

**Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0374.01 Jason Gelender x4330

**SENATE BILL 22-163**

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**SENATE SPONSORSHIP**

**Coleman,**

**HOUSE SPONSORSHIP**

**Ricks,**

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**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ESTABLISHMENT OF A PROCUREMENT EQUITY PROGRAM**  
102 **TO REMEDIATE DISPARITIES IN STATE PROCUREMENT.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill establishes the state procurement equity program (program) in the department of personnel and administration (department) for the purpose of eliminating disparities, including the substantial disparities identified in the state disparity study report prepared as required by Senate Bill 19-135, between the availability of historically underutilized businesses and the utilization of such businesses in state

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

procurement.

For preliminary implementation of the program, the department, in line with recommendations made in the state disparity study report, is required to:

- Coordinate with the procurement technical assistance center to increase the number of historically underutilized businesses that have the registrations and certifications required to be eligible to apply for and positioned to compete for all state procurement opportunities that they are capable of performing and the number of opportunities available for such businesses;
- Provide solicitation assistance, defined by the bill as the provision of real-time responses to questions asked by potential contractors who seek guidance as to how best to respond to solicitations for state contracts, including guidance regarding availability of opportunities, interpretation of solicitation documents, and solicitation response procedures and best practices; and
- Create a bond assistance program to help historically underutilized businesses to offset all or a portion of the cost of obtaining a surety bond that is required for a solicitation for a state procurement opportunity. The bill transfers \$2 million from the general fund to a newly created bond assistance program cash fund, and the fund is continuously appropriated to the department to implement the bond assistance program.

The department is also required to convene and engage in robust consultation with a stakeholder group consisting of government employees with procurement expertise, an employee of the procurement technical assistance center, owners or high-ranking employees of various types of historically underutilized businesses, and owners or high-ranking employees of businesses that are not historically underutilized businesses but have a demonstrable record of successful engagement and contracting with small businesses and have competed for or been awarded state contracts. The stakeholder group also includes any other individuals who have a demonstrable commitment to furthering equity in government procurement and substantial knowledge of procurement equity best practices who the department deems necessary or appropriate to include. The stakeholder group is required to:

- Closely examine the findings, conclusions, and recommendations in the state disparity study report;
- Using the information in the state disparity study report as a baseline for studying procurement equity programs in other states and at the federal and large local government level, identify best practices for successful program

- implementation and administration; and
- No later than November 1, 2022, present to the department a report of specific policy recommendations that includes, at a minimum:
  - Prioritization of the recommendations in the state disparity study report;
  - A preliminary estimate of the amount of initial and ongoing funding, personnel, information technology resources, and other resources needed to implement the policy recommendations in accordance with identified best practices;
  - A step-by-step timeline for full implementation of the program;
  - Suggested methodologies and metrics for evaluating the success of the program and ensuring program accountability on both the state agency and prime contractor sides; and
  - Identification of any public or private sources of funding or other resources that may be available to expedite the implementation or ongoing administration of the program and reduce costs to the state.

The department is required to report on its preliminary implementation of the program, the progress and policy recommendations of the stakeholder group, the preliminary plans and recommendations of the department regarding full implementation of the program, and any recommendations that the department has regarding the need for related legislation during its 2023 annual presentation to legislative oversight committees required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 11 to article  
3 103 of title 24 as follows:

4 PART 11

5 REMEDIATION OF STATE PROCUREMENT DISPARITIES

6 THAT AFFECT HISTORICALLY UNDERUTILIZED BUSINESSES

7 **24-103-1101. Short title.** THE SHORT TITLE OF THIS PART 11 IS THE  
8 "STATE PROCUREMENT DISPARITIES REMEDIATION ACT".

1           **24-103-1102. Legislative declaration.** (1) THE GENERAL  
2 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

3           (a) WHEN IT ENACTED SENATE BILL 19-135 IN 2019,                      IT  
4 FOUND, DETERMINED AND DECLARED, IN SECTION 24-103-1001, THE  
5 IMPORTANCE OF ENSURING AN EQUITABLE STATE PROCUREMENT PROCESS;

6           (b) AS REQUIRED BY SENATE BILL 19-135, THE DEPARTMENT  
7 CONTRACTED WITH AN ENTITY INDEPENDENT OF THE DEPARTMENT TO  
8 CONDUCT A STATE DISPARITY STUDY REGARDING THE PARTICIPATION OF  
9 HISTORICALLY UNDERUTILIZED BUSINESSES, WHICH INCLUDED A REVIEW  
10 OF MINORITY-OWNED BUSINESSES, WOMEN-OWNED BUSINESSES,  
11 BUSINESSES OWNED BY PERSONS WITH DISABILITIES, AND BUSINESSES  
12 OWNED BY MEMBERS OF THE LESBIAN, GAY, BISEXUAL, AND TRANSGENDER  
13 COMMUNITY, IN STATE CONTRACTS ENTERED INTO BY ANY DEPARTMENT,  
14 AGENCY, OR INSTITUTION OF THE EXECUTIVE BRANCH OF STATE  
15 GOVERNMENT;

