

BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 508  
County of Cook and State of Illinois

RESOLUTION

TO AMEND THE MINORITY AND WOMEN  
BUSINESS ENTERPRISE CONTRACT PARTICIPATION PLAN  
(Originally Resolution No. 17197 Adopted April 1, 1993)

**WHEREAS**, the Board has previously adopted a Minority and Women Business Enterprise Contract Participation Plan (the "Plan") which is currently Appendix 25 to the Board Rules for the Management and Government of the District; and

**WHEREAS**, Section E of the Plan provides for a Target Market Program which shall only be effective when legislation is passed amending the Illinois Community Colleges Act (the "Act") authorizing City Colleges to implement a Target Market Program; and

**WHEREAS**, the Office of the General Counsel and the Office of Intergovernmental Affairs have determined that legislation amending the Act is not required to implement a Target Market Program; and

**WHEREAS**, in order to achieve the goals stated in Section D of the Plan (25% MBE and 7% WBE), the Chancellor recommends that the Board authorizes the implementation of a Target Market Program as provided for in Section E of the Plan; and

**NOW THEREFORE BE IT RESOLVED**, that the Board of Trustees of Community College District No. 508, County of Cook and State of Illinois hereby amends Section E of the Plan by deleting the following parenthetical clause,

"(The below provisions shall only be effective when legislation is passed amending the Illinois Community Colleges Act authorizing City Colleges to implement a Target Market Program.)",

and replacing said clause with the following:

"Effective March 6, 2003, City Colleges of Chicago is authorized to implement a Target Market Program."

**FURTHER RESOLVED**, that except as expressly modified by these resolutions, the Plan remains unchanged and in full force and effect.

March 6, 2003

A handwritten signature in black ink, appearing to be a stylized name, possibly "S. J. ...", written over a horizontal line.

**Student Tuition and Fees****1. Tuition**

	<b>Current</b>	<b>Summer 2003</b>
Credit	\$52	\$61
Pre-Credit	\$0	\$10
Vocational/Technical	\$45	\$61
Continuing Education	\$30	\$61

**2. Out-of-District**

Annually, the out-of-district tuition rate will be calculated as the sum of the current in-district tuition rate and the amount reported as Chargeback Reimbursement per Semester Credit Hour in the "Certification of Chargeback Reimbursement" incorporated in the previous fiscal year's audited financial statements. For Academic Year 2003-04, the calculated out-of-district rate is \$61.00 plus \$151.51 for a total of \$212.51.

**3. Out-of-State**

Annually, the out-of-state tuition rate will be calculated as the sum of the current in-district tuition rate and the amount resulting from dividing the Total Qualified Expenditures reports in the "Certification of Chargeback Reimbursement" incorporated in the previous fiscal year's audited financial statements by the Total Certified Semester Credit Hours reported in the same and subtracting the tuition rate in effect in that fiscal year. For Academic Year 2003-04, the calculated out-of-state rate is \$61.00 plus \$224.04 for a total of \$285.04.

**4. Registration Fees (Non-Refundable)**

	<b>Current</b>	<b>Summer 2003</b>
Credit	\$25	\$25
Pre-Credit	\$25	\$25
Vocational/Technical	\$25	\$25
Continuing Education	\$25	\$25

**5. Activity Fee**

	Current (2002-03)		Proposed (2003-04)	
	Summer	Fall/Spring	Summer	Fall/Spring
<b>Credit</b>				
Full Time	\$50	\$100	\$50	\$100
Part Time	\$25	\$50	\$25	\$50
<b>Pre-Credit</b>				
Full Time	\$50	\$100	\$50	\$100
Part Time	\$25	\$50	\$25	\$50
<b>Vocational/Technical</b>				
Full Time	\$50	\$100	\$50	\$100
Part Time	\$25	\$50	\$25	\$50

**6. Course Fees**

- No change at this time.

**7. Adult Basic Education**

- No change given the current Federal Regulations prohibiting tuition.
- Future review based on changes in legislation.

**8. Student Government Allocation of Tuition**

Per Credit Hour

Current	Summer 2003
	1.0% of tuition
\$.32	\$.61

- Allocation is based on the prior year certified credit hours.
- Student Government Allocation to be set at 1% of tuition. (\$.61 per college credit hour for FY 2004)

23780

17107

BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 508  
County of Cook and State of Illinois

**ADOPTED**  
Board of Trustees of  
Community College District No. 508  
**APR 1 1993**  
COUNTY OF COOK  
AND STATE OF ILLINOIS

RESOLUTION

ADOPT AMENDED DISTRICT MINORITY & WOMEN BUSINESS ENTERPRISE PLAN  
CITY COLLEGES OF CHICAGO  
[Amend Rules of the Board: Article V, Section 5.2 and Appendix IV]

