

Executive Directive 2019 - 08

Recently, too many communities in Michigan have been struggling with population losses, decreased economic activity, and reduced public funding. These factors negatively impact the ability of businesses located in those communities to grow and create jobs.

With this directive, I seek to enhance the role of Michigan state government in encouraging expanded business opportunities within low-income communities and underutilized business areas. Expanding those opportunities will aid Michigan job providers, strengthen our workforce, and support more vibrant communities.

The Department of Technology, Management, and Budget (the “Department”) is required by § 261 of The Management and Budget Act, 1984 PA 431, as amended, MCL 18.1261, to provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by state agencies, including contracts for the construction, alteration, repair, or demolition of a facility. The Department makes all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of state contracts. In addition, the Department may delegate its procurement authority to other state agencies within dollar limitations and for designated types of procurements.

Section 131 of The Management and Budget Act, 1984 PA 431, as amended, MCL 18.1131, permits the director of the Department to issue, alter, or rescind administrative and procedural directives as determined to be necessary for the effective administration of The Management and Budget Act. As Governor, I have a duty to inquire into the administration of The Management and Budget Act.

Acting pursuant to Article 5, § 1 and § 8 of the Michigan Constitution of 1963, I hereby direct the following:

1. By March 31, 2019, the director of the Department shall adopt policies and procedures consistent with this directive with the objective of increasing purchases from and contracts with Geographically-Disadvantaged Business Enterprises for supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items needed by state departments or agencies, including contracts for the construction, alteration, repair, or demolition of a facility. The policies and procedures also must apply to departments and agencies exercising procurement authority delegated by the Department.
2. To aid in identifying eligible Geographically-Disadvantaged Business Enterprises, the director of the Department shall coordinate with other state departments and agencies and with organizations representing small business to study, identify, and reduce or eliminate barriers to participating in state procurement for Geographically-Disadvantaged Business Enterprises.
3. If not inconsistent with applicable federal law, for all purchases or contracting made by the Department, or a department or agency exercising procurement authority delegated by

the Department, all other things being equal, a preference must be given to goods or services offered by a Geographically-Disadvantaged Business Enterprise.

4. The director of the Department shall adopt a construction, goods, and services procurement policy for the Department, and for each department or agency exercising procurement authority delegated by the Department, establishing a goal that 3% or more of Expenditures each state fiscal year will be made to certified Geographically-Disadvantaged Business Enterprises by the 2022-2023 state fiscal year.
5. To assist in achieving the goal under paragraph 4, the director of the Department may require that contracts include provisions to accommodate subcontracts and joint ventures with Geographically-Disadvantaged Business Enterprises. The provisions must require a bidder to indicate the extent of Geographically-Disadvantaged Business Enterprise participation. Only the portion of a contract that a Geographically-Disadvantaged Business Enterprise participates in will be considered in meeting the goal outlined in paragraph 4.
6. A Geographically-Disadvantaged Business Enterprise shall comply with the same requirements applicable to other bidders, including any applicable requirements for insurance.
7. The director of the Department shall report to the Governor annually on the results of the policy required by this directive, including details regarding specific contracts awarded by each department or agency and the type of business engaged in by the Geographically-Disadvantaged Business Enterprise awarded the contract. The Department shall make the annual report available to the public on its website.
8. A person or entity seeking certification by the Department as a Geographically-Disadvantaged Business Enterprise may complete a sworn affidavit in a form determined by the Department that includes at least the following information:
 - i. An indication that the person or entity is a Geographically-Disadvantaged Business Enterprise and is prepared to bid on state contracts.
 - ii. An indication that the Geographically-Disadvantaged Business Enterprise satisfies one or more of the following:
9. The Geographically-Disadvantaged Business Enterprise is certified as a HUBZone Small Business Concern by the United States Small Business Administration.
10. (ii) The principal place of business of the Geographically-Disadvantaged Business Enterprise is located within a population census tract that is a low-income community designated as a Qualified Opportunity Zone by the United States Secretary of the Treasury pursuant to 26 USC 1400Z-1.
11. (iii) A majority of the employees of the Geographically-Disadvantaged Business Enterprise either work at a location within a Qualified Opportunity Zone or maintain a principal residence within a Qualified Opportunity Zone.
 - i. An identification of ownership interests in the Geographically-Disadvantaged Business Enterprise.
12. An affidavit under paragraph 8 must be filed with the director of the Department or an individual within the Department designated by the director of the Department.
13. The policy also shall require a Geographically-Disadvantaged Business Enterprise to notify the Department if it relocates its principal place of business outside of a Qualified Opportunity Zone or if a majority of its employees no longer work within or have a principal residence located within a Qualified Opportunity Zone

14. The director of the Department shall issue directives and adopt changes to the Administrative Guide to State Government as necessary to implement this directive. The director of the Department shall enforce the requirements of this directive and any policies, procedures, or department directives issued to implement this directive. In exercising general supervisory control over the functions and activities of all administrative departments, boards, commissioners and officers of the state, and of all state institutions as required by § 3 of 1921 PA 2, as amended, MCL 17.3, the State Administrative Board shall monitor compliance with the requirements of this directive. A report of a violation of this directive shall be transmitted to the director of the Department, the secretary of the State Administrative Board, and the Governor's Chief Compliance Officer. The State Administrative Board may take action to enforce the requirements of this directive consistent with 1921 PA 2, MCL 17.1 to 17.3.
15. As used in this directive:
 - i. "Expenditure" means a payment under a contract for goods, services, or construction where the Department, or a department or agency exercising procurement authority delegated by the Department, acts as the sole or primary contracting entity and has selective discretion as to the supplier, vendor, or contractor under the contract.
 - ii. "Geographically-Disadvantaged Business Enterprise" means a person or entity that satisfies one or more of the following:
 - iii. Is certified as a HUBZone Small Business Concern by the United States Small Business Administration.
 - iv. Has a principal place of business located within a Qualified Opportunity Zone within Michigan.
 - v. More than half of its employees have a principal residence located within a Qualified Opportunity Zone within Michigan, or both.
 - vi. "HUBZone Small Business Concern" means that term as defined under 13 CFR § 126.103.
 - vii. "Joint venture" means an agreement that combines two or more businesses for specified purposes involving one or more Geographically-Disadvantaged Business Enterprises and one or more businesses other than a Geographically-Disadvantaged Business Enterprise.
 - viii. "Qualified Opportunity Zone" means that term as defined in 26 USC 1400Z-1.
 - ix. "Subcontract" means an agreement to share a primary contract between a primary contractor that is not a Geographically-Disadvantaged Business Enterprise and a Geographically-Disadvantaged Business Enterprise.

Thank you for your cooperation in implementing this directive.

Gretchen Whitmer
Governor