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## **State strengthens minority and economically disadvantaged business certification programs, sets rules for women-owned business program**

*Updated rules enhance programs, improve accountability*

COLUMBUS — Ohio Department of Administrative Services (DAS) Director Matt Damschroder today announced the adoption of updated rules that strengthen the State's Minority Business Enterprise (MBE) and Encouraging Diversity, Growth, and Equity (EDGE) programs as well as establishes rules for the new Women's Business Enterprise (WBE) certification program. Damschroder also revealed the launch of a new tips hotline to report possible violations of the programs.

"The state of Ohio is committed to supporting and partnering with diverse businesses," said Governor Mike DeWine. "These rule changes will help small minority and disadvantaged businesses grow, while deterring those who have used the system inappropriately."

The rules, which passed the Joint Committee on Agency Rule Review (JCARR) today, were developed after input from a working group of minority and economically disadvantaged business owners who met regularly last fall to advise on the challenges faced by these businesses. They also offered their ideas for improving the integrity of the State's minority and economically disadvantaged business certification programs.

A common concern identified by the workgroup dealt with "front and pass-through" companies, businesses acting as a middleman, often with affiliated, non-minority firms disproportionately benefitting from State MBE set-aside contracts. To prevent this, the new rules add a commercially useful function requirement for MBE certification. The requirement, already in place for the EDGE program, requires certified businesses to demonstrate that they are actively performing, paying, managing, and supervising the work involved in the performance of a contract, among other responsibilities typical of the role of an active owner. More stringent and frequent financial documentation requirements in the rules will also aid these efforts. Problems associated with "front and pass-through" companies have been identified in past administrations by the Ohio Inspector General.

"Nothing is more frustrating to companies playing by the rules than seeing a front-company obtaining State work through deception," said Damschroder. "These rules will help ensure State-certified businesses are who they say they are."

Also adopted were rules for implementation of the new WBE certification program as created by the legislature and codified in Ohio Revised Code 123.154. This certification validates ownership status that women-owned businesses may use as credentials for opportunities in Ohio and other states. DAS will be seeking to establish reciprocal recognition agreements between Ohio and other states that maintain a similar women-owned business certification.

Other rule changes help minority businesses use State certification programs to develop and grow their business. The current 10-year cap for EDGE certification was removed and size requirements based on

U.S. Small Business Administration guidelines are being implemented. Another change allows more non-minority individuals to sit on a minority-owned company's board. This action was requested by the workgroup members, who felt it gave them greater flexibility in creating a board that would help ensure their success.

Following are highlights of the new rules, which will go into effect on October 9, 2020.

**Responding to the needs of participating businesses:**

- Eliminate the current 10-year EDGE program participation limit.
- Ensure that only small businesses participate in EDGE by adopting the SBA 8(A) size standard caps.
- Add ability for the DAS Equal Opportunity Division to identify pre-verified third-party certifiers of comparable programs in order to expedite some MBE and WBE certification applications when the business already holds one of these verified certifications, as with current EDGE program expedited certifications.
- Eliminate the restriction that the majority of members/officers be a minority individual for MBE or a socially- and economically-disadvantaged individual for EDGE, giving MBE and EDGE companies a greater opportunity to engage any successful business owner as board of directors/executive officers.

**Enhancing program oversight and avoiding pass-through and front companies:**

- All certified business owners will be required to meet the Commercially Useful Function standard, like the existing EDGE rule.
- Certification will be revoked for any violations of program compliance, like the existing EDGE rule.
- MBE-certified companies will now be limited to bidding only on set-aside procurement opportunities that match the company's appropriate industry codes (international designations for products and services) as approved by the DAS Equal Opportunity Division. This helps ensure they are participating in contracts within their area of expertise. DAS has already been working with certified companies to ensure they have identified and have been approved within their proper industry codes.
- Companies will be required to submit additional financial, business, and net worth documents at the time of recertification to help verify continued program compliance.
- In addition to recertification requirements, certified companies will need to re-apply with an application and all required supporting documentation, as well as an interview every cumulative six years to demonstrate continued program compliance and eligibility.

DAS is also rescinding inactive administrative rules associated with the Minority Set Aside Review Board which was repealed in 2004 in HB 216 of the 125<sup>th</sup> Ohio General Assembly.

In addition to the new rules, DAS' Equal Opportunity Division created a hotline to report possible fraud or abuse in the MBE, EDGE, WBE, and Veteran-friendly Business Enterprise programs.

Tips about alleged violations may be reported to the toll-free hotline by calling 1-888-623-8477 (MBE-TIPS). Callers have the option to remain anonymous. Businesses that violate certification laws or rules risk decertification and the loss of business opportunities.

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