WHEREAS, on November 3, 1988 in Board Resolution No. 13539, the Board of Trustees of Community College District No. 508 [the "Board"] adopted the City Colleges of Chicago Minority and Women Business Enterprise Contract Participation Plan [the "Plan"]; and

WHEREAS, prior to adoption, the Board analyzed purchasing activity and found a dramatic disparity between the percentages of purchases from minority and women business enterprises as compared to their presence in the Chicago business community and in the Chicago population at large; and

WHEREAS, prior to adoption, the Board also analyzed its purchasing procedures and found that artificial barriers prevented the placement of minority and women business enterprises on bidders' lists maintained by the City Colleges of Chicago from which purchases of goods and services are made; and

WHEREAS, prior to adoption, the Board reviewed written testimony and the transcripts of oral testimony from minority and women business persons and organizations on the need for such a Plan; and

WHEREAS, prior to adoption, the Board reviewed written testimony and the transcripts of oral testimony from minority and women business persons and organizations of individual instances of discrimination in the Chicago area; and

WHEREAS, following the Plan's adoption, the United States Supreme Court struck down a minority business enterprise program adopted by the City of Richmond for public construction contracts in J.A. Croson Construction Co. v. City of Richmond clarifying the requirements for a minority and business enterprise plan; and

WHEREAS, the Board adopted Resolution No. 14406 on November 2, 1989 and Resolution No. 15615 on April 5, 1991 directing the Chancellor to appoint outside counsel, Skadden, Arps, Slate, Meagher & Flom, to assist the Chancellor in reexamining the Plan in light of Croson, to gather additional evidence of discrimination against minority and women business persons or organizations in the Chicago area, and to advise the Chancellor on whether the Plan should be modified; and

WHEREAS, the Board has examined and hereby adopts, the District Management Team's report to the Board of Trustees on the District Plan; and

WHEREAS, the Board has examined evidence of past discrimination in the Chicago area presented before the City of Chicago, the Chicago Park District, the Metropolitan Water Reclamation District, and the Chicago Board of Education; and

WHEREAS, the Board finds, based upon evidence it has examined, that minority and women business persons and organizations are underutilized due to the effects of past discrimination in the Chicago area; and

WHEREAS, the Board has considered the viability of race neutral alternatives and has determined that these alternatives alone are inadequate to remedy the effects of past discrimination against minority and women owned business persons or organizations; and

**88780****17107**

RESOLUTION: ADOPT AMENDED DISTRICT MINORITY & WOMEN BUSINESS ENTERPRISE PLAN  
CITY COLLEGES OF CHICAGO

[Amend Rules of the Board: Article V, Section 5.2 and Appendix IV]

Page 2

WHEREAS, the Board has narrowly tailored the amended Plan to better remedy the effects of past discrimination while minimizing its impact upon non-MBE and non-WBE businesses; and

WHEREAS, the Board, through its contracting function, has a significant impact on local economic activity and business development; and

WHEREAS, the lack of equal economic opportunities for women and minorities impedes the economic development of the City of Chicago and adversely impacts upon the tax base of the City from which the Board receives financial support; and

WHEREAS, most minority-owned businesses are located in centers of minority population, and the lack of equal economic opportunities for such businesses contributes to unemployment in such communities; and

WHEREAS, increased economic development and employment resulting from equal opportunities for such businesses contributes to employment in such communities; and

WHEREAS, it is the policy of the Board to insure equal opportunities in employment regardless of race, ethnicity or sex, and further, to promote affirmative actions by employers to achieve equal employment opportunities; and

WHEREAS, the Board is committed to affording equal opportunities to all persons to contract with the Board without regard to race, sex or ethnicity.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of Community College District No. 508, County of Cook and State of Illinois, hereby adopts this amended Minority and Women Business Enterprise Contract Participation Plan to be effective May 1, 1993.

April 1, 1993

23780

M/WBE PLAN  
CCC17107  
-2-

This Plan shall not apply to categories of contracts exempted from competitive bidding under Section 3-27.1 of the Illinois Public Community College Act, 110 ILCS 805/3-27.1. However, the procuring department shall make every good faith effort to conform all such exempted purchases to the goals established in Section D of this Part I. In addition to the good faith effort, City Colleges must solicit at least one M/WBE for a contract bid for all contracts not applicable to the Plan.

This Plan shall not apply to contracts for utility services, postage, instructional services or real estate, nor to the purchase of goods or services from a vendor who is the sole source for those goods or services.

### C. Definitions

As used herein the following words shall have the meanings indicated below unless the context clearly indicates otherwise:

**Board of Trustees or Board** shall mean the Board of Trustees of Community College District No. 508.

**Certified** means any business or individual which has been certified by any approved City agency to be an MBE or WBE and has requested to be placed on the Board's list of certified MBES or WBES.