16           (c) THE STATE DISPARITY STUDY EXAMINED WHETHER A DISPARITY  
17 EXISTS BETWEEN THE PERCENTAGE OF STATE CONTRACT DOLLARS GOING  
18 TO HISTORICALLY UNDERUTILIZED BUSINESSES AND THE PERCENTAGE  
19 THAT MIGHT BE EXPECTED TO GO TO THOSE BUSINESSES BASED ON THE  
20 RELATIVE NUMBER OF THOSE BUSINESSES THAT ARE READY, WILLING AND  
21 ABLE TO PERFORM DIFFERENT TYPES, SIZES AND LOCATIONS OF STATE  
22 CONTRACTS;

23           (d) THE INDEPENDENT ENTITY COMPLETED THE REQUIRED STATE  
24 DISPARITY STUDY AND ISSUED THE "2020 STATE OF COLORADO DISPARITY  
25 STUDY FINAL REPORT" IN NOVEMBER 2020, WHICH FOUND THAT:

26           (I) MINORITY-OWNED AND WOMEN-OWNED BUSINESSES RECEIVED  
27 ABOUT EIGHT PERCENT OF STATE CONTRACT DOLLARS, BELOW THE

1 TWENTY-EIGHT PERCENT EXPECTED FROM THE AVAILABILITY ANALYSIS;

2 (II) UTILIZATION OF FIRMS OWNED BY PERSONS WITH DISABILITIES  
3 WAS LESS THAN ONE PERCENT OF CONTRACT DOLLARS, BELOW THE  
4 TWELVE PERCENT EXPECTED FROM THE AVAILABILITY ANALYSIS,

5 (III) A VERY SMALL PERCENTAGE OF CONTRACT DOLLARS WENT TO  
6 BUSINESSES CERTIFIED AS BEING OWNED BY MEMBERS OF THE LESBIAN,  
7 GAY, BISEXUAL, AND TRANSGENDER COMMUNITY (LGBT-CERTIFIED  
8 BUSINESSES), BUT BECAUSE A VERY SMALL NUMBER OF BUSINESSES IN THE  
9 AVAILABILITY ANALYSIS WERE LGBT-CERTIFIED BUSINESSES, THAT  
10 UTILIZATION IS COMPARABLE TO THE AVAILABILITY BENCHMARK FOR  
11 LGBT-CERTIFIED BUSINESSES;

12 (IV) THERE WAS A SUBSTANTIAL DISPARITY BETWEEN UTILIZATION  
13 AND AVAILABILITY FOR FIRMS OWNED BY AFRICAN AMERICAN PERSONS,  
14 HISPANIC AMERICAN PERSONS, NATIVE AMERICAN PERSONS, WHITE  
15 WOMEN, AND PERSONS WITH DISABILITIES FOR STATE CONSTRUCTION,  
16 CONSTRUCTION-RELATED PROFESSIONAL SERVICES, OTHER PROFESSIONAL  
17 SERVICES, GOODS AND OTHER SERVICES CONTRACTS;

18 (V) THERE WAS A SUBSTANTIAL DISPARITY FOR BUSINESSES  
19 OWNED BY ASIAN-AMERICAN PERSONS FOR OTHER PROFESSIONAL  
20 SERVICES CONTRACTS;

21 (VI) FOR STATE BROKERAGE AND INVESTMENT CONTRACTS, THERE  
22 WERE SUBSTANTIAL DISPARITIES BETWEEN UTILIZATION AND  
23 AVAILABILITY OF BUSINESSES OWNED BY AFRICAN AMERICAN PERSONS,  
24 HISPANIC AMERICAN PERSONS, NATIVE AMERICAN PERSONS, AND WHITE  
25 WOMEN;

26 (e) AS DETAILED IN THE STATE DISPARITY STUDY REPORT, THE  
27 RESULTS OF THE STUDY INDICATE THAT DISPARITIES BETWEEN

1 AVAILABILITY OF HISTORICALLY UNDERUTILIZED BUSINESSES AND  
2 UTILIZATION OF SUCH BUSINESSES EXISTS IN STATE CONTRACTING;

3 (f) ALTHOUGH THE STATE IS ALREADY ENDEAVORING TO HELP  
4 SMALL BUSINESSES OBTAIN STATE CONTRACTS, IT IS DOING SO WITH  
5 LIMITED TOOLS AND RESOURCES;

6 (g) THE DISPARITIES IDENTIFIED IN THE STATE DISPARITY REPORT  
7 ARE LIKELY TO PERSIST UNLESS FURTHER ACTION IS TAKEN; AND

8 (h) THE STATE DISPARITY STUDY REPORT RECOMMENDED THAT  
9 THE GENERAL ASSEMBLY CONSIDER ENACTING LEGISLATION TO  
10 AUTHORIZE AND FUND A PROCUREMENT EQUITY PROGRAM TO ADDRESS  
11 THE SPECIFIC DISPARITIES SHOWN IN THE STATE DISPARITY STUDY REPORT  
12 FOR HISTORICALLY UNDERUTILIZED BUSINESSES BASED ON INDUSTRY AND  
13 BUSINESS OWNERSHIP.

14 **24-103-1103. Definitions.** AS USED IN THIS PART 11, UNLESS THE  
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "CONSTRUCTION-RELATED PROFESSIONAL SERVICES" MEANS  
17 SERVICES WITH ARCHITECTURE AND ENGINEERING, SURVEYING, REAL  
18 ESTATE CONSULTING, AND RELATED WORK.

