



**Annual Report  
to the  
Connecticut  
General Assembly  
Regarding  
Contract Compliance  
and  
Small and Minority Owned Business  
Utilization**

**Fiscal Years 2004/2005; 2005/2006; 2006/2007 &  
2007/2008**

Prepared by the Connecticut Commission on  
Human Rights and Opportunities May 2009

# **Annual Report to the Connecticut General Assembly Regarding Contract Compliance and Small and Minority Business Utilization for Fiscal Years 2004/2005; 2005/2006; 2006/2007; 2007/2008**

## **INTRODUCTION**

The Connecticut Commission on Human Rights and Opportunities (Commission) is the State of Connecticut's chief civil rights law enforcement agency. The Commission is responsible for reviewing, monitoring, and enforcing the state's equal opportunity, affirmative action, and contract compliance laws. In addition, pursuant to CONN. GEN. STAT. § 46a-56(a)(6), the Commission must "compile data concerning state contracts with female and minority business enterprises and submit a report annually to the General Assembly concerning the employment of such business enterprises as contractors and subcontractors."

Agencies and political subdivisions of the state other than municipalities are responsible for the execution of several state laws that require the implementation of affirmative procurement programs. These laws--the Contract Compliance Law, CONN. GEN. STAT. § 4a-60, and the Set-Aside Program for Small Contractors, Minority Business Enterprises, Individuals with a Disability and Nonprofit Corporations Law, CONN. GEN. STAT § 4a-60g--require state agencies and political subdivisions other than municipalities, among other responsibilities, to:

- Exert "good faith efforts" to aggressively solicit the participation of contractors in protected classes;
- Assure that contractors, through their actions, have exhibited "good faith efforts" to include protected classes as contractors and subcontractors and suppliers of materials;

- Establish and implement within the agency a contract set-aside program for small contractors and minority business enterprises; and
- Submit a report establishing small and minority business set-aside program goals for each fiscal year to the Commission, Department of Administrative Services (DAS) and co-chairs and ranking members of certain committees of the General Assembly.

The Contract Compliance Law and the Set-Aside Program for Small Contractors, Minority Business Enterprises, Individuals with a Disability and Nonprofit Corporations Law (Small Contractor Set-Aside Law) were enacted to help provide economic development and to ensure that small and minority-owned businesses enter into the mainstream of economic commerce.

This report by the Commission is submitted to the General Assembly as an overview of the participation of small and minority-owned businesses for fiscal years 2004/2005; 2005/2006; 2006/2007; and 2007/2008. Please note that the Contract Compliance/Affirmative Action Unit--the Unit of the Commission that approves, disapproves and monitors contractor Affirmative Action Plans--was dismantled in 2003 and was reinstated in 2005. The Commission offers this reason for the lapse in time in submission of this report and regrets the delay.

## **SCOPE OF GOVERNING LAWS**

### ***Contract Compliance Law***

Pursuant to CONN. GEN. STAT. § 4a-60, the purpose of the Contract Compliance Law is to ensure nondiscrimination and affirmative action provisions are included in all contracts of the state and political subdivisions other than municipalities. Contractors agree to not discriminate on the basis of race, color, religious creed, age, marital status (including civil union status and same-sex marriage status), national

origin, ancestry, sex, sexual orientation (pursuant to CONN. GEN. STAT. § 4a-60a), mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown that such disability prevents performance of the work involved in their employment subcontracting practices. If the contract is for a public works contract, the law also requires state agencies to aggressively solicit the participation of minority- and women-owned businesses as bidders, contracts, subcontractors, and/or suppliers of materials for state contracts.

### ***Set-Aside Program for Small Contractors***

Pursuant to CONN. GEN. STAT. § 4a-60(g), the Minority and Small Contractors' Set-Aside Program (Program) was established for the purpose of assuring that Connecticut small and minority-owned businesses have an opportunity to bid on a portion of the state's purchases. This Program is a contract award preference program for state-based small contractors. CONN. GEN. STAT. § 4a-60g(a)(1) defines a small contractor (SBE) as a company that has been in business for at least one (1) year, is domiciled in the State of Connecticut, and whose prior year's gross revenue did not exceed \$15,000,000.\* A minority business enterprise (MBE) is defined as a small contractor--that is, 51% owned by a person or persons who are members of a minority or have a disability--who exercises the operational authority over the daily affairs of the business, has the power to direct the policies and management, and receives the beneficial interests of the business.