**Chancellor** shall mean the Chancellor of City Colleges of Chicago or his or her designee.

**City Colleges** shall mean the City Colleges of Chicago.

**Commercially Independent Function** shall mean the execution of a distinct element of work by actual performance, management and supervision.

**Financial and Administrative Services Committee** shall mean the Financial and Administrative Services Committee of the Board of Trustees of Community College District No. 508 or such other committee as the Board of Trustees may from time to time designate.

**General Contractor** shall mean a firm that has entered into a contract with the Board to provide goods or services.

**23780**M/WBE PLAN  
CCC

171074

-3-

**Joint Venture** shall mean an association between two or more independent persons formed to perform a specific contract.

**Minority or Minority person** shall mean a person who is a citizen or lawful permanent resident of the United States, who is a member of an identified racial/ethnic population group, specifically, Black, Hispanic, Asian, or any other racial/ethnic population group that the Chancellor determines, after notice and hearing, to suffer discrimination in the Chicago area and who has participated, or has attempted to participate, in the Chicago area market.

**Person** shall mean a natural person, a partnership, corporation or joint venture.

**Subcontractor** shall mean a person that has entered into a contract with a General Contractor to provide goods or services pursuant to a contract between the General Contractor and the Board.

**Waiver Appeals Committee:** A panel of comprised of the Vice Chancellor of Financial and Administrative Services, and two other persons designated by the Chancellor. No member of the Waiver Appeals Committee may serve on the Waiver Review Committee.

**Waiver Review Committee:** A panel of representatives selected by the Vice Chancellor for Administrative Services and drawn from personnel from Administrative Services, user departments and the Office of Contract Compliance.

**WBE or Women Business Enterprise** shall mean a business that is owned and controlled by a woman or women, that is certified as a WBE as provided in Section A of Part II, and has participated, or has attempted to participate, in the Chicago area market.

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 190 of 358

M/WBE PLAN  
CCC**17107**

-5-

promptly disseminated to all interested bidders/proposers.

#### A. Certification

##### 1. City Colleges' List of Certified Minority or Women Business Enterprises

The Office of Contract Compliance shall maintain a list of businesses that are certified as either MBE or WBE.

The Office of Contract Compliance shall place on this list, upon request, all businesses certified to be an MBE or WBE by approved city, county, and state agencies including, but not limited to, those businesses certified to be MBEs or WBEs by the City of Chicago, the Chicago Regional Purchasing Council, Chicago Transit Authority, and the Metropolitan Water Reclamation District.

The business owners shall also certify that they, individually or through the same or another business, have actively participated, or attempted to actively participate, in the Chicago area prior to November, 1988.

#### B. Methods of Fulfillment of Goals

Unless a waiver is granted, a bidder/proposer must satisfy both the MBE and the WBE goals to be in compliance with this Plan. The various methods that a bidder/proposer may use to comply with the MBE and WBE goals are as follows:

1. The bidder/proposer may be an MBE or WBE. However, the MBE or WBE bidder/proposer would still have to satisfy the other goal.

**Example:** If a contract has an MBE goal of twenty-five (25%) percent and a WBE goal of seven (7%) percent, an MBE bidder/proposer could satisfy the MBE portion of the goal. However, the bidder/proposer would still have to use one of the other methods of fulfillment, such as subcontracting with a WBE, to satisfy the WBE goal.



**88780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page

Print Page

Page 191 of 358

M/WBE PLAN  
CCC**17107**

-6-

2. The bidder/proposer may subcontract a portion of the contract to an MBE or to a WBE, or the bidder/proposer may purchase supplies from an MBE or a WBE.

**Example:** If the bidder/proposer is not an MBE or a WBE and the contract has an MBE goal of twenty-five (25%) percent and a WBE goal of seven (7%) percent, then the bidder/proposer can satisfy the goals by subcontracting at least twenty-five (25%) percent of the contract to MBEs and by subcontracting an additional seven (7%) percent of the contract with WBEs. Another alternative would be for the bidder/proposer to purchase at least twenty-five (25%) percent of the value of the contract from MBEs and to purchase at least seven (7%) percent of the value of the contract from WBEs. Of course the bidder/proposer could combine some purchases and some subcontracting with MBEs and WBEs to reach the applicable goals.

3. The bidder/proposer may joint venture with an MBE or a WBE. The joint venture need not be fifty/fifty (50/50) for the bidder/proposer to receive MBE or WBE credit. The MBE or WBE co-venturer must exercise control, must perform a commercially independent function, and must provide sufficient evidence of the foregoing to the office of Contract Compliance. The joint venture will be given credit to the extent the MBE or WBE co-venturer has ownership and control in the joint venture.