19 (2) "DISPARITY" MEANS AN INEQUALITY, DIFFERENCE, OR GAP  
20 BETWEEN AN ACTUAL OUTCOME AND A REFERENCE POINT OR BENCHMARK.

21 (3) "DISPARITY INDEX" MEANS A MEASURE OF THE RELATIVE  
22 DIFFERENCE BETWEEN AN OUTCOME, SUCH AS PERCENTAGE OF CONTRACT  
23 DOLLARS RECEIVED BY A GROUP, AND A CORRESPONDING BENCHMARK,  
24 SUCH AS THE PERCENTAGE OF CONTRACT DOLLARS THAT MIGHT BE  
25 EXPECTED GIVEN THE RELATIVE AVAILABILITY OF THAT GROUP FOR THOSE  
26 CONTRACTS. IN THIS EXAMPLE, DISPARITY INDEX IS CALCULATED BY  
27 DIVIDING A NUMERATOR OF PERCENT UTILIZATION BY A DENOMINATOR OF

1 PERCENT AVAILABILITY AND THEN MULTIPLYING THE RESULT BY 100. A  
2 DISPARITY INDEX OF 100 INDICATES "PARITY" OR UTILIZATION "ON PAR"  
3 WITH AVAILABILITY. DISPARITY INDEX FIGURES CLOSER TO 0 INDICATE  
4 LARGER DISPARITIES BETWEEN UTILIZATION AND AVAILABILITY.

5 (4) "HISTORICALLY UNDERUTILIZED BUSINESS" MEANS AN ENTITY:

6 (a) THAT IS A BUSINESS, FOR-PROFIT CORPORATION, SOLE  
7 PROPRIETORSHIP, PARTNERSHIP, OR JOINT VENTURE THAT IS MORE THAN  
8 FIFTY PERCENT OWNED BY ONE OR MORE INDIVIDUALS WHO ARE:

9 (I) UNITED STATES CITIZENS OR PERMANENT RESIDENT ALIENS;  
10 AND

11 (II) ONE OR MORE OF THE FOLLOWING:

12 (A) MEMBERS OF A RACIAL OR ETHNIC MINORITY GROUP; EXCEPT  
13 THAT A BUSINESS OWNED BY ASIAN AMERICAN PERSONS IS A  
14 HISTORICALLY UNDERUTILIZED BUSINESS ONLY WITH RESPECT TO STATE  
15 PROCUREMENT FOR "OTHER PROFESSIONAL SERVICES CONTRACTS", AS  
16 THAT TERM IS DEFINED IN THE STATE DISPARITY STUDY.

17 (B) NON-HISPANIC CAUCASIAN WOMEN; OR

18 (C) PERSONS WITH DISABILITIES; AND

19 ==

20 (b) FOR WHICH THE MINORITY OWNERSHIP CONTROLS BOTH THE  
21 MANAGEMENT AND DAY-TO-DAY BUSINESS DECISIONS.

22 (5) "INDUSTRY" MEANS BUSINESSES WITHIN ONE OF THE  
23 FOLLOWING ECONOMIC SECTORS:

24 (a) CONSTRUCTION;

25 (b) CONSTRUCTION-RELATED PROFESSIONAL SERVICES;

26 (c) BROKERAGE AND INVESTMENT;

27 (d) OTHER PROFESSIONAL SERVICES; AND

- 1           (e) GOODS AND OTHER SERVICES.
- 2           (6) "MINORITY BUSINESS OFFICE" MEANS THE MINORITY BUSINESS  
3 OFFICE CREATED IN SECTION 24-49.5-102.
- 4           (7) "OFFICE" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT  
5 CREATED IN SECTION 24-48.5-101 (1).
- 6           (8) "PERSONS WITH DISABILITIES" MEANS PERSONS WHO:  
7           (a) HAVE PHYSICAL OR MENTAL IMPAIRMENTS, OR BOTH, THAT  
8 SUBSTANTIALLY LIMIT ONE OR MORE MAJOR LIFE ACTIVITIES;  
9           (b) ARE REGARDED GENERALLY BY THE COMMUNITY AS HAVING  
10 A DISABILITY; AND  
11           (c) WHOSE DISABILITIES SUBSTANTIALLY LIMIT THEIR ABILITIES TO  
12 ENGAGE IN COMPETITIVE BUSINESS.
- 13           (9) "PRIME CONTRACT" MEANS A CONTRACT BETWEEN THE STATE  
14 AND A BUSINESS.
- 15           (10) "PRIME CONTRACTOR" MEANS A CONSTRUCTION BUSINESS  
16 THAT PERFORMS A PRIME CONTRACT FOR THE STATE.
- 17           (11) "PROCUREMENT TECHNICAL ASSISTANCE CENTER" MEANS THE  
18 ENTITY THROUGH WHICH A PROCUREMENT TECHNICAL ASSISTANCE  
19 PROGRAM IS PROVIDED.
- 20           (12) "PROCUREMENT TECHNICAL ASSISTANCE PROGRAM" HAS THE  
21 SAME MEANING AS SET FORTH IN SECTION 24-48.5-121 (2)(d).
- 22           (13) "PROFESSIONAL SERVICES" MEANS TYPES OF WORK IN THE  
23 SERVICE SECTOR REQUIRING SPECIAL TRAINING. SOME PROFESSIONAL  
24 SERVICES SUCH AS ACCOUNTING AND LAW, REQUIRE HOLDING  
25 PROFESSIONAL LICENSES.
- 26           (14) "PROGRAM" MEANS THE STATE PROCUREMENT EQUITY  
27 PROGRAM ESTABLISHED IN SECTION 24-103-1104 (1).



