Illinois Health and Hospital Association

November 2, 2016

On Aug. 12, 2016, Gov. Bruce Rauner signed House Bill 4370 (Public Act 99-0767), which passed the House and Senate with large majorities. IHA worked closely with the bill's primary sponsors, Rep. Will Davis and Sen. Kimberly Lightford, and hospitals on a collaborative solution that encourages and expands construction opportunities for female-owned, minority- owned, veteran-owned and small business enterprises, while ensuring hospitals have flexibility and clear guidance on any new reporting requirements.

Repealed Policy Mandate

This 2016 legislation repeals Public Act 99-0315 from 2015, which had required hospitals in Cook County to develop internal policies to encourage participation by female-owned, minority-owned, veteran-owned, and small business enterprises in capital projects. Hospitals are no longer required to develop these policies and will focus on public reporting as required in PA 99-0767.

New Reporting Law Encourages Hospital Supplier Diversity

Under PA 99-0767, required hospital reporting is expected to be incorporated into the Annual Hospital Questionnaire administered by the Health Facilities and Services Review Board (HFSRB), which is normally distributed in late winter with a spring completion deadline. A hospital's first supplier diversity report would be for its fiscal year that begins after Feb. 12, 2017.

Hospital supplier diversity reporting provisions apply to hospitals with more than 100 beds. As part of the HFSRB's Annual Hospital Questionnaire, hospitals will:

- Report a construction-related capital expenditure goal and actual spending for female- owned, minority-owned, veteran-owned and small business enterprises above the capital expenditure threshold, as a percentage of total construction-related capital expenditures.
    - Construction-related capital expenditures refer to the erection, building, alteration, reconstruction, modernization, improvement, extension or demolition of or by a hospital.
    - Contracts or subcontracts for construction-related capital projects with the applicable enterprises would apply toward goals and actual spending.
    - Specific vendor certifications are not required to be recognized to justify spending toward applicable enterprises.
    - Reported goals are non-binding and are meant to set an annual target.
    - The capital expenditure threshold for reporting is in excess of $200,000 and annually adjusted to reflect the increase in construction costs due to inflation (20 ILCS 3960/5.3).
- List the type or types of construction-related capital expenditures for which the hospital will seek supplier diversity in the next year.
    - Types could include general or specific and refer to capital projects in the next fiscal year.
- Outline a plan to alert and encourage supplier diversity for the next year's projects.
- Provide a list of the certifications the hospital recognizes; identify the process for a vendor to enroll as a female-owned, minority-owned, veteran-owned or small business enterprise; and provide hospital point-of-contact information for vendors.
    - Examples of recognized certifications are Women Business Enterprise (WBE), Minority Business Enterprise (MBE), Veteran Business Enterprise (VBE) or Disadvantaged Business Enterprise (DBE). Recognizing specific certifications is not mandated.
- Include suggestions for the HFSRB to help better facilitate vendor identification as well as challenges and success stories to encourage best practices.

Additional Hospital Reporting Considerations

Hospitals have flexibility to report construction-related capital expenditures less than the capital expenditure threshold. Health systems can develop a system-wide annual report that includes all hospitals. Annual reports should include as much state-specific data as possible. However, if the submitting hospital or health system does not submit state-specific data,the entity should include any national data it has, explain why it could not submit state-specific data and, if possible, how it intends to do so in future reports.

Role of the Health Facilities and Services Review Board

The HFSRB will publish annual reports on its website and maintain them for at least five years. It also will publish a database with each hospital's supplier diversity contact and a list of certifications each hospital recognizes. The law limits the HFSRB from inquiring about or considering information in hospital supplier diversity reports when reviewing an application for a hospital permit or exemption, or in taking any other action under the Illinois Health Facilities Planning Act.

Role of the Department of Central Management Services

Subject to funding, the Illinois Department of Central Management Services will hold an annual workshop beginning in 2017. The workshop will focus on the state of supplier diversity and collaborative solutions to structural impediments to achieving stated goals.