**Example:** If the joint venture is seventy-five (75%) percent owned and controlled by a non-M/WBE and is twenty-five (25%) percent MBE owned and controlled, then the joint venture could satisfy the MBE goal on any contract in which the MBE goal did not exceed twenty-five percent (25%). The joint venture would have to use an additional method to satisfy the WBE goal. If the joint venture is sixty percent (60%) owned and controlled by a WBE and is forty percent (40%) owned and controlled by an MBE, then the joint venture could satisfy both MBE and WBE goals.

### C. MBE and WBE Compliance in Bid or Proposal Documents

#### 1. Specification of MBE and WBE Requirements

MBE and WBE requirements will be specified as special conditions in invitations for bids and bid documents and requests for proposals. This specification will include a listing of all documentation which must be

**28780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 192 of 358

M/WBE PLAN  
CCC**17107**

-7-

submitted at the time of the bid or proposal and will describe the reporting requirements applicable during the contract period.

## 2. Demonstration of MBE and WBE Requirements

The bidder must submit a compliance proposal that demonstrates in detail the manner in which the contract will comply with MBE or WBE requirements. If this is not done, the bid will be deemed not responsible.

- a. Proposed MBEs and WBEs must be identified. Full compliance with goals is required, unless a waiver is obtained. No person can be counted as both an MBE and a WBE for purposes of a single contract.
- b. For purchases under \$5,000, the criterion for determining whether a bidder or proposer is responsible shall be whether the bidder or proposer has put forth every good faith effort to maximize Minority and women participation to meet the applicable goal.
- c. MBEs and WBEs proposed by the contractor for participation in the contract shall, as of the date of the contract, be certified as provided in Section A of this Part II. Unless a waiver is obtained, bids failing to conform to these requirements shall not be deemed to be responsible bids.
- d. The bid or proposed submission, in conjunction with any certification material on file, must demonstrate that the MBEs and WBEs will perform a commercially independent function with respect to the contract being awarded.
- e. An MBE or WBE which has been certified more than six months prior to submission of the compliance proposal may be required to submit an affidavit which either details any change in its circumstances relevant to its certification status or states that there has been no such change.

## 3. Contract Provisions

Material submitted by the contractor as described in Sections 1 and 2 above will constitute the

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 193 of 358

M/WBE PLAN  
CCC**17107**

-8-

contractor's compliance plan and will be incorporated as part of the contract.

All City Colleges contracts will include an obligation on the part of the contractor to pay attorney's fees and costs incurred by City Colleges if it is the prevailing party in litigation by or against it arising from the application of the Plan to the contract. The contract shall also provide for the sanctions provided in Section H.4 of this Part II.

#### 4. Determination of Responsibility

Compliance with MBEs or WBEs requirements will be considered in determining whether the bidder or proposer is responsible. When other aspects of responsible bids are not decisive, the contract shall be awarded to the bidder having the higher level of M/WBE participation. Similarly, when comparing proposals for a contract, the proposed level of M/WBE compliance shall be one of the decisional criteria. A bid or proposal may be rejected in the following circumstances.

- a. After the contractor has been given the opportunity to cure technical deficiencies, as detailed in Section C.5.b. of this Part II, no waiver has been obtained, and the bid or proposal contains an insufficient level of MBE or WBE participation.
- b. The contractor is uncooperative in providing information regarding its MBE or WBE participation efforts.
- c. The contractor provides false or misleading information in its bid or proposal, or in supplements to its bid or proposal.

#### 5. Validation of MBE and WBE Submission Prior to Award of Contract

- a. Initial Review of Submissions. Upon receipt of a compliance proposal, the Office of Contract Compliance shall review it, gather any necessary additional information from the contractor, and make a preliminary determination of whether MBE and WBE requirements are met. If the requirements have been met, the Office of Contract Compliance shall give the final approval to the MBE and WBE submissions.

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 194 of 358

**17107**M/WBE PLAN  
CCC

-9-

b. Opportunity to Cure Technical Deficiencies. If the Office of Contract Compliance makes a determination that proper documentation is missing or incomplete, the Office of Contract Compliance will notify the bidder/proposer of the deficiency in writing or by telephone. The bidder/proposer will be given five (5) business days after notice by the Office of Contract Compliance to cure the stated deficiency.

c. Final Determination. The Office of Contract Compliance shall review the additional information submitted by the contractor, if any, and a render a final determination.

#### 6. Statement of Compliance

All submissions of proposed contracts to the Office of Contract Compliance or to the full Board for approval shall include a statement of the status of compliance of the contract with this Plan.

#### D. Waiver

Waiver of all or part of the goals for contracts, along with aggregating goals per category and adjusting goals per category, shall be the principal means of flexibility within the Plan. Waivers are designed to be used sparingly as exceptions to the general scheme of the Plan. However, waivers must be used as necessary to avoid a rigid application of MBE and WBE goals where such application is not indicated by the realities of the market place.