\*Prior to January 1, 2008, to be considered a DAS Certified SBE, a contractor could not exceed \$10,000,000 in gross revenue for the prior year pursuant to CONN. GEN. STAT. 4a-60(g).

Under the law, each state agency and political subdivision of the state other than a municipality with a contracting budget over \$10,000 must establish and implement on an annual basis a contracting program for small and minority business enterprises. Each agency covered by the law must establish an annual goal that should not be less than 25% of the of the total contracting value in each fiscal year to companies that are certified small contractors; and 25% of that amount (or 6.25% of the total agency contracting) must be directed to companies who are certified minority business enterprises.

## **FINDINGS AND OBSERVATIONS**

### ***Calculation of Numeric Information***

Pursuant to CONN. GEN. STAT. § 4a-60g, each state agency and political subdivision of the state other than a municipality is required to prepare a report establishing an annual contracting/purchasing goal for small contractors and minority business enterprises for each fiscal year (July 1 through June 30). The information is to be provided on a quarterly basis and is reported on the Department of Administrative Services' Business Connections, Small Business and Minority Business Enterprise Utilization Report (Form), where it is submitted to both the Department of Administrative Services (DAS) and the Commission. Information regarding expenditures for purchases and contracts for DAS Certified Minority Business Enterprises (MBE) on the Form was captured pursuant to P. A. 93-409:

- a. Black Americans, including all persons having origins in any of the Black African racial groups not of Hispanic origin;
- b. Hispanic Americans, including all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture of origin;
- c. Iberian Peninsula, all persons having origins in Portugal, regardless of race;

- d. Asian Americans;
- e. American Indians, and persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliation through membership and participation or community identification;
- f. Women; and
- g. Individuals with Disabilities.

This Form is used by state agencies to recognize the small business enterprise contractors and minority business enterprise contractors from which the agency purchased goods, services or supplies through the contract set-aside program and/or through the “good faith efforts” which were used by the agency to attract, solicit and contract with minority business enterprises for purchases and contracts that did not contain contract set-aside provisions. Please note that for the purposes of this Report, the “good faith efforts” section of the Form which pertained to non-DAS Certified MBE’s were not factored into the calculations.

Also for purposes of this report, information was captured and reported in the following manner:

1. Each agency that reported information on the Form in the final quarter (June 30) of the respective year, *Year to Date* section was utilized;
2. Minority owned businesses (i.e.: Black, Hispanic, Iberian Peninsula, Asian American and American Indian/Native American) were all captured and reported as “MBE”;
3. Women-owned businesses were all captured and reported as “WBE”. Please note however, that WBE’s are also MBE’s; and
4. Persons with Disabilities were captured and reported as Disabled Business Enterprise (DisBE).

## ***Agency Reporting***

Currently there are 90 state agencies--including individual state colleges/universities and constitutional offices--and 33 political subdivisions that are under the provisions of the Contract Compliance Law, pursuant to CONN. GEN. STAT. § 4a-60g. These agencies and political subdivisions are required to report to the Commission and to DAS their contracting practices as it pertains to minority business enterprises and women business enterprises. A summary of information by state agencies that reported minority and women business enterprise contracts is attached to this Report.

Please note that the majority of the political subdivisions did not report to the Commission or DAS and therefore will not be included in this Report. In accordance with an April 30, 2008 ruling by the state's Attorney General, political subdivisions are now required to report their set-aside program goals beginning July 1, 2008 to DAS and the Commission. Additionally, please note that within the timeframe on which the Commission is reporting (2004-2008), there have been additions, deletions and name changes to several of the state agencies.

