



## Department of Administrative Services

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Matt Damschroder, Director

March 20, 2020

RE: Proposed Changes to Rules for MBE, EDGE, and WBE Certification Programs

You are receiving this message pursuant to the requirements of R.C. 121.83, which requires state agencies, including the Ohio Department of Administrative Services (DAS), to draft rules in collaboration with stakeholders, assess and justify any adverse impact on the business community (as defined by R.C. 107.52), and provide opportunity for the affected public to provide input on the rules.

Section 123.151 of the Revised Code creates a business assistance program known as the Minority Business Enterprise program, commonly referred to as the “MBE” program, and authorizes the Director to adopt rules in accordance with Chapter 119 of the Revised Code to administer the program.

Section 123.152 of the Revised Code creates a business assistance program known as the Encouraging Diversity, Growth, and Equity program, commonly referred to as the “EDGE” program, and authorizes the Director to adopt rules in accordance with Chapter 119 of the Revised Code to administer the program.

The MBE and the EDGE programs have been in existence for a number of years, and there are currently two chapters in the Revised Code that set forth rules promulgated in accordance with these statutes, Administrative Code Chapters 123:2-15 and 123:2-16.

Last year, the General Assembly enacted Section 123.154 of the Revised Code, which creates a new business assistance program known as the Women-owned Business Program, commonly referred to as the “WBE” program, and authorizes the Director to adopt rules in accordance with Chapter 119 of the Revised Code to administer this new program.

In accordance with the requirements of five-year rule review and to enact rules to administer the new WBE program, DAS has drafted one new chapter of rules, Administrative Code Chapter 123:2-14, to administer all three business assistance programs. The rules establish, among other things, the criteria and qualifications for participation in the programs; procedures by which a business may apply for certification; the procedure for determining agency procurement goals for contracting with EDGE businesses; and standards to determine when a business no longer qualifies for certification. Many of the provisions of these rules are the same as those that currently exist for the MBE and EDGE programs, although some provisions have changed.

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Highlights of the proposed rules include:

**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 EOD to identify comparable, pre-verified third-party certifiers in order to expedite some MBE and WBE certifications based on certifications by these other entities, 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 successful business owners 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 issued by the DAS Equal Opportunity Division (EOD). This helps ensure they are participating in contracts within their area of expertise.
- Companies will be required to submit additional financial, business, and net worth documents at the time of recertification.
- In addition to recertification requirements, certified companies will need to re-apply with an application, all required supporting documentation, and an interview every cumulative six years to demonstrate continued program compliance and eligibility.

You can review these documents at the following links: [the proposed rules](#), [the related proposed rescissions](#), [the rules summary sheet](#), and [the Business Impact Analysis](#); each of these can also be found on the Equal Opportunity Division's webpage at [www.das.ohio.gov/eod](http://www.das.ohio.gov/eod).

If you wish to comment on the proposed rules or the Business Impact Analysis, please send your comments to the Equal Opportunity Division of the Department of Administrative Services at [das.mbe-edge@das.ohio.gov](mailto:das.mbe-edge@das.ohio.gov), copying the Common Sense Initiative Office at [CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov) by 5:00 p.m. April 20, 2020.

Thank you.

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Ohio Department of Administrative Services