



# Sheltered Markets Annual Report

Business Enterprise Program: Executive Order 2016-08

*"To promote and support the economic development of minority-, woman-, and persons-with-disabilities- owned businesses and their participation in the State's overall procurement process."*

**Illinois Department of Central Management Services**

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Acting Director: Tim McDevitt

Deputy Director, Business Enterprise Program: Cate Costa

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**Table of Contents**

Introduction.....3

Implementation of Disparity Study Recommendations.....4

    Mentor Protégé Program.....4

    Electronic Contracting and Goal Setting.....6

    Financial Assistance.....8

    Procurement Forecasting.....9

    Increased Information.....10

    Remove Barriers.....10

Sheltered Markets Initiative.....11

Conclusion.....13

### Introduction

Since 1984, the State's Business Enterprise Program (BEP), housed in the Department of Central Management Services (CMS), has worked to eliminate barriers in State contracting for minority-owned businesses (MBEs), woman-owned businesses (WBEs), and persons-with-disabilities-owned businesses (PBEs). In partnership with the Office of the Governor, State Chief Procurement Officers (CPOs), and the State's agencies and institutions of higher education, BEP continues to expand and improve its offerings to better serve M/W/PBEs and the residents of Illinois.

As part of that commitment to continued improvement and in response to the findings of the 2015 Disparity and Availability Study, Governor Rauner signed Executive Order 2016-08 on July 13, 2016. The Executive Order reiterates the State's commitment to equity in contracting and mandates a number of actions identified as necessary to the continued pursuit of that goal. This report highlights those mandates and provides an update on BEP's progress thus far in their implementation.

### Implementation of Disparity Study Recommendations

#### **Mentor Protégé Program**

*“CMS shall develop a Mentor/Protégé program to foster the development and mentoring of minority and female owned businesses. This program will pair BEP businesses with more experienced businesses to create mutually beneficial relationships. Protégés may receive financial, technical, or management assistance in obtaining and performing State contracts, while mentors may receive credit toward BEP goals that have been placed on their contracts in addition to other incentives.”*

As described in detail in the 2017 Sheltered Markets Annual Report, BEP is currently implementing a three-phase development process for the Mentor Protégé Program (MPP) including 1) Outreach Strategy; 2) Language and Structure; and 3) Implementation.

#### Outreach Strategy

During FY17, BEP launched a series of events including industry-specific education and networking events, train the trainer workshops, and BEP certification and compliance trainings.

- Industry specific education and networking events allow prime contractors and subcontractors in a particular industry to come together, network, and develop partnership opportunities for future procurements
- Train the trainer workshops allow BEP staff to share knowledge of BEP and its certification process with entrepreneurship support professionals, like coaches and consultants at community based organizations, so that business owners can receive training about BEP even when BEP staff are not available
- Certification and compliance trainings teach vendors about the BEP certification process and how to remain compliant with any BEP goals on contracts

In FY18, BEP continued to build partnerships, both within and outside of the State, to further develop its network of BEP certified vendors and prime vendors who may be good candidates for participation in the MPP. BEP’s expanded outreach strategy includes partnerships with other State agencies, CPOs, the Office of the Governor, community-based organizations, and State-supported Small Business Development Centers (SBDCs) across the State. It ensures that all internal and external stakeholders, not just current BEP certified vendors, understand the program as well as how and why they should participate. It also expands BEP’s reach while maintaining the quality and effectiveness of the event types above.

Some of the organizations that BEP partners with include:

- Chicago Urban League
- Women’s Business Development Center
- Chicago Minority Supplier Development Council
- Chicago Housing Authority
- Illinois Department of Commerce and Economic Opportunity
- City of Chicago

- Government Procurement Compliance Forum
- State of Illinois CPOs
- Quad County Urban League
- Bethel New Life
- Project Hood
- Little Village Chamber of Commerce
- Construction Business Development Center

On average, the BEP team participates in 8 events per month with a combined attendance of more than 800. Additionally, BEP is currently researching its options for creating and streaming on demand webinars that would be available 24 hours per day, 7 days per week, regardless of geographic location.

