

1 A bill to be entitled
2 An act relating to the Florida Minority
3 Business Loan Mobilization Program; creating s.
4 288.706, F.S.; providing legislative findings
5 and intent; creating the Florida Minority
6 Business Loan Mobilization Program for certain
7 purposes; providing for program administration
8 by the Department of Management Services;
9 authorizing state agencies to disburse a
10 certain amount of a contract award to assist
11 certain minority business enterprise vendors in
12 obtaining working capital financing;
13 authorizing professional services vendors to
14 apply for a specified percentage of a base
15 contract amount; specifying procedures for the
16 program; providing for working capital
17 agreements and lines of credit; providing
18 requirements and limitations; providing
19 requirements for prime contract vendors;
20 providing requirements for subcontract vendors;
21 providing contracting state agency requirements
22 and limitations; authorizing the department to
23 adopt rules; requiring the department to
24 maintain a listing of participating financial
25 institutions; providing an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 288.706, Florida Statutes, is
30 created to read:

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1 288.706 Florida Minority Business Loan Mobilization
2 Program.--

3 (1) The Legislature finds that it is in the interest
4 of the public welfare to meaningfully assist minority business
5 enterprises that are vital to the overall economy of this
6 state. It is the intent of the Legislature to promote
7 diversity in state contracting by eliminating barriers to
8 minority business enterprises providing goods and services to
9 this state. Finally, the Legislature recognizes the
10 contribution of minority business enterprises to employment
11 opportunities in this state.

12 (2) The Florida Minority Business Loan Mobilization
13 Program is created to promote the development of minority
14 business enterprises, as defined in s. 288.703(2), increase
15 the ability of minority business enterprises to compete for
16 state contracts, and sustain the economic growth of minority
17 business enterprises in this state. The goal of the program is
18 to assist minority business enterprises by facilitating
19 working capital loans to minority business enterprises that
20 are vendors on state agency contracts. The Department of
21 Management Services shall administer the program.

22 (3) Notwithstanding ss. 215.422(14) and 216.181(16),
23 and pursuant to s. 216.351, under the Florida Minority
24 Business Loan Mobilization Program, a state agency may
25 disburse up to 10 percent of the base contract award amount to
26 assist a minority business enterprise vendor that is awarded a
27 state agency contract for goods or services in obtaining
28 working capital financing as provided in subsection (5).

29 (4) Notwithstanding ss. 215.422(14) and 216.181(16),
30 and pursuant to s. 216.351, in lieu of applying for
31 participation in the Florida Minority Business Loan

1 Mobilization Program, a minority business enterprise vendor
2 awarded a state agency contract for the performance of
3 professional services may apply with that contracting state
4 agency for up to 5 percent of the base contract award amount.
5 The contracting state agency may award such advance in order
6 to facilitate the performance of that contract.

7 (5) The following Florida Minority Business Loan
8 Mobilization Program procedures apply to minority business
9 enterprise vendors for contracts awarded by a state agency for
10 construction or professional services or for the provision of
11 goods or services:

12 (a) Upon receipt of an award of a prime contract or
13 subcontract, a minority business enterprise vendor may seek to
14 obtain working capital financing from a participating
15 financial institution. The minority business enterprise vendor
16 shall complete all the necessary requirements of the
17 participating financial institution in order to obtain a
18 working capital agreement. A minority business enterprise
19 vendor shall only be entitled to participate in the program if
20 a working capital agreement is established with a
21 participating financial institution.

22 (b) The working capital agreement may provide for a
23 line of credit that is no less than 125 percent and no more
24 than 200 percent of the designated loan mobilization payment
25 described in paragraph (c).

26 (c) The designated loan mobilization payment is that
27 portion of the base contract award amount that is to be
28 disbursed by the agency under this section. The actual amount
29 of the designated loan mobilization payment shall be no less
30 than \$5,000 and no greater than \$250,000. The amount of the
31 designated loan mobilization payment shall be:

1 1. No less than 5 percent and no more than 10 percent
2 of the base contract award amount between the minority
3 business enterprise prime contract vendor and the contracting
4 state agency; or

5 2. No less than 5 percent and no more than 10 percent
6 of the base contract award amount between a minority business
7 enterprise subcontract vendor and a minority business
8 enterprise or nonminority business enterprise prime contract
9 vendor.