1           (15) "RACIAL OR ETHNIC MINORITY GROUP" MEANS INDIVIDUALS  
2           WHO BELONG TO ONE OR MORE RACIAL OR ETHNIC GROUPS IDENTIFIED IN  
3           49 CFR SECTION 26.5:

4           (a) AFRICAN AMERICAN PERSONS, INCLUDING PERSONS HAVING  
5           ORIGINS IN ANY OF THE BLACK RACIAL GROUPS OF AFRICA;

6           (b) HISPANIC AMERICAN PERSONS, INCLUDING PERSONS OF  
7           MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN, OR  
8           OTHER SPANISH OR PORTUGUESE CULTURE OR ORIGIN, REGARDLESS OF  
9           RACE;

10          (c) ASIAN AMERICAN PERSONS, INCLUDING PERSONS WHOSE  
11          ORIGINS ARE FROM JAPAN, CHINA, TAIWAN, KOREA, VIETNAM, LAOS,  
12          CAMBODIA, THE PHILIPPINES, SAMOA, THE UNITED STATES TERRITORIES  
13          OF THE PACIFIC, OR THE NORTHERN MARIANA ISLANDS; OR PERSONS  
14          WHOSE ORIGINS ARE FROM SUBCONTINENT ASIA, INCLUDING PERSONS  
15          WHOSE ORIGINS ARE FROM INDIA, PAKISTAN, BANGLADESH, SRI LANKA,  
16          BHUTAN, OR NEPAL; OR

17          (d) NATIVE AMERICAN PERSONS, INCLUDING PERSONS WHO ARE  
18          AMERICAN INDIANS, ESKIMOS, ALEUTS, OR HAWAIIANS OF POLYNESIAN  
19          DESCENT.

20          (16) "REMEDIAL MEASURE" MEANS AN ACTION DESIGNED TO  
21          ADDRESS BARRIERS TO FULL PARTICIPATION OF A TARGETED GROUP.

22          (17) "SMALL BUSINESS" MEANS A BUSINESS THAT QUALIFIES AS A  
23          SMALL BUSINESS PURSUANT TO 13 CFR 121.

24          (18) "SMALL BUSINESS DEVELOPMENT CENTER" HAS THE SAME  
25          MEANING AS SET FORTH IN SECTION 24-48.5-121 (2)(f).

26          (19) "SOLICITATION ASSISTANCE" MEANS THE PROVISION OF  
27          REAL-TIME RESPONSES TO QUESTIONS ASKED BY POTENTIAL CONTRACTORS

1 WHO SEEK GUIDANCE AS TO HOW BEST TO RESPOND TO SOLICITATIONS FOR  
2 STATE CONTRACTS, INCLUDING GUIDANCE REGARDING AVAILABILITY OF  
3 OPPORTUNITIES, INTERPRETATION OF SOLICITATION DOCUMENTS, AND  
4 SOLICITATION RESPONSE PROCEDURES AND BEST PRACTICES.  
5 "SOLICITATION ASSISTANCE" DOES NOT INCLUDE GUIDANCE SPECIFIC TO  
6 A PARTICULAR SOLICITATION FOR A STATE CONTRACT THAT COULD  
7 REASONABLY BE EXPECTED TO PROVIDE AN UNFAIR ADVANTAGE TO THE  
8 POTENTIAL CONTRACTOR OVER OTHER POTENTIAL CONTRACTORS  
9 RESPONDING TO THE SOLICITATION.

10 (20) "STATE DISPARITY STUDY" OR "STUDY" MEANS THE STUDY  
11 REGARDING THE PARTICIPATION OF HISTORICALLY UNDERUTILIZED  
12 BUSINESSES IN STATE CONTRACTS ENTERED INTO BY ALL PRINCIPAL  
13 DEPARTMENTS OF STATE GOVERNMENT THAT WAS COMMISSIONED BY THE  
14 EXECUTIVE DIRECTOR AS REQUIRED BY SECTION 24-103-1003.

15 (21) "STATE DISPARITY STUDY REPORT" OR "REPORT" MEANS THE  
16 "2020 STATE OF COLORADO DISPARITY STUDY FINAL REPORT" PUBLISHED  
17 IN NOVEMBER 2020.

18 (22) "SUBCONTRACTOR" MEANS ANY PERSON WHO IS A PARTY TO  
19 AN AGREEMENT WITH A PRIME CONTRACTOR FOR THE PURPOSE OF  
20 PERFORMING A PORTION OF THE WORK THAT THE PRIME CONTRACTOR IS  
21 OBLIGED TO PERFORM OR HAVE PERFORMED UNDER A CONTRACT.

22 (23) "DISPARITY INDEX IS LESS THAN 80, WHICH CAN INDICATE EVIDENCE OF  
23 DISCRIMINATION AFFECTING THE OUTCOME."

24 (24) "UTILIZATION MEANS THE PERCENTAGE OF TOTAL CONTRACT  
25 DOLLARS OF A PARTICULAR TYPE OF WORK GOING TO A SPECIFIC GROUP OF  
26 BUSINESSES."