While this outreach stretches beyond the specific focus of identifying potential mentors and protégés, this more strategic approach to outreach helps to create the networks necessary to successfully launch an MPP.

### Language and Structure

In FY18, BEP moved beyond the outreach strategy and began to examine options for the structure of the program. BEP staff researched various mentor protégé programs in order to determine best practices and to benchmark mentor incentive structures. A special thanks should be given to Gustavo Giraldo and Paul Cerpa of the Illinois Tollway for their generosity and willingness to help as the expertise of the Illinois Tollway and its learnings from the development and implementation of its Partnering for Growth Program were invaluable to the development of BEP's proposed program.

Despite initially targeting six industries for the launch of the MPP, BEP determined that it will launch the MPP as a small, focused, pilot program within professional services. Additionally, the development of the MPP and the industry within which its pilot will be hosted will be determined as part of a larger strategic evaluation, which BEP is undertaking in FY19. In this evaluation, State spend will be examined across categories to identify areas where more BEP vendors must be identified and certified, areas where current BEP vendors require additional coaching to increase their ability to perform on State contracts, and areas where current BEP vendors are qualified as prime contractors but are missing out on procurement opportunities.

The evaluation process will be structured as follows:

1. Identify the Detailed Object Codes (DOCs) within which there is the least (by percentage) BEP spend
2. Determine the primary cause of the low BEP spend in each DOC:
  - A. Lack of BEP certified vendors
  - B. Availability of BEP certified vendors but BEP firms lack the capacity to serve as prime contractors and primes have identified reasons why they cannot use these vendors as subcontractors

### C. Availability of BEP certified vendors capable of serving as prime contractors

BEP will then develop an outreach strategy to target vendors that work in the DOCs in category A, implement the MPP in those DOCs in category B, and recommend the creation of sheltered markets in those DOCs in category C.

While much of the groundwork has been laid, BEP is still in the process of finalizing the structure of the MPP. In order for the MPP to launch successfully, BEP will need the following additional resources:

- Support of CPOs – Any creation of an MPP will require the full support of all State CPOs in order to ensure compliance with both the Procurement Code and BEP Act as well as to ensure that Agency Procurement Officers (APOs) and BEP Liaisons are provided with the necessary support to accommodate MPP proposals, if they are included, as part of the bid process
- MPP Coordinator – A successful MPP will require at least one full-time staff person to manage the following activities:
  - Recruitment of new mentors and protégés
  - Selection of contracts on which MPP participation might be appropriate
  - Review of MPP proposals and documentation
  - Monitoring of MPP agreement compliance
  - Tracking and evaluation of BEP vendor outcomes
  - Expansion of program and selection of additional industry focus areas

### Implementation

Once the details of the MPP have been finalized, a roll-out schedule will be developed and shared with the BEP Council.

### Electronic Contracting and Goal Setting

*“CMS shall implement an electronic contract data collection and monitoring system to track certain data included in State contracts relating to the utilization of BEP firms. This will increase transparency and access for vendors and ensure that the program meets best practices... [Additionally,] CMS shall review the process for placing BEP goals on State contracts using the availability estimates in the 2015 Disparity Study. CMS shall reform its goal setting procedures accordingly and implement recommendations included in the Disparity Study to improve the process.”*

In 2016, BEP transitioned to an online certification platform that allows vendors applying for certification to upload required documentation directly into the system and to track their applications in real time. The new system also helped the BEP certification team to decrease the median application processing time to 8 days, as of May 2018. In FY19, BEP will move its contract goal setting and compliance monitoring onto this same system, B2GNow.