#### 1. Advance Waiver by Request of Contractor

a. A request for total or partial waiver must be submitted by a contractor with its bid or proposal. The request must state that, despite good faith efforts, the contractor is unable to meet the MBE or WBE goals.

b. Requests for waivers shall be under penalty of perjury, shall be accompanied by supporting documentation and directed to the Office of Contract Compliance, Waiver Review Committee.

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

**23780**Goto Page 

Print Page

Page 195 of 358

M/WBE PLAN  
CCC**17107**

-10-

(i) The Waiver Review Committee shall review all waiver requests to determine whether there is sufficient evidence that despite good faith efforts by the contractor, the contractor is unable to meet the MBE or WBE goal.

(ii) The waiver request must establish by clear and convincing evidence that full compliance with the MBE or WBE requirements is not possible or is economically unreasonable under the circumstances. Generally, evidence of impossibility or economic unreasonableness can include, for example, the contractor's adherence to general affirmative action policies; the contractor's timely notification of Minority and women contract assistance agencies of a solicitation for sub-bids; and the contractor's submission of detailed statement of direct negotiations with MBEs or WBEs for specific sub-bids.

(iii) Credible evidence of agreement by, or intentions of other potential contractors to perform on the contract, if awarded, without the necessity of a waiver from MBE or WBE requirements constitute evidence that MBE or WBE compliance is possible.

(iv) Evidence that price alone influenced a contractor's decision not to utilize MBE or WBE shall not constitute presumptive evidence that MBE or WBE participation in the contract is economically unreasonable, unless the contractor can establish to the satisfaction of the Waiver Review Committee that no reasonable price can be obtained from any MBE or WBE.

(v) The Waiver Review Committee may request from the contractor any information relevant to the waiver request. Failure of the contractor to cooperate in providing requested information in a timely manner is grounds for rejection of the waiver request.

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

**23780**Goto Page 

Print Page

Page 196 of 358

**17107**M/WBE PLAN  
CCC

-11-

(vi) The Waiver Review Committee shall render a prompt written decision stating its reasons for granting or denying a waiver request.

c. Appeals from Denial of Waiver Requests

(i) Any contractor shall have the right to appeal a denial of waiver request by the Waiver Review Committee.

(ii) A notice of intent to appeal and the grounds for any such appeal along with all relevant information and documentation must be received by the Vice Chancellor for Administrative Services, Waiver Appeals Committee within five (5) days of applicant's receipt of the Waiver Review Committee's decision to deny waiver. The notice of appeal shall be addressed to the Vice Chancellor for Administrative Services, Waiver Appeals Committee.

(iii) Upon receipt of the contractor's notice of appeal, the Waiver Appeals Committee shall review the complete file on the matter. Additional information may be requested from the contractor. The Waiver Appeals Committee shall issue a written decision, within ten (10) days of its receipt of the contractor's notice of appeal, either affirming or reversing the Waiver Review Committee's decision.

2. Subsequent Waiver by Request of Contractor

a. During the performance of a contract, a contractor may request a partial waiver from compliance with its MBE or WBE proposal for the following reasons:

(i) Due to substantially changed circumstances it is unable to meet the MBE or WBE goal;

(ii) Despite every good faith effort on the part of the contractor, it is unable to meet the MBE or WBE goals.

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

**23780**Goto Page 

Print Page

Page 197 of 358

M/WBE PLAN  
CCC**17107**

-12-

b. Requests for waiver and review of requests for waiver subsequent to contract award shall be made in accordance with paragraph D.1.a-c. of this Part II.

### 3. Substitution

a. Changes by the contractor of the commitments earlier certified are prohibited. Further, after once entering into each approved MBE or WBE subcontract, the contractor shall thereafter neither terminate the subcontract nor reduce the scope of the work to be performed by the MBE or WBE nor decrease the price to the MBE or WBE without in each instance receiving the prior written approval of the Office of Contract Compliance.

b. In some cases it may become necessary to substitute a new MBE or WBE in order to fulfill the MBE or WBE requirements. In such cases, City Colleges must be given reasons justifying the release by the contractor of prior specific MBE or WBE commitments established in the contractor's bid/proposal, and City Colleges will need to review the eligibility of the MBE or WBE presented as a substitute.

c. Requests for substitution shall be directed in writing to the Office of Contract Compliance, along with reasons justifying such substitution. Stated reasons which would be acceptable include any of the following examples: a previously committed MBE or WBE has rescinded that commitment; a committed MBE or WBE was found not to be able to perform or not to be able to perform on time; a committed MBE or WBE was found not to be able to produce acceptable work; a committed MBE or WBE was discovered later to not be bona fide; an MBE or WBE previously committed at a given price later demands an unreasonable escalation of price. Stated reasons which will not be acceptable include: a replacement firm has been recruited to perform the same work under terms more advantageous to the general contractor; issues about performance by the committed MBE or WBE were disputed (unless every reasonable effort has already been taken to have the issues resolved or mediated satisfactorily); an MBE or WBE has requested reasonable price escalation which may be justified due to unforeseen circumstances.