1           (25) "WOMEN-OWNED BUSINESS" OR "WBE" MEANS A BUSINESS  
2           THAT IS AT LEAST FIFTY-ONE PERCENT OWNED AND CONTROLLED BY ONE  
3           OR MORE INDIVIDUALS THAT ARE NON-MINORITY WOMEN.

4           **24-103-1104. State procurement equity program - established**  
5           **- goal - preliminary implementation maximization of contracting**  
6           **opportunities - expansion of historically underutilized business**  
7           **registry - real-time solicitation assistance help desk - bond assistance**  
8           **program - cash fund - report.** (1) (a) THE STATE PROCUREMENT EQUITY  
9           PROGRAM IS ESTABLISHED IN THE DEPARTMENT. THE DEPARTMENT, IN  
10          ACCORDANCE WITH ITS EXISTING STATE PROCUREMENT RELATED DUTIES  
11          OF PROMULGATING STATE CONTRACTING FISCAL RULES AND PROVIDING  
12          PROCUREMENT RELATED GUIDANCE AND MANAGEMENT, INCLUDING  
13          CONTRACT FORMS AND THE CONTRACT MANAGEMENT SYSTEM, TO MOST  
14          STATE EXECUTIVE BRANCH AGENCIES, SHALL ACT TO ENSURE THE  
15          EXPEDITIOUS DEVELOPMENT AND FULL IMPLEMENTATION OF THE  
16          PROGRAM AS REQUIRED BY THIS PART 11. THE DEPARTMENT SHALL ACT IN  
17          CONSULTATION WITH, TO THE EXTENT REQUIRED BY THIS PART 11 OR AS  
18          OTHERWISE DEEMED NECESSARY OR ADVISABLE BY THE DEPARTMENT, THE  
19          OFFICE, THE PROCUREMENT TECHNICAL ASSISTANCE CENTER, THE SMALL  
20          BUSINESS DEVELOPMENT CENTER, THE MINORITY BUSINESS OFFICE, THE  
21          DEPARTMENT OF TRANSPORTATION, AND OTHER PERSONS OR ENTITIES  
22          THAT HAVE EXPERTISE OR INTEREST IN PROCUREMENT GENERALLY OR IN  
23          STATE PROCUREMENT EQUITY.

24           (b) THE GOAL OF THE PROGRAM IS TO REDUCE DISPARITIES  
25           IDENTIFIED IN THE STATE DISPARITY STUDY REPORT BETWEEN THE  
26           AVAILABILITY OF HISTORICALLY UNDERUTILIZED BUSINESSES AND THE  
27           UTILIZATION OF SUCH BUSINESSES IN STATE PROCUREMENT.

1           (2) As        IMPLEMENTATION OF THE PROGRAM, THE DEPARTMENT  
2 SHALL:

3                   
4           (a) PROVIDE, AT ALL TIMES DURING REGULAR STATE BUSINESS  
5 HOURS, SOLICITATION ASSISTANCE THROUGH A HELP DESK. THE  
6 DEPARTMENT SHALL TRACK USAGE OF SOLICITATION ASSISTANCE AND, TO  
7 THE EXTENT FEASIBLE, FOLLOW UP WITH RECIPIENTS OF SOLICITATION  
8 ASSISTANCE TO DETERMINE AND TRACK THE EXTENT TO WHICH THEY HAVE  
9 SUCCEEDED IN BEING AWARDED STATE CONTRACTS. THE DEPARTMENT  
10 SHALL ALSO CONTINUOUSLY MONITOR USAGE OF THE SOLICITATION  
11 ASSISTANCE HELP DESK TO DETERMINE WHETHER THE AMOUNT OF HUMAN  
12 AND FINANCIAL RESOURCES DEDICATED TO THE PROVISION OF  
13 SOLICITATION ASSISTANCE IS OPTIMAL TO MEET DEMAND WHILE  
14 STEWARDING STATE RESOURCES. THE HELP DESK MUST RELY ON THE BEST  
15 AVAILABLE RESOURCES, INCLUDING BUT NOT LIMITED TO EXISTING  
16 WOMEN-OWNED AND MINORITY-OWNED BUSINESS CERTIFICATIONS, ITS  
17 OWN SMALL BUSINESS REGISTRATION LIST, VOLUNTARY TAX DISCLOSURES,  
18 AND THE SMALL BUSINESS ADMINISTRATION'S HUBZONE PROGRAM MAP  
19 TO ENSURE TARGETED ASSISTANCE TO HISTORICALLY UNDERUTILIZED  
20 BUSINESSES.

21           (b) (I) CREATE A BOND ASSISTANCE PROGRAM TO HELP  
22 HISTORICALLY UNDERUTILIZED BUSINESSES THAT ARE SMALL BUSINESSES  
23 TO OFFSET ALL OR A PORTION OF THE COST OF OBTAINING A SURETY BOND  
24 THAT IS REQUIRED FOR A SOLICITATION FOR A STATE PROCUREMENT  
25 OPPORTUNITY.

26           (II) THE BOND ASSISTANCE PROGRAM CASH FUND IS HEREBY  
27 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF GENERAL FUND

1 MONEY TRANSFERRED TO THE FUND AS REQUIRED BY SUBSECTION  
2 (2)(c)(III) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL  
3 ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE  
4 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE  
5 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. MONEY  
6 IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR  
7 THE IMPLEMENTATION OF THE BOND ASSISTANCE PROGRAM.