Currently, the goal setting process is handled manually on an Excel template spreadsheet and emailed to an agency's Compliance Coordinator for review. Goals are set on contracts by calculating the availability of BEP certified vendors in the commodity code(s) relevant to the contract divided by the total number of vendors in the commodity code(s):

$$\text{BEP Availability} = \frac{\text{\# of BEP certified vendors in commodity code}}{\text{total \# number of vendors in commodity code}}$$

If a solicitation includes more than one commodity code, the total goal is calculated using a weighted average availability calculation based on the specific commodity codes listed in the solicitation.

For solicitations on which a BEP goal is set, bidders must submit Utilization Plans (U-Plans) detailing how they plan to meet the goal and the U-Plan becomes a part of the contract with the winning bidder. Once the contract is awarded, BEP compliance staff monitor the contract to ensure that the U-Plan is adhered to and that the BEP goal is actually met.

The current contract compliance process relies on BEP being notified of contract awards and manually monitoring compliance through review of payment data from the Office of the Comptroller and calls and/or emails to BEP subcontractors to ensure that they've been included in accordance with the U-Plan.

With the full implementation of the B2GNow system, all of the above activities will be housed within the portal. While the goal setting equation will remain the same, goal setting templates will be replaced with a goal setting tab in the system that will automatically perform the calculation once values are entered. Additionally, agencies, prime contractors, and subcontractors will be required to report work and payments directly in the system, allowing Compliance Coordinators a quick view of where each contract stands without having to manually request updates from vendors. Thus, the transition to B2GNow will allow for more accurate and timely reporting on all contract compliance, but especially on compliance related to the payment of BEP subcontractors by prime vendors. As described above, the current system does not provide BEP compliance staff with consistent visibility into BEP spending with subcontractors, making it more difficult to track compliance both with specific contracts and for agencies overall. The new system will be regularly updated with all information about both prime and subcontracting payments allowing BEP compliance more timely information on compliance and performance.

Additionally, once fully implemented, the system will automate the creation of compliance reports, increasing efficiency and limiting the potential for human error.

The roll-out of the first phase of the B2GNow goal setting and compliance modules is scheduled to begin in early fall 2018 and expected to be fully implemented by the end of CY18.

### Financial Assistance

*“Access to bonding and working capital are the two largest barriers to the development and success of minority businesses. CMS shall take steps to enhance access to current State-sponsored bonding and financial assistance programs. The State may allocate more resources to such programs to permit larger loans and bonds, helping to increase the capacity of BEP businesses.”*

As part of its expanded outreach strategy, BEP has actively partnered with the Illinois Department of Commerce and Economic Opportunity’s (DCEO) Office of Minority Economic Empowerment (OMEE) to co-host events that provide not only information on BEP certification but also the State’s available options for financing State contracts and supporting the growth of minority-owned firms through its Advancing the Development of Minority Entrepreneurship (ADME) small business development and Advantage Illinois and Fund for the Advancement of Minority Enterprises (FAME) small business loan programs. Together, BEP and DCEO have hosted networking and training events, developed a marketing partnership to cross-promote each other’s events, and regularly refer vendors to one another. In addition, BEP and DCEO are currently exploring ways to highlight each other’s offerings on the programs’ respective websites and developing a capital access map that includes the geographic reach, lending profile, and contact information for small business lenders throughout the State.

The OMEE focuses and promotes opportunities for all minority communities across the state through targeted programs, resources, and advocates. Its goal is to ensure minority enterprises have an equal opportunity to contribute to the growth of the Illinois economy and to serve as an advocate for businesses, entrepreneurs, and start-ups in traditionally economically-disadvantaged groups. The Office administers the ADME program, an investment program developed to strengthen Illinois’ start-up and small business community by tapping into the potential of minority entrepreneurs. The program identifies high-potential minority entrepreneurs and provides start to finish support to help them grow their businesses.

