November 2, 2016

ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
MEMORANDUM

TO: Chief Executive Officers, Member Hospitals and Health Systems
    Chief Financial Officers
    Government Relations Personnel

FROM: A.J. Wilhelmi, President & CEO
      Lia Daniels, Policy Manager

SUBJECT: New State Reporting Requirement – Hospital Supplier Diversity

On August 12, the Governor signed House Bill 4370 (Public Act 99-0767), which had passed the House and Senate with large majorities. IHA worked closely with the bill’s primary sponsors, Representative Will Davis and Senator Kimberly Lightford, and hospitals to reach a collaborative solution that encourages and expands construction opportunities for female-owned, minority-owned, veteran-owned and small business enterprises, while ensuring hospitals have flexibility and clear guidance for any new reporting requirements.

**Repealed Policy Mandate**

The 2016 legislation repeals Public Act 99-0315 from 2015 that would have been duplicative, and had previously required hospitals in Cook County to develop internal policies to encourage participation by female-owned, minority-owned, veteran-owned, and small business enterprises in capital projects. Hospitals are no longer required to develop these policies, and instead will focus on public reporting as required in P.A. 99-0767.

**New Reporting Law to Encourage Hospital Supplier Diversity**

Under P.A. 99-0767, required hospital reporting related to supplier diversity is expected to be incorporated into the Annual Hospital Questionnaire administered by the Health Facilities and Services Review Board (HFSRB), which is normally distributed in late winter with a spring completion deadline. The format in which the new reporting will be collected is still in development and will not be required in the Annual Hospital Questionnaire until 2018 at the earliest. A hospital’s first report related to hospital supplier diversity would be for its fiscal year that begins after February 12, 2017. As details emerge related to this reporting, IHA will provide further guidance to its members.

As enacted, the hospital supplier diversity reporting provisions contained in P.A. 99-0767 apply to hospitals with more than 100 beds. As part of the HFSRB’s Annual Hospital Questionnaire, hospitals will:
• **Report a construction-related capital expenditure goal and actual spending for female-owned, minority-owned, veteran-owned and small business enterprises above the capital expenditure threshold, as a percentage of total construction-related capital expenditures reported by the hospital.**
  o Construction-related capital expenditures refer to the erection, building, alteration, reconstruction, modernization, improvement, extension, or demolition of or by a hospital.
  o Contracts or subcontracts for construction-related capital projects with the applicable enterprises would apply toward goals and actual spending.
  o Specific vendor certifications are not required to be recognized in order to justify spending toward applicable enterprises.
  o The goals that are reported are non-binding and are meant to set an annual target.
  o The capital expenditure threshold for reporting construction-related projects is in excess of $200,000 and annually adjusted to reflect the increase in construction costs due to inflation ([20 ILCS 3960/5.3](https://www.illinoislegislation.net/20ILCS3960/2001/3960%20-%20Construction%20Activity%20Reporting%20and%20Contracting%20Incentives%20Act%20-%20Sections%203600%20-%203960)). For the 2016 Annual Hospital Questionnaire, the capital expenditure threshold for reporting was $336,330.

• **List the type or types of construction-related capital expenditures the hospital will be seeking supplier diversity for in the next year.**
  o Types could include general or specific and refer to capital projects in the next fiscal year.

• **Outline a plan to alert and encourage supplier diversity for the next year’s projects.**

• **Provide a list of the certifications the hospital recognizes, process for a vendor to enroll as a female-owned, minority-owned, veteran-owned or small business enterprise and hospital point of contact information for vendors.**
  o Recognizing specific certifications is not mandated of hospitals, but some examples of recognized certifications are as a Women Business Enterprise (WBE), Minority Business Enterprise (MBE), Veteran Business Enterprise (VBE) or Disadvantaged Business Enterprise (DBE).
  o Resources on where to find these certified vendors are listed at the end of this memorandum.

• **Include suggestions for the HFSRB to help better facilitate vendor identification as well as challenges and success stories to encourage best practices.**

**Additional Hospital Reporting Considerations**
If desired, hospitals have the flexibility to report construction-related capital expenditures less than the capital expenditure threshold. Also, health systems can develop a system-wide annual report that includes all hospitals in order to comply with the requirements. The annual reports should include as much state-specific data as possible. However, if the submitting hospital or health system does not submit state-specific data then the entity should include any national
data it has, explain why it could not submit state-specific data and, if possible, how it intends to do so in future reports.

The Role of the Health Facilities and Services Review Board
The HFSRB will publish the annual reports on its website, maintaining them for at least five years. The HFSRB will also publish a database with the point of contact for each hospital for supplier diversity, along with a list of certifications each hospital recognizes. The legislation also expressly provides that the HFSRB shall not inquire about or consider the information provided in these hospital supplier diversity reports when reviewing an application for a hospital permit or exemption, or in taking any other action under the Illinois Health Facilities Planning Act.

The Role of the Department of Central Management Services
Subject to appropriation, the Illinois Department of Central Management Services will hold an annual workshop beginning in 2017 focusing on the state of supplier diversity to collaboratively seek solutions to structural impediments to achieving stated goals, including testimony from subject matter experts.

Resources on Supplier Diversity
Disadvantaged business enterprises (DBEs) are defined as for-profit small business concerns where socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case-by-case basis.

The State of Illinois Department of Central Management Services Business Enterprise Program (BEP) promotes the economic development of businesses owned by minorities, women, and persons with disabilities. Businesses do not need to be certified with CMS’ BEP as a minority owned business (MBE), female owned business (FBE), or disabled-person owned business (PBE) to bid on State of Illinois contracts. Any qualified business can bid for contracts posted to the Illinois Procurement Bulletin. BEP certification is specifically for diverse businesses to compete as sub-contractors.

There are links to directories for registered BEP vendors, small business vendors and veteran-owned small businesses/service-disabled veteran-owned small businesses (VOSB/SDVOSB) vendors on the State of Illinois website, which are free for public use. The directory search can be prioritized by vendor, commodity (service) code, or commodity name, with the user searching the whole state or by region. Other search criteria for the state directories include county, gender, ethnicity and BEP certification code.
Cook County has its own M/W/VBE Certification Directory of businesses that is free for public use. Organizations which identify or certify eligible firms include, but are not limited to, the following agencies and programs:

- **Cook County - Diversity Management System** *(if applicable)*
- **Chicago Minority Business Development Council** *(CMBDC - if applicable)*
- **Women’s Business Development Center** *(if applicable)*
- **State of Illinois – Department of Central Management Services Business Enterprise Program**
  - The Business Enterprise Program promotes the economic development of businesses owned by minorities, women, and persons with disabilities. BEP certification is specifically for diverse businesses to compete as sub-contractors. The goal of the BEP is to foster an inclusive and competitive business environment that will help business enterprises increase their capacity, grow revenue and enhance credentials.
- **State of Illinois – Department of Central Management Services Veteran-Owned Businesses**
- **State of Illinois – Department of Central Management Services Small Business Enterprise Program**
- **National Minority Supplier Development Council Affiliates** *(NMSDC)*
- **Small Business Administration 8(a) Business Development Program** *(SBA-8A)*

Questions or comments for IHA can be directed to Lia Daniels, Policy Manager, at ldaniels@team-iha.org or (630) 276-5461.