

ILLINOIS REGISTER

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 910

SUPPLIER DIVERSITY REPORTS

Section

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AUTHORITY: Implementing Section 155.49 of the Illinois Insurance Code [215 ILCS 5], Section 25 of the Dental Service Plan Act [215 ILCS 110], Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125], Section 4003 of the Limited Health Service Organization Act [215 ILCS 130], and authorized by Sections 155.49 and 401 of the Illinois Insurance Code.

SOURCE: Former Part repealed at 43 Ill. Reg. 386, effective December 21, 2018; new Part adopted at 48 Ill. Reg. _____, effective _____.

Section 910.10 Purpose

This Part implements and clarifies the requirements for risk-bearing entities authorized to do business or accredited by this State to file public reports on whether and how they operate any supplier diversity program as part of their procurement program. Nothing in this Part requires a risk-bearing entity to establish a supplier diversity program or to conform the operation of a supplier diversity program or procurement program to any specific standards.

Section 910.20 Applicability

- a) Except as provided in subsection (b), this Part applies to every domestic, foreign, and alien risk-bearing entity with a certificate of authority or accreditation from the Director.
- b) This Part does not apply to any qualified group workers compensation pool, domestic captive insurance company, fraternal benefit society, or any risk-bearing entity that, in this State, only transacts business to offer Medicare Part C or D plans. For any year when reports are due, this Part also does not apply to any risk-

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bearing entity with less than \$50,000,000 in total net admitted assets for the current year as reflected on the Assets page of the annual statement filed with the Director for the year ending December 31st immediately preceding.

Section 910.30 Definitions

The following definitions apply to this Part:

"Accredited reinsurer" has the meaning ascribed in Section 173.1(1)(B) of the Code.

"Admitted assets" has the meaning ascribed in Section 3.1 of the Code.

"Affiliate" or "affiliated" has the meaning ascribed in Section 131.1(a) of the Code.

"Annual statement" means the annual statement described in Section 136 of the Code.

"BEMWPD Act" means the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575].

"Business owned by a person with a disability" means a business that is at least 51% owned, or in the case of a corporation, at least 51% of whose outstanding shares of stock are owned, by one or more persons with a disability, and the management and daily operations of which are controlled by one or more persons with a disability.

"Captive insurance company" has the meaning ascribed in Section 123C-1(D) of the Code.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Company" has the meaning ascribed in Section 2(e) of the Code.

"Dental service plan corporation" has the meaning ascribed in Section 3 of the Dental Service Plan Act [215 ILCS 110].

"Department" means the Illinois Department of Insurance.

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"Director" means the Director of the Department.

"Fraternal benefit society" has the meaning ascribed in Section 282.1 of the Code.

"Health maintenance organization" has the meaning ascribed in Section 1-2(9) of the Health Maintenance Organization Act [215 ILCS 125].

"Inclusion supplier" means a supplier that is a business owned by a person with a disability, an LGBT-owned business, a minority-owned business, a veteran-owned business, or a women-owned business.

"Insurance holding company system" has the meaning ascribed in Section 131.1(c) of the Code.

"LGBT person" means an individual who either is not cisgender or is not heterosexual, or both, and includes, but is not limited to, an individual who identifies as homosexual, bisexual, pansexual, asexual, aromantic, transgender, nonbinary, gender nonconforming, or intersex. The term *does not include a physical or sexual attraction to a minor by an adult*. [775 ILCS 5/1-103(O-1)]

"LGBT-owned business" means a business that is at least 51% owned, or in the case of a corporation, at least 51% of whose outstanding shares of stock are owned, by one or more LGBT persons, and the management and daily operations of which are controlled by one or more LGBT persons.

"Limited health service organization" has the meaning ascribed in Section 1002 of the Limited Health Service Organization Act [215 ILCS 130].

"Minority person" has the meaning ascribed in Section 2(A)(1) of the BEMWPD Act.

"Minority-owned business" means a business that is at least 51% owned, or in the case of a corporation, at least 51% of whose outstanding shares of stock are owned, by one or more minority persons, and the management and daily operations of which are controlled by one or more minority persons.

"NAIC" means the National Association of Insurance Commissioners.

"Person with a disability" has the meaning ascribed in Section 2(A)(4) through (4.1) of the BEMWPD Act.

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"Procurement program" means a risk-bearing entity or reporting group's collection of policies, practices, and procedures to purchase goods or services by means other than direct employment or voluntary labor.

"Qualified group workers compensation pool" has the meaning ascribed in Section 107a.05(a) of the Code.

