

RESOLUTION 2010-217

A RESOLUTION ADOPTING ANNUAL GOALS FOR MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE EXPENDITURES

The Indiana Gaming Commission (“Commission”) adopts the following resolution pursuant to authority granted to it under IC 4-33-14-5(b) and IC 4-35-11-6(b). The following factors have been considered by the Commission:

1. Indiana Code 4-33-14-5(b) and IC 4-35-11-6(b) require the Commission to establish annual goals for operating agents, persons issued an owner’s license, and licensees, as defined in IC 4-35-2-7, for minority and women owned business enterprise expenditures. Those goals must be derived from a statistical analysis of utilization study of licensee and operating agent contracts and purchases for goods and services. The statistical analysis of utilization study must be updated every five (5) years.
2. The Commission contracted with the Center for Urban Policy and the Environment to conduct the utilization study. In conducting the study, the Center for Urban Policy and the Environment analyzed expenditures made by Indiana riverboats and operating agents from January 1, 2003 to December 31, 2005 in four categories: construction, procurement/supplies, professional services, and other services.
3. In September 2007, the Commission established a goal for purchases to women owned business enterprises in the construction category.
4. The Supreme Court has held that a preferential treatment program such as the minority and women owned business enterprise expenditure goals must be narrowly tailored to address the injury it seeks to remedy and that it be based on a statistical evaluation that can withstand strict scrutiny. Accordingly, Commission staff recommends that expenditure goals be set solely in the area in which statistically significant disparity exists.
5. The Commission has tracked expenditures made to minority and women owned business enterprises. During the past two years, expenditures to minority owned business enterprises in the construction category has averaged 12.48%, while minority owned business enterprises represent 23.3% of the firms ready, willing, and able to provide construction services.
6. The Commission contracted with outside counsel, Coleman, Stevenson & Montel, LLP, who has advised the Commission that two years is an appropriate data set for purposes of determining whether it is appropriate to establish a new expenditure goal.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: SCOPE

This resolution applies to Indiana riverboat operating agents and persons issued an owner's license in a county described in IC 4-33-1-1(1), (2), or (3), as well as licensees as defined in IC 4-35-2-7.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-33-2, IC 4-33-14, IC 4-35-11, and 68 IAC apply to this resolution.

SECTION 3: ADOPTION OF MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE EXPENDITURE GOALS

The Commission hereby adopts a minority business enterprise expenditure goal pursuant to Indiana Code 4-33-14-5(b). The annual goals for expenditures to minority owned business enterprises for the purchase of construction goods and services shall be set at 23.2%, which reflects the capacity of minority owned business enterprises ready, willing, and able to provide construction goods or services.

SECTION 4: APPLICATION OF THE STANDARDS

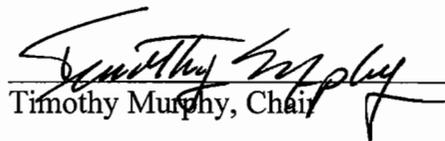
In accordance with Indiana Code 4-33-14 and IC 4-35-11, the minority and women owned business enterprise expenditure goals herein adopted shall be the measure by which Indiana's license owners and operating agents will be judged to determine compliance with IC 4-33-14 and 68 IAC 3.

SECTION 5: EFFECTIVE DATE.

This resolution is effective January 1, 2011.

ADOPTED THIS THE 10th DAY OF NOVEMBER, 2010:

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Marc Fine, Secretary