Advantage Illinois works with the state's banking community and venture capitalists to help entrepreneurs and small businesses start up, expand, and create new jobs at a faster rate. As it grows, Advantage Illinois will accelerate investments and ease the credit crunch for small businesses thanks to more than \$78 million from the federal State Small Business Credit Initiative (SSBCI) of the Small Business Jobs Act of 2010. The FAME Program is a dramatic upgrading of the former Minority/Women/Disabled/Veteran Participation Loan Program and provides 50% of an entrepreneur’s overall project cost of a specific loan that DCEO participates in, up to a maximum of \$400,000 of Advantage Illinois funds, with a fixed interest rate on the Advantage Illinois portion set at 2%.

This partnership not only allows for a more complete picture of available resources to business owners who attend these collaborative events but also allows BEP to visit communities of entrepreneurs in areas of the State where BEP may not otherwise have the available funding to visit. BEP and DCEO’s OMEE staff are also jointly developing a capital access map to provide



guidance for BEP certified businesses about the capital access resources available within the State of Illinois based on their financing needs.

In addition to its partnership with DCEO, BEP's outreach team also actively partners with the State's network of SBDCs and community-based organizations, such as the Chicago Urban League and the Women's Business Development Center, to ensure that M/W/PBEs interested in obtaining BEP certification and pursuing State contracts have the necessary technical assistance available to them to help them succeed.

BEP also recently added information about the State's Vendor Payment Program (VPP) to its standard presentation. The VPP is a voluntary program designed to expedite the time frame of payments to State vendors and service providers by partnering with Qualified Purchasers that can provide 90% of the value of a vendor's receivables from an overdue payment on a State contract to the vendor upfront. Participation is simple, secure, and vendors receive 100% of the value of their receivables free of cost.

Finally, the Council is exploring options with the Office of the Comptroller to prioritize and expedite payments to BEP vendors in certain situations.

### **Procurement Forecasting**

*"The ability to plan ahead is critical for small firms, which often lack the resources to respond quickly to new opportunities. CMS shall implement procurement forecasts, whereby State agencies project what they will spend at the general industry level or on specific projects, in order to increase BEP businesses' access to State contracting information."*

In FY18, the BidBuy eProcurement system was fully implemented and provided additional visibility into the procurement process for BEP vendors. Like B2GNow, BidBuy is web-based and available 24/7. State agencies use BidBuy to advertise solicitation opportunities, evaluate bids, and publish contract awards; it replaces the Illinois Procurement Bulletin – General Services (IPB) and links directly with the Illinois Procurement Gateway (IPG). It is designed to streamline service for vendors, increase efficiency, reduce cycle and transactional time, and reduce costs for vendors and the State.

Despite the initial implementation of BidBuy, BEP discovered, through its increased outreach efforts, that many vendors still do not have a complete understanding of the State Procurement Bulletins. This knowledge prompted BEP to adjust its presentation language to ensure that all vendors understand how to access and use all State procurement Bulletin Boards.

In addition, in FY19, BEP is exploring plans to make the annual Compliance Plans submitted by agencies and institutions of higher education publicly accessible on CMS' website. These Compliance Plans set out a spending plan for the upcoming year and identify in which areas the agency or institution expects to be able to achieve spending with BEP certified firms. Some, but not all, of these Compliance Plans include anticipated contracts. In the past, BEP has collected and reviewed these Compliance Plans but did not make them publicly available. By adding

these Compliance Plans to the CMS website so that they're available to BEP vendors, those vendors will have insight into where the agency plans to spend in the upcoming year so that they can be prepared to bid as prime contractors or subcontractors on those projects.

In addition, BEP created a "Did You Know?" fact sheet that details the largest categories within which State spend was slated for BEP certified vendors but was spent with non-BEP businesses due to a lack of availability of BEP certified vendors. This fact sheet is used in BEP's outreach efforts to encourage vendors to participate in the categories where there is the greatest opportunity for incremental spend with BEP certified businesses.

