

FAQs Regarding Contract Compliance Requirements for Municipalities
For Municipal Public Works Contracts
Under June 2015 Special Session P.A. 15-5

1. What municipal contracts are covered by the new contract compliance requirements effective October 1, 2015?

Municipal Public Works contracts funded in whole or in part by the state are the contracts subject to the contract compliance requirements and set-aside goals. Other municipal contracts are not subject to the new requirements.

2. How can a municipality meet contract compliance requirements and set-aside goals?

The municipality solicits bids for a General Contractor (GC) or a Construction Manager at Risk (CMR). It is the GC or CMR that is responsible for meeting the set-aside goals and vetting the SBE/MBE subcontractors.

Municipalities must include contract compliance and set-aside language in all bid documents for a municipal public works contract to inform contractors of their obligation to meet contract compliance requirements and demonstrate good faith effort to achieve set-aside goals. All contracts must also contain contract compliance and set-aside language. It is the CONTRACTORS' responsibility to meet the requirements.

3. If a municipal public works contract is contracted for less than \$50,000 and change orders push the contract value greater than \$50,000 will the set-aside requirements apply?

Projects under \$50,000 are not subject to set-aside requirements. Change orders that increase a contract over \$50,000 may be subject to further review by the CHRO when the change orders substantially increase the value of the contract.

If the contract is less than \$50,000 a municipality must still include the anti-discrimination language in the contract.

4. How often would municipalities be required to report to CHRO?

Municipalities should contact CHRO:

- **When a municipal public works contract is funded in whole or in part by the state**
- **When the municipality has a pre-bid meeting for the public works project**
- **When the municipality selects a bidder**

5. Since the state is requiring the municipalities to use subs on the DAS SBE/MBE Certification list, is there any kind of vetting for those subs and are there enough businesses to meet the increased demand?

There is no requirement that a municipality use subcontractors on the DAS certification list.

It is the GC or CMR that is responsible for vetting the subcontractors and making a good faith effort to meet the set-aside goals.

Any small or minority owned business that is currently doing business with a municipality should be encouraged to apply to DAS for SBE/MBE certification. There is no charge for Certification.

6. Is there any provision to waive the requirement where a good faith effort is made, however, no contractor is available to complete the work during a schedule for a specific project?

Good faith effort is mandatory and cannot be waived; however, there are no quotas. Factors such as non-availability can be considered in evaluating good faith effort.

7. Please explain the process as it applies to the exemption for agencies that already have an established set-aside program.

The only municipalities with an established set-aside program are Hartford, New Haven and Bridgeport. Only these cities are currently exempt from the program.

8. How will requirements apply; to municipalities when using state contracts or other cooperative contracts such as EZIQC for construction?

Any on-call or eziQC contracts in use at this time are not subject to the new requirements.

9. What constitutes a “good faith effort” by contractors?

Contractors awarded a municipal public works contract under the new law must file an Affirmative Action Plan or a Set-Aside Plan with CHRO. CHRO staff reviews these plans to ensure contractors are in compliance with contract compliance requirements. To determine good faith effort to meet the set-aside goals, CHRO reviews the procedures used to solicit bids from SBE and MBE certified contractors for the projects by examining the trades required on the

project, the list of contractors solicited for bids, the location of the project in relation to the subcontractors solicited and other project-specific factors.

10. Is there specific language that must be included in the bid documents and contracts?

YES. The language will be available on the CHRO website.

11. Are there specific forms that must be completed?

YES. The forms are available on the CHRO website.

12. There appear to be conflicting views on how to calculate the set-aside. Please explain the requirements using an example with funds to show how contractors must comply.

The law requires set-asides be placed on the portion of a municipal public works contract that is funded by the state; however, many awarding agencies and contractors choose to calculate the set-aside requirements based on the total value of the contract regardless of funding source(s). The CHRO encourages municipalities to find ways to maximize the diversity of the workforce so job opportunities are opened for small business, minority business, women's business, and disability-owned business enterprises.

Please see example of calculation for set-aside below using the statutory formula on the next page:

**EXAMPLE OF VALUES FOR SET-ASIDES ON CONTRACTS
FINANCED BY STATE FUNDS**

EXAMPLE 1:

CONTRACTOR: XYZ BUILDING CONTRACTORS

CONTRACT VALUE: \$600,000

SBE SET-ASIDE PERCENTAGE: 25%

SBE SET-ASIDE VALUE \$150,000

OF WHICH

MBE SET-ASIDE PERCENTAGE: 6.25% (25% OF THE 25% SET-ASIDE)

MBE SET-ASIDE VALUE: \$37,500

SBE PLUS MBE SET-ASIDE \$150,000

EXAMPLE 2:

CONTRACTOR: ABC BUILDING COMPANY (DAS CERTIFIED SBE)

CONTRACT VALUE: \$400,000

SBE SET-ASIDE PERCENTAGE: 25%

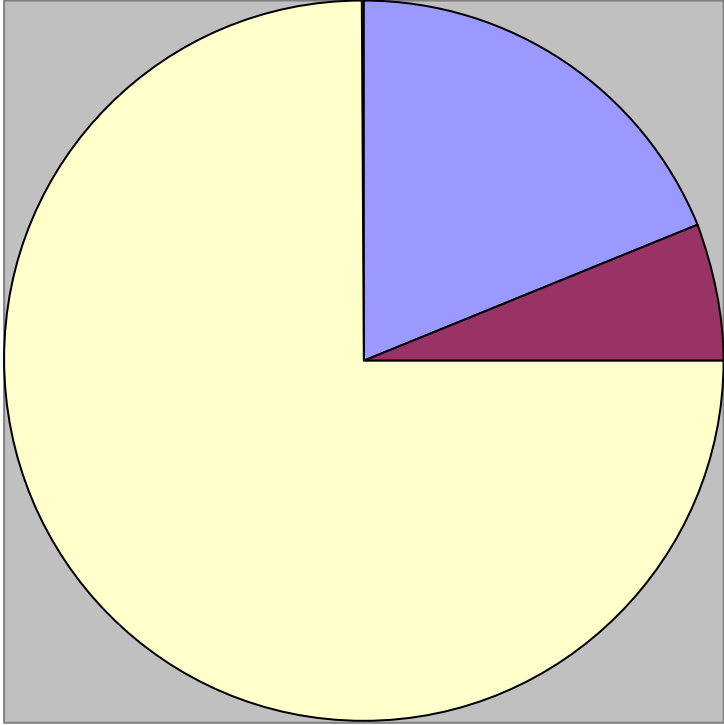
SBE SET-ASIDE VALUE \$100,000

OF WHICH

MBE SET-ASIDE PERCENTAGE: 6.25% (25% OF THE 25% SET-ASIDE)

MBE SET-ASIDE VALUE: \$25,000

SBE PLUS MBE SET-ASIDE \$100,000



- SBE VALUE
- MBE VALUE
- TOTAL VALUE

SBE + MBE = 25%