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 198 of 358

**17107**

M/WBE PLAN

CCC

-13-

d. Requests for substitution shall include the name, address, and principal official of any proposed substitute MBE or WBE and the dollar value and scope of work of the proposed subcontract. The same documentation required of bidders as described in Section C.2. of this Part II should be attached.

e. The Office of Contract Compliance will evaluate the submitted documentation, and promptly respond to the request for approval of a substitution. The response may be in the form of requesting more information, or requesting an interview to clarify or mediate the problem. The Office of Contract Compliance may approve or reject any requests in its entirety, or impose conditions upon any approval. If such substitution would result in failure by the general contractor to fulfill its compliance plan, a request for waiver must be submitted to the Office of Contract Compliance, Waiver Review Committee.

#### 4. Waiver Initiated by City Colleges of Chicago

a. The Chancellor on his or her own initiative may grant a waiver from MBE or WBE requirements to an individual contract upon a determination by the Chancellor that there are insufficient qualified MBES or WBEs available to fulfill such requirements for that particular contract.

b. A determination by the Chancellor to waive MBE or WBE requirements for an individual contract must be stated in writing.

c. Waivers may be partial or total.

#### 5. Additional Criteria

In determining whether to grant a waiver, the decision maker may take into consideration the additional cost which would be incurred by denying the waiver and awarding the contract to the next lowest bidder who has not requested a waiver. Where the Office of Contract Compliance has determined that the lowest bidder is not responsible because a waiver request contained in the bid has been denied, the Office of Contract Compliance may negotiate with the lowest responsible bidder to obtain a lower price.



**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page

Print Page

Page 199 of 358

**17107**M/WBE PLAN  
CCC

-14-

**E. Target Market Program**

[The below provision shall only be effective when legislation is passed amending the Illinois Community Colleges Act authorizing City Colleges to implement a Target Market Program.]

In order to minimize the effect of the amended Plan upon non-MBE and non-WBE business organizations or persons, City Colleges has established a target market program. The target market program will set aside a certain percentage of contracts for MBE and WBE contractors to reduce the required M/WBE participation goals for all other contracts awarded by City Colleges. As the percentage of contract dollars awarded under the target market program grows, the M/WBE contract participation requirements decrease. For example, if City Colleges awards 5% of all contract dollars to MBEs and 2% of all contract dollars to WBEs through the target market program, the M/WBE contract participation requirements for all other contracts awarded by City Colleges would be reduced by this amount. Thus, non-MBE and non-WBE contractors would be required to satisfy a 20% MBE participation requirement and a 5% WBE contract participation requirements with the target market program, not a 25% MBE/7% WBE participation requirement.

a. In January of each year the Chancellor shall estimate the dollar value of all Contracts to be awarded by City Colleges during that year and shall multiply that total by the MBE Target Market Percentage and the WBE Target Market Percentage for that year. Contracts with an estimated dollar value equal to such products shall be set aside (prior to advertisement in the case of Contracts to be awarded by bid) to be let only to qualified MBEs and qualified WBEs, respectively.

b. The Chancellor shall work with the officers, departments and agencies of the City Colleges and the Board to determine the appropriate designation of Contracts as Target Market Contracts. In making annual designation of Target Market Contracts, the Chancellor shall attempt to vary the included procurements so that a variety of goods and services produced by different MBEs and WBEs shall be set aside each year. MBEs and WBEs shall remain eligible to seek the procurement award of Contracts which

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

23780

Goto Page 

Print Page

Page 200 of 358

M/WBE PLAN  
CCC

17107

-15-

have not been designated as Target Market Contracts. The Board shall approve the annual designation of Target Market Contracts.

c. No Contract shall be eligible for inclusion in the Target Market Program unless the Office of Contract Compliance indicates that there are at least three qualified MBES or WBEs able to participate in that type of Contract. The Office of Contract Compliance may develop guidelines to regulate the level of participation of individual MBES and WBEs in the Target Market Program in order to prevent the domination of the Target Market Program by a small number of such entities. Where necessary or useful, the Office of Contract Compliance may require MBES and WBEs to participate in training programs as a condition to participation in the Target Market Program.

d. Participation in the Target Market Program shall be limited to MBES, WBEs and joint ventures consisting exclusively of MBES, WBEs, or both.

e. The Office of Contract Compliance may include in the Target Market Program Contracts which are funded by the State or federal government and may vary the standards of eligibility of the Target Market Program (for example, by allowing the participation of DBEs) to the extent necessary to comply with the requirements of the government agency supplying the funding.

f. If no satisfactory bid or response is received with respect to a Contract which has been designated as part of the Target Market Program, the Office of Contract Compliance may delete such Contract from the Target Market Program, in which case the Contract shall be subject to the requirements of the Plan. In addition, the Chancellor shall thereupon designate and set aside, with Board approval, for the Target Market Program additional Contracts corresponding in approximate value to the Contract which was deleted from the Target Market Program, to the extent feasible.