### **Increased Information**

*"CMS shall conduct a review of the time it takes to put bid solicitations out to the public and the period of time in which bidders are required to submit their responses, to find ways to give prime and subcontractors an opportunity to identify partners when bidding on State contracts."*

As noted in last year's report, the implementation of the BidBuy system greatly improved contractors' access to information because the system automatically notifies vendors of State contracting opportunities in the commodity codes relevant to the vendors in real time as soon as they go out for bid. This allows the maximum amount of time for BEP certified vendors and prime vendors to communicate about the opportunity and coordinate a bid. Currently, not all State contracts operate through BidBuy but its footprint is continually expanding to include more agencies and procurements. Once BidBuy is used for all State contracting, both prime contractors and subcontractors will have instant access to all of the information associated with an opportunity as soon as allowable by law.

In addition to the efficiencies provided by BidBuy, BEP also seeks to alleviate issues related to a lack of understanding of how to comply with BEP requirements on a particular solicitation by making compliance staff available for pre-bid conferences. Pre-bid conferences are informational conference calls or public meetings held to inform interested prime contractors and subcontractors about the details of specific State procurements or solicitations, including its BEP requirements. At these pre-bid conferences, BEP will answer any questions related to the proper completion of Utilization Plans and Letters of Intent to ensure that both prime contractors and subcontractors understand how to comply with BEP requirements on the contract.

In order to ensure that BEP vendors have adequate time to collaborate with prime vendors and submit bids, BEP requests that all solicitations remain open for a minimum of 30 days and that a pre-bid conference is held within the first week of the solicitation being posted.

### **Remove Barriers**

*"CMS shall conduct a review of barriers to BEP businesses seeking State contracts, such as current experience requirements and location requirements, in an effort to address unequal access to contracting opportunities created by unnecessary or burdensome standards."*

On May 11, 2018, Governor Rauner issued Executive Order 2018-07. Based on the work of the Fair Practices in Contracting Task Force, the new Executive Order removes many of the barriers to State contracting identified by both BEP Council and the Task Force including:

- Lowering the threshold on contracts to be reviewed by BEP from \$250,000 to \$100,000
- Providing that the contracting agency must cancel any contract deemed non-compliant by both the BEP Secretary and the Director of CMS
- Requiring that CMS provide written guidance on BEP compliance to all agencies and public institutions of higher education
- Changing State contract boilerplate language to clearly state that the contract may be canceled for breach of the BEP utilization portion of that contract

BEP will continue to work closely with the Fair Practices in Contracting Task Force to identify any additional barriers for M/W/PBEs. Some of the barriers that BEP is currently researching and seeking to address include:

- Concerns about prompt payment – Potential solutions include increased visibility with the B2GNow launch, promotion of AI/FAME and VPP, Hardship Letter, Direct Pay
- Concerns about experience requirements on legal services contracts
- Concerns about contract structures that unfairly reduce the ability to set BEP goals

Additionally, in the last Sheltered Markets Annual Report, BEP identified certification processing time and the length of the appeals process as a barrier to contracting. As of May 2018, the average certification processing time is 15 days with a median certification processing time of just 8 days. BEP also successfully updated the Administrative Rules to require that requests for additional information from certification staff occur within 15 days and eliminated the first appeal in the process so that vendors who wish to have their certification denials reconsidered go directly to the Certification Subcommittee instead of having their files reviewed by the BEP Secretary, eliminating a step in the appeals process, which can add up to 60 days to the process.

### **Sheltered Markets Initiative**

*“Sheltered Markets are a procurement procedure in which certain State contracts are selected and specifically set aside for businesses owned and controlled by minorities, females, and persons with disabilities through competitive solicitations. Through this process, Sheltered Markets initiatives work to advance parity in State contracting for these groups. In the spirit of these initiatives, CMS shall review the findings of the 2015 Disparity Report and Availability Study, which examined disparities across different categories of spending. Where sheltered markets could be an appropriate solution to identified disparities in industry-specific areas, CMS shall take appropriate steps for the establishment of sheltered markets...”*

In 1994, the BEP Act was amended to set a framework for establishing sheltered markets as a tool to alleviate discrimination in State contracting. The amended Act authorizes the creation of a sheltered market under the following circumstances:

- The BEP Council may establish sheltered markets if it finds evidence regarding past or present racial-, ethnic-, or gender- based discrimination which directly impacts a State agency or public institution of higher education contracting with firms owned and controlled by minorities, women, and/or persons with disabilities
- The BEP Council may recommend that a State agency or institution of higher education implement any regulations that have been established for the use of the sheltered markets process if it concludes that a compliance plan submitted by a State agency or institution of higher education is unlikely to produce the participation goals for BEP certified businesses within the then current fiscal year
- The Illinois Department of Transportation (DoT) is authorized to establish sheltered markets for the state-funded portions of its construction program consistent with federal law and regulations.

Despite the amendment, the first statewide sheltered market did not occur until 2013 when, after reviewing evidence presented to it, the BEP Council passed the following resolution:

*“The Council finds that there is a strong basis in evidence to determine that discrimination is present in certain sectors of the IT/Telecom industry. The Council does therefore hereby declare that a sheltered market shall exist in those sectors of the IT/Telecom industry where a disparity has been demonstrated.”*

It wasn't until 2016 when CMS, in conjunction with the Department of Innovation and Technology (DoIT), selected the first sheltered market solicitation and awarded a \$4,533,333 contract to a BEP certified MBE.

Having collaborated closely on this first sheltered market award, CMS and DoIT continue to work to strengthen and expand the sheltered markets program and to find additional opportunities for sheltered markets procurements within the IT/Telecom sheltered market. In pursuit of this goal, DoIT has committed to reviewing every solicitation to determine its suitability for a sheltered market procurement.

Additionally, while the framework for sheltered markets was established in the Act, the rules for how it should be implemented were not approved by the BEP Council until June of 2017. This year, CMS successfully petitioned the Joint Committee on Administrative Rules (JCAR) to adopt the proposed sheltered markets rules and those rules will be published within the coming weeks, providing additional grounding for the sheltered markets program. The Administrative Rules seek to:

- set forth the practice and procedures to be followed for the establishment and continuation of narrowly tailored sheltered markets under Section 8b of the BEP Act;
- establish procedures by which the Council consults interested or affected segments of the public;
- enable CMS to fully consider and respond to evidence regarding past or present racial-, gender-, or disability- based discrimination presented to the Council;

- establish cooperation between CMS and other governmental bodies including the BEP Council, the Chief Procurement Offices, and interested State agencies;
- foster openness among CMS, other governmental bodies, and the public; and
- comply with State and federal requirements.

As discussed in the mentor protégé section above, BEP has also created a plan for the strategic evaluation of BEP spend within various Detailed Object Codes (DOCs) and will use this analysis to identify and recommend additional potential sheltered markets to the Council. By examining State spend by commodity code and comparing those data with BEP availability data, BEP will be able to identify industries with large disparities and recommend additional narrowly tailored sheltered markets to the Council for discussion and approval. BEP expects to identify and confirm the next sheltered market by fall of 2018.

### **Conclusion**

BEP continues to work diligently to achieve the goals of the BEP Act and Executive Order 2016-08. In FY18, this commitment was strengthened through BEP's continued progress in implementing the Order's recommendations including:

- Ongoing development of the MPP
- The upcoming launch of the B2GNow goal setting and contract compliance modules
- The expansion of BEP's partnership network, particularly with DCEO's Advantage Illinois team and the State's network of SBDCs to expand BEP vendors' access to capital
- The fruitful collaboration with the Fair Practices in Contracting Task Force, which helps BEP to identify and address additional barriers for BEP contractors in doing business with the State

With the continued commitment of the Office of the Governor, the CPOs, and BEP's volunteer Council members and dedicated staff, BEP looks forward to achieving even more in FY19.

**For additional information about the Business Enterprise Program, please contact Cate Costa, Deputy Director at [Cate.Costa@Illinois.gov](mailto:Cate.Costa@Illinois.gov).**