"Reporting group" means a risk-bearing entity combined with all affiliates that participate in the same supplier diversity program or, absent a supplier diversity program, the same procurement program.

"Risk-bearing entity" means a company, dental service plan corporation, health maintenance organization, limited health service organization, or accredited reinsurer.

"SERFF" means the System for Electronic Rate and Form Filing.

"Supplier" means any natural or legal person, including a subcontractor, who provides goods or services to or on behalf of a risk-bearing entity or affiliate pursuant to (i) a contract, including a contract to provide services to persons covered under a policy form issued by the risk-bearing entity, or (ii) a single-transaction purchase by the risk-bearing entity or affiliate. "Supplier" excludes persons who only have an employment contract with the risk-bearing entity or affiliate. Nothing in this definition requires a risk-bearing entity or reporting group's supplier diversity program to apply to all possible types of suppliers.

"Supplier diversity policy statement" means any language that refers to the risk-bearing entity or reporting group's policies to meet a goal of procuring goods and services from suppliers owned and controlled by members of populations that have been historically underrepresented in business opportunities.

"Supplier diversity program" means the portion of a procurement program that reflects an intentional effort to include one or more historically underrepresented populations in opportunities to become or remain suppliers, including any portion created to fulfill a supplier diversity policy statement.

"Tier 2 supplier" means a supplier that is a subcontractor to another supplier that directly contracts with or sells to the risk-bearing entity or reporting group.

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"Unique paid inclusion supplier" means an inclusion supplier with which a risk-bearing entity or reporting group has had transactions or contracts, regardless of the number or value of transactions or contracts.

"Unique paid supplier" means a supplier with which a risk-bearing entity or reporting group has had transactions or contracts, regardless of the number or value of transactions or contracts.

"Veteran" has the meaning ascribed in 38 USC 101(2).

"Veteran-owned business" means a business that is at least 51% owned, or in the case of a corporation, at least 51% of whose outstanding shares of stock are owned, by one or more veterans, and the management and daily operations of which are controlled by one or more veterans.

"Woman" means an individual who identifies as a woman or a member of the female gender.

"Women-owned business" means a business that is at least 51% owned, or in the case of a corporation, at least 51% of whose outstanding shares of stock are owned, by one or more women, and the management and daily operations of which are controlled by one or more women.

Section 910.40 Supplier Diversity Report Requirements

By April 1 of every year, every risk-bearing entity *authorized to do business in this State or accredited by this State with total net admitted assets of at least \$50,000,000* for the current year as reflected on the Assets page of the annual statement filed with the Director for the year ending December 31st immediately preceding must *submit a two-page report on its voluntary supplier diversity program, or the risk-bearing entity's procurement program if there is no supplier diversity program, to the Department.* (Section 155.49(a) of the Code) The submission must adhere to the following requirements:

- a) The report must be submitted on the template provided on the Department's website at <https://idoi.illinois.gov/companies/industry-supplier-diversity> and must contain the following information:
 - 1) The filing year in which the report is submitted;
 - 2) The official name, NAIC code, and NAIC group code of the risk-bearing

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entity and, if submitted as a reporting group under subsection (b)(1), of the reporting group and every affiliated risk-bearing entity that is subject to Section 910.20 and covered by the same supplier diversity program or other procurement program. For risk-bearing entities, the official name is the full legal name on the certificate of authority or other registration with the Department. For reporting groups, the official name is the group name on file with the NAIC;

- 3) An answer whether the risk-bearing entity or reporting group currently has a supplier diversity program, and if not, whether they intend to create one within the next 12 months.
 - A) If there is a supplier diversity program, the report must provide a brief overview of the program, a link to any website that currently exists for the program, and a disclosure and explanation of whether the program applies to Tier 2 suppliers.
 - B) If there is an intent to create a supplier diversity program within the next 12 months, the report must provide a timeline for its expected beginning and a summary of any other details currently available, such as a program director or program plan.
 - C) If there is no supplier diversity program and no intent to create one within the next 12 months, the report must explain why.
- 4) *The name, address, phone number, and email address of the point of contact for the supplier diversity program or procurement program for vendors to register with the program.* (Section 155.49(a)(1) of the Code) If the program has a contract, agreement, or other express arrangement with a third party to register suppliers on the risk-bearing entity or reporting group's behalf, the point of contact must be from the third party;
- 5) Government and private *local and State certifications* the risk-bearing entity or reporting group *accepts or recognizes for minority-owned, women-owned, LGBT-owned, or veteran-owned business status.* (Section 155.49(a)(2) of the Code) If a local or State certification does not exist for one of those types of inclusion suppliers but the risk-bearing entity or reporting group accepts other certifications for them, such as national or international certifications, the report must identify those certifications. The report also may, but is not required to, identify local, State, and

