

A G E N D A



Recommendation for Council Action

Austin City Council		Item ID	50863	Agenda Number	59.
Meeting Date:	11/19/2015		Department:	Small and Minority Business Resources	
Subject					
Approve an ordinance amending City Code Chapters 2-9A, 2-9B, 2-9C and 2-9D to extend the Minority-Owned and Women-Owned Business Enterprise Procurement Program and revise its sunset date.					
Amount and Source of Funding					
Fiscal Note					
There is no anticipated fiscal impact. A fiscal note is not required.					
Purchasing Language:					
Prior Council Action:					
For More Information:	Veronica Briseno Lara, 974-2156; Cynthia Tom, 974-3042				
Council Committee, Boards and Commission Action:					
MBE / WBE:					
Related Items:					

Additional Backup Information

The City's Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) Program (Program) is based on a series of disparity studies that were conducted in response to the 1989 U. S. Supreme Court decision, *City of Richmond v. J. A. Croson Co.* The *Croson* decision held that a local government may redress race discrimination in its contracting activities if it can demonstrate through relevant evidence a compelling governmental interest sought to be remedied, and that the remedies adopted are narrowly tailored to remedy the discrimination identified by way of the collected evidence.

Even prior to *Croson*, in anticipation of the adoption of the City's first MBE/WBE Ordinance, the City Council determined the need for an affirmative action program based on evidence collected in 1987 showing disparities in the number of MBEs and WBEs performing work for the City as prime contractors and subcontractors.

In 1992, 2003, and 2005, the City responded to the *Croson* decision by engaging a consultant to conduct a disparity study to measure the availability of MBEs and WBEs in the City's marketplace and any disparities in the City's utilization of these businesses. Evidence continued to demonstrate that MBEs and WBEs were underutilized in contracting opportunities on City contracts as a result of private sector discrimination. After each review, the City Council adopted a revised MBE/WBE Ordinance to reflect the conclusions and recommendations of the consultant.

The last disparity study was completed by consultants in 2008. The current MBE/WBE Ordinance reflects the findings of this 2008 study, which identified disparities between the number of available MBEs and WBEs and the number actually utilized on City contracts.

In 2013, the City Council authorized an agreement with National Economic Research Associates, Inc. (NERA) to

conduct a disparity study to determine whether a disparity exists between the number of available MBEs, WBEs, Disadvantaged Business Enterprises, and veteran-owned businesses in the City's geographic and product markets and the number being utilized on City contracts, and to document any evidence of continued discrimination in the marketplace and the necessity of the Program. NERA's review and analysis will extend beyond the sunset date in the current ordinance and may lead to further ordinance amendments of the Program in the future. It is proposed to revise the sunset date to December 31, 2016.