For functions of business ownership, Connecticut laws include businesses owned by women and individuals with a disability within the definition of minority business enterprise. For the purpose of this Report however, women business enterprises and persons with disabilities are separated from minority business enterprises. The term minority owned business will include businesses with 51% or more ownership by persons who are Black, Hispanic, Native American, Asian American, or have origins in the Iberian Peninsula. The term women business enterprise includes businesses owned by women regardless of race or origin. The term disabled business

enterprise includes businesses owned by persons with a disability regardless of race or origin.

Additionally, information was reported and collected where it was available. Please note that not all agencies and political subdivisions reported their SBE and MBE procurement practices to DAS or the Commission and the information submitted by the agencies or political subdivisions was not verified.

The Commission presents its findings, observations and issues of concern regarding the participation of minority, women and disabled business enterprises within the contract and procurement activities of the State of Connecticut for fiscal years 2004/2005, 2005/2006, 2006/2007 and 2007/2008. The findings are based upon the review of information submitted to DAS and the monitoring activities performed by the Commission's Contract Compliance/Affirmative Action Unit. The information is provided in accordance with the fiscal year in which it was reported.

**Fiscal Year Information**

***Fiscal Year 2004/2005***

<b>Business Enterprise Type</b>	<b>DAS Certified</b>	<b>FY 2004/2005</b>	<b>% of MBE Total</b>
Minority Business Enterprise	75	\$8,672,308.97	26%
Women Business Enterprise	114	\$24,000,703.44	71%
Disabled Business Enterprise	4	\$1,022,832.88	3%
<b>MBE Total</b>	193	\$33,695,845.29	100%

For Fiscal Year 2004/2005, the Department of Administrative Services had 193 certified MBE/WBE/DisBEs (or 54.8%) out of 352 certified Small Business Enterprises (SBE) total. Additionally, for this fiscal year \$72,352,726.09 was spent on SBE/MBE/WBE/DisBEs combined, of which 46.6% was spent on MBEs. Please note



that out of the 90 state agencies and 33 political subdivisions, only 69 agencies reported information that was needed for this Report and therefore the above calculations are an approximation.

***Fiscal Year 2005/2006***

<b>Business Enterprise Type</b>	<b>DAS Certified</b>	<b>FY 2005/2006</b>	<b>% of MBE Total</b>
Minority Business Enterprise	33	\$18,446,849.36	24%
Women Business Enterprise	63	\$57,418,615.52	74%
Disabled Business Enterprise	2	\$1,710,793.59	2%
<b>MBE Total</b>	<b>97</b>	<b>\$77,576,258.47</b>	<b>100%</b>

For Fiscal Year 2005/2006, the Department of Administrative Services had 97 certified MBE/WBE/DisBEs (or 53.3%) out of 182 certified Small Business Enterprises (SBE) total. Additionally, for this fiscal year \$207,292,538.77 was spent on SBE/MBE/WBE/DisBEs combined, of which 37.4% was spent on MBEs. Please note that out of the 90 state agencies and 33 political subdivisions, only 72 agencies reported information that was needed for this Report and therefore the above calculations are an approximation.

***Fiscal Year 2006/2007***

<b>Business Enterprise Type</b>	<b>DAS Certified</b>	<b>FY 2006/2007</b>	<b>% of MBE Total</b>
Minority Business Enterprise	101	\$9,017,839.73	26%
Women Business Enterprise	158	\$24,510,109.56	71%
Disabled Business Enterprise	2	\$1,240,009.98	3%
<b>MBE Total</b>	<b>261</b>	<b>\$34,767,959.27</b>	<b>100%</b>

For Fiscal Year 2006/2007, the Department of Administrative Services had 261 certified MBE/WBE/DisBEs (or 58.4%) out of 447 certified Small Business Enterprises

(SBE) total. Additionally, for this fiscal year \$89,817,596.82 was spent on SBE/MBE/WBE/DisBEs combined, of which 38.7% was spent on MBEs. Please note that out of the 90 state agencies and 33 political subdivisions, only 69 agencies reported information that was needed for this Report and therefore the above calculations are an approximation.