8 (III) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER  
9 TWO MILLION DOLLARS FROM THE GENERAL FUND TO THE BOND  
10 ASSISTANCE PROGRAM CASH FUND.

11 (c) CAREFULLY CONSIDER ALL OF THE RECOMMENDATIONS IN THE  
12 STATE DISPARITY STUDY REPORT THAT ARE NOT REQUIRED TO BE  
13 IMPLEMENTED PURSUANT TO SUBSECTIONS (2)(a) TO (2)(c) OF THIS  
14 SECTION TO DETERMINE WHETHER, USING ONLY EXISTING RESOURCES, IT  
15 CAN IMPLEMENT OR MAKE MEANINGFUL PROGRESS TOWARDS  
16 IMPLEMENTING ANY OF THE RECOMMENDATIONS. IF THE DEPARTMENT  
17 DETERMINES THAT IT CAN IMPLEMENT OR MAKE MEANINGFUL PROGRESS  
18 TOWARDS IMPLEMENTING ANY SUCH RECOMMENDATION USING ONLY  
19 EXISTING RESOURCES, IT SHALL DO SO.

20 (3) THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY  
21 REGARDING ITS PRELIMINARY IMPLEMENTATION OF THE PROGRAM DURING  
22 THE DEPARTMENT'S 2023 DEPARTMENTAL PRESENTATION TO LEGISLATIVE  
23 COMMITTEES OF REFERENCE REQUIRED BY SECTION 2-7-203 (2)(a).

24 **24-103-1105. State procurement equity program**  
25 **implementation - stakeholder group - recommendations - report -**  
26 **legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS,  
27 DETERMINES, AND DECLARES THAT:

1                          (a) THE STATE SEEKS RECOMMENDATIONS FROM STATE  
2 PROCUREMENT STAKEHOLDERS, AS CONVENED PURSUANT TO SUBSECTION  
3 (2) OF THIS SECTION FOR THE IMPLEMENTATION OF REMEDIAL MEASURES,  
4 INCLUDING REMEDIAL MEASURES USING PROCUREMENT EQUITY TOOLS,  
5 AND QUANTIFICATION OF THE AMOUNT OF ADDITIONAL FUNDING AND  
6 PERSONNEL REQUIRED TO BOTH IMPLEMENT SPECIFIC REMEDIAL MEASURES  
7 AND FULLY IMPLEMENT THE PROGRAM; AND

8                   (b) To SUPPORT THE INTENT OF THE GENERAL ASSEMBLY IN  
9 ENACTING THIS PART 11, THE REMEDIATION OF DISPARITIES IN STATE  
10 PROCUREMENT,        THROUGH THOUGHTFUL, EFFICIENT, AND EFFECTIVE  
11 IMPLEMENTATION OF THE PROGRAM THAT TAKES INTO ACCOUNT THE  
12 PROFESSIONAL EXPERTISE AND LIVED EXPERIENCE OF STATE  
13 PROCUREMENT STAKEHOLDERS AS CONVENED PURSUANT TO SUBSECTION  
14 (2) OF THIS SECTION, IT IS NECESSARY, APPROPRIATE, AND IN THE BEST  
15 INTEREST OF THE STATE TO REQUIRE THE MINORITY BUSINESS OFFICE TO  
16 CONVENE, ENGAGE IN        CONSULTATION WITH, AND STRONGLY CONSIDER  
17 THE FORMAL POLICY RECOMMENDATIONS OF A STAKEHOLDER GROUP THAT  
18 MAY BE COMPRISED, TO THE EXTENT PRACTICABLE, OF REPRESENTATIVES  
19 OF HISTORICALLY UNDERUTILIZED BUSINESSES AND SMALL BUSINESSES,  
20 GOVERNMENTAL ENTITIES, ORGANIZATIONS THAT PROVIDE PROCUREMENT  
21 TECHNICAL ASSISTANCE OR OUTREACH TO HISTORICALLY UNDERUTILIZED  
22 BUSINESSES AND SMALL BUSINESSES, GOVERNMENTAL ENTITIES, FEDERAL  
23 AND LOCAL ORGANIZATIONS THAT PROVIDE PROCUREMENT TECHNICAL  
24 ASSISTANCE OR OUTREACH TO HISTORICALLY UNDERUTILIZED BUSINESSES  
25 AND SMALL BUSINESSES, AND SUCH OTHER PERSONS WITH RELEVANT  
26 PROFESSIONAL EXPERIENCE, INCLUDING GOVERNMENT PROCUREMENT AND  
27 GOVERNMENT CONTRACTING EXPERIENCE AS THE MINORITY BUSINESS

1 OFFICE DEEMS APPROPRIATE.

2 (2) THE MINORITY BUSINESS OFFICE SHALL CONVENE AND ENGAGE  
3 IN CONSULTATION WITH A STAKEHOLDER GROUP, WHICH, TO THE EXTENT  
4 PRACTICABLE MAY CONSIST OF:

5 (a) THE FOLLOWING STATE GOVERNMENT EMPLOYEES:

6 (I) AN EMPLOYEE OF THE DEPARTMENT WHO HAS EXTENSIVE  
7 EXPERIENCE AND EXPERTISE IN STATE PROCUREMENT;

8 (II) AN EMPLOYEE OF THE OFFICE WHO HAS BEEN INVOLVED IN THE  
9 OFFICE'S ADMINISTRATION OF OR IS OTHERWISE KNOWLEDGEABLE ABOUT  
10 THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM, THE SMALL  
11 BUSINESS COVID-19 GRANT PROGRAM CREATED IN SECTION 24-48.5-126,  
12 OR THE COVID-19 RELIEF FOR DISPROPORTIONATELY IMPACTED  
13 BUSINESSES PROGRAM CREATED IN SECTION 24-48.5-127; AND

14 ==

15 (III) AN EMPLOYEE OF THE DEPARTMENT OF TRANSPORTATION  
16 WHO HAS SIGNIFICANT EXPERIENCE AND EXPERTISE REGARDING THE  
17 DEPARTMENT OF TRANSPORTATION'S CIVIL RIGHTS PROGRAMS THAT  
18 ESTABLISH, ADMINISTER, AND ENFORCE THE DEPARTMENT OF  
19 TRANSPORTATION'S DIVERSITY, EQUITY, AND INCLUSION REQUIREMENTS  
20 FOR ENGINEERS, CONTRACTORS, CONSULTANTS, LOCAL AGENCIES, AND  
21 TRANSIT PROVIDERS;

22 (b) AN EMPLOYEE OF THE CITY AND COUNTY OF DENVER'S  
23 DIVISION OF SMALL BUSINESS OPPORTUNITY WHO HAS SIGNIFICANT  
24 EXPERIENCE AND EXPERTISE REGARDING THE PROGRAMS AND OPERATION  
25 OF THE DIVISION;

26 (c) AN EMPLOYEE OF THE PROCUREMENT TECHNICAL ASSISTANCE  
27 CENTER;

1           (d) A REPRESENTATIVE OF A STATEWIDE TRADE ASSOCIATION  
2           WHOSE MEMBERSHIP INCLUDES GENERAL AND SPECIALITY COMMERCIAL  
3           CONTRACTORS THAT CONSTRUCT STATE PROJECTS;

4           (e) TO THE EXTENT PRACTICABLE, AN OWNER OR HIGH-LEVEL  
5           EMPLOYEE OF EACH OF THE FOLLOWING TYPES OF HISTORICALLY  
6           UNDERUTILIZED BUSINESSES:

7           (I) A BUSINESS OWNED BY ONE OR MORE WOMEN;

8           (II) A BUSINESS OWNED BY ONE OR MORE AFRICAN AMERICAN  
9           PERSONS;

10          (III) A BUSINESS OWNED BY ONE OR MORE ASIAN AMERICAN  
11          PERSONS;

12          (IV) A BUSINESS OWNED BY ONE OR MORE HISPANIC AMERICAN  
13          PERSONS;

14          (V) A BUSINESS OWNED BY ONE OR MORE NATIVE AMERICAN  
15          PERSONS; AND

16          (VI) A BUSINESS OWNED BY ONE OR MORE PERSONS WITH  
17          DISABILITIES; AND

18          ==

19          (f) TO THE EXTENT PRACTICABLE, AN OWNER OR HIGH-LEVEL  
20          EMPLOYEE OF EACH OF THE FOLLOWING TYPES OF BUSINESSES THAT ARE  
21          NOT HISTORICALLY UNDERUTILIZED BUSINESSES AND THAT HAVE  
22          COMPETED FOR OR BEEN AWARDED STATE CONTRACTS:

23          (I) A SMALL BUSINESS;

24          (II) A BUSINESS THAT IS NOT A SMALL BUSINESS BUT THAT HAS  
25          FEWER THAN FIVE HUNDRED EMPLOYEES AND A DEMONSTRABLE RECORD  
26          OF SUCCESSFUL ENGAGEMENT AND CONTRACTING WITH SMALL  
27          BUSINESSES; ==



1 (III) A BUSINESS THAT HAS MORE THAN FIVE HUNDRED EMPLOYEES  
2 AND A DEMONSTRABLE RECORD OF SUCCESSFUL ENGAGEMENT AND  
3 CONTRACTING WITH SMALL BUSINESSES; AND

4 (IV) WITH CONSIDERATION FOR THE VOLUME OF CONSTRUCTION  
5 CONTRACTS AWARDED ANNUALLY BY THE STATE, A REPRESENTATIVE OF  
6 THE ASSOCIATED GENERAL CONTRACTORS; AND

7 (g) ANY OTHER INDIVIDUALS WHO HAVE A DEMONSTRABLE  
8 COMMITMENT TO FURTHERING EQUITY IN GOVERNMENT PROCUREMENT  
9 AND SUBSTANTIAL KNOWLEDGE OF PROCUREMENT EQUITY BEST  
10 PRACTICES WHO THE MINORITY BUSINESS OFFICE DEEMS NECESSARY OR  
11 APPROPRIATE TO INCLUDE IN THE STAKEHOLDER GROUP.