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national certifications the risk-bearing entity or reporting group accepts for status of business owned by persons with a disability or by any other historically underrepresented population defined by the supplier diversity program. If the risk-bearing entity or reporting group runs its own program to recognize or certify suppliers that meet the definition of one or more inclusion supplier statuses defined in Section 910.30, the report must identify the statuses of inclusion supplier and summarize or provide a weblink to a list of the documentation required from suppliers for eligibility verification;

- 6) *The voluntary goals on inclusion suppliers for the calendar year in which the report is made in each category for the entire procurement budget of the risk-bearing entity or reporting group and the commodity codes or a description of particular goods and services for the area of procurement in which the risk-bearing entity or reporting group expects most of those goals to focus on in that year.* (Section 155.49(a)(4) of the Code) Goals related to overall spend or contract spend on inclusion suppliers must be expressed in flat-dollar amounts or as percentages of the total spend for the procurement category. If the risk-bearing entity or reporting group has goals related to the number inclusion suppliers or a percentage of inclusion suppliers versus total suppliers, the report must specify whether the goal is in terms of unique paid suppliers;
- 7) *On the second page, a narrative explaining the results of the program and the tactics to be employed to achieve the goals of its voluntary supplier diversity program.* (Section 155.49(a)(3) of the Code)
 - A) The results must include the following for the preceding calendar year with respect to suppliers in Illinois and nationally:
 - i) for each procurement category:
 - the total amount of procurement spend;
 - if the risk-bearing entity or reporting group has a supplier diversity program, the total amount of spend with inclusion suppliers;
 - the total dollars in contracts signed; and

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- the total number of unique paid suppliers;
 - ii) for each type of certification, if any, accepted or recognized by the risk-bearing entity or reporting group:
 - the total spend on inclusion suppliers;
 - the total dollars in contracts signed with inclusion suppliers; and
 - the total number of unique paid inclusion suppliers;
 - iii) if the risk-bearing entity or reporting group has a supplier diversity program, the percentage of total procurement spend overall that is composed of total spend on inclusion suppliers overall.
- B) The description of the current tactics in Illinois and nationally must include, but need not be limited to, whether the risk-bearing entity or reporting group conducts outreach specifically to inclusion suppliers, and if so, what outreach and communication strategies and practices are conducted with inclusion suppliers and internally among the risk-bearing entity or reporting group's employees. The report must identify the specific outreach and communications practices that the risk-bearing entity or reporting group uses, including:
 - i) direct outreach to specific suppliers;
 - ii) types of events that the risk-bearing entity or reporting group hosts;
 - iii) forms of media that are used to conduct outreach and communications;
 - iv) membership in organizations that facilitate or help guide the outreach and communications; and
 - v) any other programs used to implement a supplier diversity program, such as mentorship, technical assistance or

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training for inclusion suppliers, a supplier diversity website, or third-party assistance with locating inclusion suppliers.

- C) Nothing in this paragraph requires a risk-bearing entity or reporting group to meet any specific goals or use any specific tactics; and
 - 8) if deemed appropriate by the risk-bearing entity or reporting group, any other information that would help contextualize, qualify, expand upon, or explain variability or uncertainty in fields of the report, or any other information about its voluntary supplier diversity program outside the scope of the prescribed questions that the risk-bearing entity or reporting group wants to voluntarily express. For example, the risk-bearing entity or reporting group may use this field to identify other fields where the reported information could be incomplete, imprecise, estimated, or rudimentary due to specified factors outside the risk-bearing entity or reporting group's control.
- b) Group filings
 - 1) Subject to subsection (b)(2), if a risk-bearing entity authorized to transact business or accredited by this State participates in the same supplier diversity program or the same procurement program as one or more affiliates, the reporting group may submit a single, combined report on behalf of the risk-bearing entity and those affiliates.
 - 2) If two or more affiliated risk-bearing entities authorized to transact business or accredited by this State either do not participate in the same supplier diversity program or do not participate in the same procurement program, a separate report must be filed for each supplier diversity program or procurement program in which any of those affiliated risk-bearing entities participates.
 - c) The report must be submitted as a searchable Portable Document Format (PDF) file via SERFF.
 - d) Pursuant to Section 155.49(b) of the Code, the entire report will be published on the Department's public website for five years. The Department will reject a report as noncompliant if the risk-bearing entity or reporting group furnishes the

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report with a claim that any of the information provided is confidential, proprietary, or privileged.