***Fiscal Year 2007/2008***

<b>Business Enterprise Type</b>	<b>DAS Certified</b>	<b>FY 2007/2008</b>	<b>% of MBE Total</b>
Minority Business Enterprise	259	\$4,121,643.56	15%
Women Business Enterprise	410	\$22,505,618.26	82%
Disabled Business Enterprise	7	\$817,601.60	3%
<b>MBE Total</b>	<b>676</b>	<b>\$ 27,339,804.92</b>	<b>100%</b>

For Fiscal Year 2007/2008, the Department of Administrative Services had 676 certified MBE/WBE/DisBEs (or 56.1%) out of 1205 certified Small Business Enterprises (SBE) total. Additionally, for this fiscal year \$132,755,500.81 was spent on SBE/MBE/WBE/DisBEs combined, of which 20.6% was spent on MBEs. Please note that out of the 90 state agencies and 33 political subdivisions, only 60 agencies reported information that was needed for this Report and therefore the above calculations are an approximation.

Please also note that the DAS Supplier Diversity Program Unit encountered a fluctuation in staff that may account for the fluctuation in amount of businesses that were certified as SBE/MBE/WBE/DisBEs. According to the Supplier Diversity Program Unit it had the following employees for the respective years:

- 2004 - 1 Manager, 4 staff;
- 2005 -1 Manager, 2 staff;
- 2006 - 1 Manager, 3 staff (plus 2 more came on mid-year);

- 2007 -1 Manager, 5 staff; and
- 2008 - 1 Manager, 2 staff (1 of the 2 remaining staff is on maternity leave and 3 other staff left).

## **RECOMMENDATIONS**

For the Commission to adhere to the Contract Compliance/Small Contractor Set-Aside Program Laws and to be in compliance pursuant to CONN. GEN. STAT. §46a-56(a)(6), it must have the full commitment of all agencies and the commitment of state leadership. Also, to carry out its responsibilities, the Commission must have the ability, tools, and manpower needed implement its laws. It is therefore the recommendation of the Commission to do the following:

1. Work more directly with other State of Connecticut civil rights agencies such as the Permanent Commission on the Status of Women; the African American Affairs Commission; Asian American Affairs Commission; and the Commission on Latino and Puerto Rican Affairs to ensure persons of protected classes are being represented and utilized in efforts to bring them into the mainstream of economic commerce;
2. Work more directly with the Department of Administrative Services, Supplier Diversity Program to assist more SBE/MBE/WBE/DisBEs in becoming certified;
3. Initiate and complete a Disparity Study as it is needed to document the extent to which MBE/WBE/DisBEs are underutilized and establish set-aside goals that will help correct this underutilization;
4. Provide considerable public outreach to help implement business growth and development;

5. Provide field monitoring to SBE/MBE/WBE/DisBE contractors to ensure that the Contract Compliance and the Small Contractor Set-Aside Program Laws are being fully observed;
6. Provide field inspections of new SBE/MBE/WBE/DisBE contractors to confirm their DAS Certifications are accurate and valid; and
7. Enact legislation that provides a penalty for state agencies that fail to comply with the filing requirements pursuant to CONN. GEN. STAT §4a-60g.

### **CONCLUSION**

Pursuant to CONN. GEN. STAT. §46a-56(a)(6), the Commission must “compile data concerning state contracts with female and minority business enterprises and submit a report annually to the General Assembly concerning the employment of such business enterprises as contractors and subcontractors.” As the state’s chief civil rights law enforcement agency, the Commission is responsible for reviewing, monitoring, and enforcing the state’s equal opportunity (affirmative action) and contract compliance laws. This report was submitted by the Commission to the legislature as an overview of the participation of small and minority owned businesses for fiscal years of 2004/2005; 2005/2006; 2006/2007; and 2007/2008.



**Connecticut  
Commission on  
Human Rights and Opportunities**

21 Grand Street  
Hartford, Connecticut 06106

Telephone:  
(860) 541-3449

Toll Free (CT):  
1-800-477-5737

Fax:  
(860) 246-5419

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