program including but not limited to evaluation of:
 - i. a definition of businesses owned by Individuals with Disabilities and/or whether certification or other identification of businesses owned by Individuals with Disabilities is achievable and advisable;
 - ii. how the Office of Supplier Diversity might assist businesses owned by Individuals with Disabilities;
 - iii. how the State might report contracts awarded to businesses owned by Individuals with Disabilities in a manner similar to its disclosure for minority, women and/or veteran owned businesses; and
 - iv. how Executive Branch Agencies might assist businesses owned by Individuals with Disabilities;
- g. Develop and implement a Small Business Focus program. The goals of the Small Business Focus program are to increase opportunity for small businesses to participate in state procurement by:
 - i. creating a Small Business Focus Program Registry;
 - ii. measuring and analyzing spend on current and future procurement with the businesses eligible for the Small Business Focus Program; and
 - iii. revising agency Supplier Diversity Plans to direct State Agencies to access the Small Business Focus Program Registry when making under threshold procurements; and
 - iv. providing advice and recommendations to the Governor concerning supplier diversity strategies.

13. OMB shall provide technical assistance and strategic support, as may be necessary. OMB shall provide an Executive Director for the Council who shall be the Executive Director for the Office of Supplier Diversity.
14. These directives are not intended in any way to limit the application of additional creativity at the agency level. They are designed to promote economic growth and eliminate any potential impediments to an equitable procurement process. Each cabinet secretary shall evaluate the performance of his or her agency in implementing these directives. Accordingly, the Office of Supplier Diversity, in cooperation with each cabinet secretary and through the Director of the Office of Management and Budget, shall provide semiannual reports to the Governor regarding the State of Delaware's progress in enhancing opportunities for minority and/or women business enterprises. The reports shall delineate the State of Delaware's spending in detail by certified business ownership, industry classification, and agency.
15. Executive Order No. Fourteen (14) dated December 22, 2009, and Executive Order No. Twenty-Nine (29), dated September 6, 2011, are hereby rescinded.
16. No provision of this Order shall be intended to create any individual right or legal cause of action, which does not currently exist under State or Federal law.



APPROVED this 26 day of March, 2014

Jed Mohr

Governor

ATTEST:

[Signature]

Secretary of State