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

**23780**Goto Page 

Print Page

Page 201 of 358

**17107**M/WBE PLAN  
CCC

-16-

g. In order to facilitate the performance of Target Market Contracts by MBEs and WBEs, the Chancellor may expedite payments under Target Market Contracts, may reduce retainages under Target Market Contracts where appropriate and may pay the Contractor a portion of the value of a Target Market Contract at the time of award as an advance to cover startup and mobilization costs.

**F. Affirmative Action and Technical Assistance**

**1. Affirmative Action**

The Board will take the following affirmative actions to increase MBE and WBE contract participation:

- a. Encouraging joint ventures between non-Minority firms and MBE and WBE contractors on large contracts.
- b. Breaking out contracts into smaller packages to allow for bidding by smaller MBEs and WBEs.
- c. Developing and maintaining the M/WBE Directory and making it available to any interested person during normal business hours.
- d. Advertising invitations to bid, particularly in Minority media, including statements indicating the intent of the Board to encourage MBE and WBE participation.
- e. Advertising generally in Minority media and Minority communities regarding the existence and purposes of this Plan.
- f. Requesting the assistance of other public agencies in referring MBEs and WBEs.
- g. Contacting private sector organizations, including non-profit groups engaged in economic development activities and MBE and WBE trade and commercial associations, and soliciting assistance in obtaining MBE and WBE participation.

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page

Print Page

Page 202 of 358

M/WBE PLAN  
CCC**17107**

-17-

## 2. Technical Assistance

Consistent with available resources, the Office of Contract Compliance may offer technical assistance in complying with this Plan to interested bidder/proposers. Technical assistance may include any of the following:

- a. Assisting bidder/proposers in obtaining certification.
- b. Assisting MBEs and WBEs in obtaining bonding and insurance.
- c. Assisting MBEs and WBEs in submitting bids by offering seminars and training on such topics as bid preparation, City Colleges' purchasing procedures, finance and project management.
- d. Providing review and critique of unsuccessful bids submitted by M/WBEs to identify shortcomings and facilitate submission of successful future bids.
- e. Assisting successful bidders in fulfilling their contract, through guidance on meeting administrative requirements.

## G. Monitoring Contracts

### 1. Record Keeping

The contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, including without limitation, payroll records, tax returns and books of accounts. These records shall be retained for a period of at least three (3) years after final acceptance of the work. Full access to these records shall be granted to the City Colleges, Federal, State or local authorities or any duly authorized representative thereof.

### 2. Inspections

The Office of Contract Compliance shall make compliance reviews including desk audits and on-site inspections of each contract site as it deems necessary.

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 203 of 358

**17107**M/WBE PLAN  
CCC

-18-

### 3. Progress Reports

Contractors shall submit monthly reports throughout the term of the contract as deemed necessary by the Office of Contract Compliance. All progress reports shall be affirmed to or sworn under penalty of perjury.

a. Subcontracting reports shall be submitted on all expenditures made within the reported period. Such reports shall include the following: the name and address of each MBE and WBE involved in the contract, a description of the work performed and product or service supplied with each such MBE and WBE; the total amount subcontracted to MBES and WBES; the dollar amount expended with each MBE and WBE and the date expended; and such other information as may assist the Office of Contract Compliance with MBE and WBE requirements.

b. Progress report shall be subject to review and/or detailed audit by City Colleges by the Office of Contract Compliance and shall be used for measuring the contractor's compliance with the requirements of this Plan. The Office of Contract Compliance shall have the right to request and obtain from the contractor within ten (10) days of the request any and all additional data as the Office of Contract Compliance may determine to be reasonably related or necessary to verify the representation made in the progress reports.

c. Prior to the disbursement of the last ten percent (10%) of the proceeds due under a contract, the contractor shall furnish affidavits from the M/WBE participants averring that they have been paid in accordance with the terms of the contract. Once the affidavits have been received and verified, City Colleges shall release the funds to the contractor.