12 (3) THE STAKEHOLDER GROUP CONVENED AS REQUIRED BY  
13 SUBSECTION (2) OF THIS SECTION SHALL:

14 (a) CLOSELY EXAMINE THE FINDINGS, CONCLUSIONS, AND  
15 RECOMMENDATION IN THE STATE DISPARITY STUDY REPORT;

16 (b) USING THE INFORMATION IN THE STATE DISPARITY STUDY  
17 REPORT AS A BASELINE FOR STUDYING PROCUREMENT EQUITY PROGRAMS  
18 IN OTHER STATES AND AT THE FEDERAL AND LARGE LOCAL GOVERNMENT  
19 LEVEL, IDENTIFY BEST PRACTICES FOR SUCCESSFUL PROCUREMENT EQUITY  
20 PROGRAM IMPLEMENTATION AND ADMINISTRATION; AND

21 (c) NO LATER THAN NOVEMBER 1, 2022, PRESENT TO THE  
22 DEPARTMENT A REPORT OF SPECIFIC FINDINGS, REMEDIAL MEASURES, AND  
23 RECOMMENDATIONS THAT INCLUDES, AT A MINIMUM:

24 (I) PRIORITIZATION OF THE RECOMMENDATIONS OUTLINED IN THE  
25 STATE DISPARITY STUDY REPORT. THE PRIORITIZATION MAY INCLUDE  
26 WRITTEN EXPLANATIONS OF RECOMMENDATIONS THAT SPECIFY WHETHER  
27 RECOMMENDATIONS IN THE REPORT WILL BE IMPLEMENTED AND THE

1 REMEDIAL MEASURES THAT WILL BE TAKEN TO SUPPORT PROGRAM  
2 IMPLEMENTATION IN A MANNER THAT IS SUFFICIENTLY COMPREHENSIVE  
3 TO MEET THE STATE'S GOAL OF REDUCING DISPARITIES BETWEEN THE  
4 AVAILABILITY OF HISTORICALLY UNDERUTILIZED BUSINESSES AND THEIR  
5 UTILIZATION IN STATE PROCUREMENT AND INCREASING SUCH UTILIZATION.

6 (II) CONFIRMATION OR REFUTATION OF THE DISPARITY STUDY  
7 REPORT FINDING OF NO SUBSTANTIAL DISPARITY BETWEEN AVAILABLE AND  
8 UTILIZED LESBIAN, GAY, BISEXUAL, AND TRANSGENDER BUSINESSES;

9 (III) CONFIRMATION OR REFUTATION OF THE DISPARITY STUDY  
10 REPORT FINDING OF NO SUBSTANTIAL DISPARITY BETWEEN AVAILABILITY  
11 AND UTILIZATION OF BUSINESSES OWNED BY ASIAN AMERICAN PERSONS  
12 FOR CONSTRUCTION, CONSTRUCTION-RELATED PROFESSIONAL SERVICES,  
13 GOODS AND OTHER SERVICES CONTRACTS, BROKERAGE, AND INVESTMENT;

14 (IV) A PRELIMINARY ESTIMATE OF THE AMOUNT OF INITIAL AND  
15 ONGOING FUNDING, PERSONNEL, INFORMATION TECHNOLOGY RESOURCES,  
16 AND OTHER RESOURCES NEEDED TO IMPLEMENT THE POLICY \_\_\_\_\_  
17 RECOMMENDATIONS AND REMEDIAL MEASURES IN ACCORDANCE WITH  
18 SUBSECTION (3)(b) OF THIS SECTION;

19 (V) A STEP-BY-STEP TIMELINE FOR FULL IMPLEMENTATION OF THE  
20 PROGRAM;

21 (VI) SUGGESTED METHODOLOGIES AND METRICS FOR MONITORING  
22 AND EVALUATING THE SUCCESS OF THE PROGRAM AND ENSURING  
23 PROGRAM ACCOUNTABILITY; AND

24 (VII) IDENTIFICATION OF ANY PUBLIC OR PRIVATE SOURCES OF  
25 FUNDING OR OTHER RESOURCES THAT MAY BE AVAILABLE TO EXPEDITE  
26 THE IMPLEMENTATION OR ONGOING ADMINISTRATION OF THE PROGRAM  
27 AND REDUCE COSTS TO THE STATE.

1           (4) THE DEPARTMENT SHALL REPORT ON THE PROGRESS AND  
2 POLICY RECOMMENDATIONS AND ANY SUGGESTED REMEDIAL MEASURES  
3 OF THE STAKEHOLDER GROUP, THE PRELIMINARY PLANS,  
4 RECOMMENDATIONS, AND REMEDIAL MEASURES THAT THE DEPARTMENT  
5 HAS TAKEN REGARDING THE FULL IMPLEMENTATION OF THE PROGRAM,  
6 AND ANY RECOMMENDATIONS THAT THE DEPARTMENT HAS REGARDING  
7 THE NEED FOR RELATED LEGISLATION DURING ITS 2024 ANNUAL  
8 PRESENTATION TO LEGISLATIVE OVERSIGHT COMMITTEES REQUIRED BY  
9 SECTION 2-7-203 (2)(a). IN PREPARATION FOR THE PRESENTATION, THE  
10 DEPARTMENT SHALL GIVE STRONG CONSIDERATION TO THE POLICY  
11 RECOMMENDATIONS REPORT PROVIDED BY THE STAKEHOLDER GROUP AS  
12 REQUIRED BY SUBSECTION (3)(c) OF THIS SECTION.

13           **SECTION 2. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, or safety.