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# Emergency Rules

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**Title 1—OFFICE OF ADMINISTRATION  
Division 40—Purchasing and Materials Management  
Chapter 1—Procurement**

**EMERGENCY AMENDMENT**

**1 CSR 40-1.050 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts.** The division is amending section (10).

*PURPOSE:* This amendment changes the bonus points awarded for utilization of blind and sheltered workshops in state contracting.

*EMERGENCY STATEMENT:* This emergency amendment informs state agencies and potential vendors that the awarding of bonus points under section 34.165, RSMo has been changed due to the passage of House Bill 1879 of 2018. This emergency amendment is necessary to protect governmental interests as the statute requires these bonus points for state contract solicitations to be set by regulation, and without this emergency amendment, such points cannot be awarded during the evaluation process. As a result, the Division of Purchasing finds a compelling governmental interest, which requires this emergency action. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Division of Purchasing believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 5, 2018, becomes effective September 15, 2018, and expires March 13, 2019.

(10) Section 34.165, RSMo, provides for a *[ten- (10)-] five to fifteen (5-15)* point bonus on bids/proposals submitted by qualified nonprofit organizations for the blind and qualified sheltered workshops, if the participating organization provides, **at a minimum**, the greater of two percent (2%) or five thousand dollars (\$5,000) of the total contract value of bids/proposals for a purchase not exceeding ten (10) million dollars.

(E) If all requirements are met, the bidder/offeror shall receive a *[ten (10)] five to fifteen (5-15)[-]* point bonus to a bid/proposal meeting specifications or bid/proposal that includes subjective or other criteria deemed in the best interest of the state and provided in the solicitation document.

1. A sliding scale for the award of points shall range from a minimum of five (5) points to a maximum of fifteen (15) points. The award of the minimum five (5) points shall be based on the bid/proposal containing a commitment that the participating nonprofit organization or workshop is providing the greater of two percent (2%) or five thousand dollars (\$5,000) of the total contract value of bids for purchase not exceeding ten (10) million dollars.

2. Where the commitment in the bid/proposal exceeds the minimum level set forth in section 34.165, RSMo to obtain five (5) points, the awarded points shall exceed the minimum five (5) points, up to a maximum of fifteen (15) points. As the statute sets out a minimum of five (5) points for a minimum two percent (2%) commitment, each percent of commitment is worth two and one-half (2.5) points. The formula to determine the awarded points for commitments above the two percent (2%) minimum shall be calculated based on the commitment in the bid/proposal (expressed as a number, not as a percentage) times two and one-half (2.5) points:

Vendor's Commitment Number x 2.5 points = Awarded Points

Examples: A commitment of three percent (3%) would be calculated as:  $3 \times 2.5$  points = 7.5 awarded points. A commitment of five and one-half percent (5.5%) would be calculated as:  $5.5 \times 2.5$  points = 13.75 awarded points. If, instead of a percentage, an offeror's bid/proposal lists a dollar figure that is over the minimum amount, the dollar figure shall be converted into the percentage of the offeror's total contract value for calculation of the awarded points. Commitments at or above six percent (6%) receive the maximum of fifteen (15) points.

*AUTHORITY:* sections 34.050, [RSMo 2000,] and [section] 34.074, RSMo [Supp. 2013] 2016. Original rule filed Oct. 15, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. This emergency amendment was filed Sept. 5, 2018, becomes effective Sept. 15, 2018, expires March 13, 2019. An emergency amendment covering this same material will be published in the October 15, 2018, issue of the *Missouri Register*. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*.