**23780**

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

Goto Page 

Print Page

Page 204 of 358

**17107**M/WBE PLAN  
CCC

-19-

## H. Remedies for Non-Compliance

### 1. Non-Compliance

Whenever the Office of Contract Compliance believes that the contractor or any of its subcontractors may not be operating in compliance with this Plan, it shall conduct an appropriate investigation.

### 2. Notification

Upon indications of inadequate compliance or non-compliance, the Office of Contract Compliance will notify the contractor and the subcontractor, if applicable, in writing. The Office of Contract Compliance, the contractor or subcontractor may request an opportunity to meet to discuss the contractor's or subcontractor's compliance. The contractor or subcontractor shall make such request to the Office of Contract Compliance in writing within five (5) working days of receiving notice. The meeting shall be scheduled by the Office of Contract Compliance at a reasonable date, time and place, with notice to contractor and subcontractor, if applicable.

### 3. Criteria

If, after notification, the Office of Contract Compliance determines that a contractor is not meeting or has not met applicable MBE or WBE goals and is not demonstrating or has not demonstrated every good faith to meet the goals, the contractor shall be subject to suitable sanctions as set forth in paragraph 4 below.

### 4. Sanctions

a. As indicated in Section C.3. of this Part II, the M/WBE requirements of this Plan shall be incorporated into the contracts between City Colleges and its vendors. In addition to any other remedies City Colleges may have, the following will apply:

(i) Where the Office of Contract Compliance determines the conditions set forth in paragraph 3 above to exist during the term of the contract, the Office of Contract Compliance may recommend that the Board suspend or terminate the contract, in whole or in part, and may also declare the contractor ineligible for future

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

**23780**Goto Page 

Print Page

Page 205 of 358

M/WBE PLAN  
CCC**171074**

-20-

contracts for a period of one (1) or two (2) years. The contractor shall be liable to City Colleges for any consequential damages incurred as a result of suspension or termination of the contract including damages arising either from delay or increased price in securing performance of the work by other contractors, attorney's fees and court costs.

(ii) Where the Office of Contract Compliance determines the conditions set forth in paragraph 3 above to exist at the conclusion of a contract, the Office of Contract Compliance may declare the contractor ineligible for future contracts for a period of one (1) or two (2) years.

(iii) If a contractor has provided false or misleading information in connection with certification, bid or proposal documents, compliance progress reports, or any other aspect of this Plan, the Office of Contract Compliance may impose any of the sanctions described in Section 4.a. and all its subsections.

(iv) If there is a bona fide payment dispute between a contractor and its M/WBE subcontractor for work performed under the Plan, City Colleges may withhold payment of the disputed amount from the contractor and place such funds in an interest bearing account pending resolution of the dispute, by judicial or other means.

b. A contractor shall have the right to appeal a decision from the Office of Contract Compliance declaring it ineligible for future City College contracts. Such appeal shall be made to the Vice Chancellor for Administrative Services, Waiver Appeals Committee in accordance with the procedures for appealing a denial of a waiver request.

c. The failure of City Colleges to impose any sanction it may have under this Section shall not be deemed a waiver of its right to impose such a sanction for subsequent violations. The listing of sanctions available to City Colleges in this Section

MEETING DATE: 04/01/1993 BOARD REPORT: 17107

**23780**

Goto Page

Print Page

Page 206 of 358

M/WBE PLAN

CCC

**17107**

-21-

shall not be deemed to exclude any other sanctions or remedies available at law or in equity.

#### I. Regular Reviews of Plan, Goals and Progress

1. The Chancellor shall report quarterly to the Board on the progress of the Plan. The Chancellor's quarterly report shall include a tabulation of the dollar value of all contracts awarded in each of the categories listed in Section B of Part I above by race, ethnicity and gender. The Chancellor's quarterly report shall contain an assessment of the operation and progress of the Plan, a description of particular problems that have been encountered and recommendations for solutions.

2. The Board shall review the overall operations of the Plan, including issues such as whether modifications should be made to the Plan to better achieve goals; whether specific budget categories should be included or excluded from the operation of the Plan; whether goals for specific categories of contract should be raised or lowered; whether the staffing of the Office of Contract Compliance is adequate; whether the policy of granting waivers should be liberalized or made more restrictive; and, whether the Plan has remedied the present effects of past discrimination and should be discontinued. The Board shall develop an Annual Report of Plan Progress containing a tabulation of the dollar amount of all contracts awarded during the preceding fiscal year by race, ethnicity and gender.

#### J. Duration of the Plan

The Plan shall be reviewed annually by the Board. Except as otherwise provided herein, all changes to this Plan must be approved by the Board. The Board shall determine whether the remedial purposes of the Plan have been achieved or whether there is a continued need for the implementation of the Plan.

#### K. Severability

If any of the provisions of the Plan are found to be invalid or unenforceable for any reason, the remainder of the Plan shall not be affected thereby.