10 (d) The designated loan mobilization payment shall be
11 disbursed pursuant to the working capital agreement and this
12 subsection and shall be made payable by the contracting state
13 agency to the minority business enterprise prime contract
14 vendor and the participating financial institution using the
15 tax identification number of the minority business enterprise
16 vendor that is the debtor under the working capital agreement.

17 (e) The following procedures shall apply when the
18 minority business enterprise is the prime contract vendor to
19 the contracting state agency:

20 1. Pursuant to s. 216.351, the provisions of ss.
21 215.422(14) and 216.181(16) do not apply to this paragraph.

22 2. For construction contracts, the designated loan
23 mobilization payment shall be disbursed when:

24 a. The minority business enterprise prime contract
25 vendor requests disbursement in the first application for
26 payment.

27 b. The contracting state agency has issued a notice to
28 proceed and has approved the first application for payment.

29 3. For contracts other than construction contracts,
30 the designated loan mobilization payment shall be disbursed
31 when:

1 a. The minority business enterprise prime contract
2 vendor requests disbursement by letter delivered to the
3 contracting state agency after the execution of the contract
4 but prior to the commencement of work.

5 b. The contracting state agency has approved the
6 minority business enterprise prime contract vendor's letter of
7 request.

8 4. The designated loan mobilization payment may be
9 paid by the contracting state agency prior to the commencement
10 of work. In order to ensure that the contract time provisions
11 do not commence until the minority business enterprise prime
12 contract vendor has adequate working capital, the contract
13 documents may provide that the contract shall commence at such
14 time as the contracting state agency releases the designated
15 loan mobilization payment to the minority business enterprise
16 prime contract vendor and participating financial institution
17 pursuant to the working capital agreement.

18 (f) The following procedures shall apply when the
19 minority business enterprise is the subcontract vendor:

20 1. For purposes of this paragraph, the term "minority
21 business enterprise subcontract vendor" is limited to
22 subcontractors and suppliers to prime contract vendors that
23 contract with a state agency.

24 2. A designated loan mobilization payment for a
25 minority business enterprise subcontract vendor shall be made:

26 a. Upon approval by the contracting state agency of a
27 letter from the minority business enterprise subcontract
28 vendor and prime contract vendor that requests the designated
29 loan mobilization payment and that indicates that the prime
30 contract vendor is on notice of the request.

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1 b. Payable to the prime contract vendor and the
2 participating financial institution, which shall pay these
3 funds to the minority business enterprise subcontract vendor
4 within 10 business days after the receipt of the funds from
5 the state.

6 3. No prime contract vendor shall retain more than 5
7 percent of the amount earned by a minority business enterprise
8 subcontract vendor participating in this program, except that
9 if the prime contract vendor is also participating in this
10 program, the amount the prime contract vendor retains shall be
11 subject to the provisions governing prime contract vendors.

12 (6) All prime contract vendors shall be required to
13 incorporate the designated loan mobilization payment
14 procedures in subcontract agreements or purchase orders with
15 minority business enterprise vendors participating in this
16 program and to cooperate in the release of designated loan
17 mobilization payments to achieve the objective of providing
18 working capital for minority business enterprise subcontract
19 vendors.

20 (7) The contracting state agency shall encourage prime
21 contract vendors to make weekly or biweekly payments to
22 minority business enterprise subcontract vendors participating
23 in this program.

24 (8) The contracting state agency shall monitor
25 compliance with this section. Nothing contained in this
26 section shall be construed to limit the contracting state
27 agency's right to insist upon strict compliance with the
28 requirements of the contract documents.

29 (9) The contracting state agency shall not be a party
30 to a working capital agreement between a participating
31 financial institution and a participating minority business

1 enterprise vendor. The participating financial institution
2 shall notify the contracting state agency head of vendor
3 program applications received by such institution.

4 (10) The Department of Management Services may adopt
5 rules to implement the provisions of this section.

6 (11) The Department of Management Services shall
7 maintain a listing of financial institutions willing to
8 participate in the Florida Minority Business Loan Mobilization
9 Program. This list of financial institutions shall not be
10 exclusive. A minority business enterprise vendor who has a
11 working relationship with a financial institution is
12 encouraged to request that the financial institution apply to
13 participate as a financial institution for the program.

14 Section 2. This act shall take effect October 1, 2002.
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