

A G E N D A



Recommendation for Council Action

Austin City Council		Item ID	68325	Agenda Number	47.
Meeting Date:	3/23/2017			Department:	Small and Minority Business Resources
Subject					
Approve an ordinance amending City Code Chapters 2-9A, 2-9B, 2-9C, and 2-9D regarding the Minority-Owned and Women-Owned Business Enterprise Procurement Program.					
Amount and Source of Funding					
Fiscal Note					
There is no anticipated fiscal impact. A fiscal note is not required.					
Purchasing Language:					
Prior Council Action:	December 15, 2016 – Council approved Ordinance No. 20161215-054 extending the sunset date to March 31, 2017. March 3, 2016 – Council approved Resolution No. 20160303-016 accepting the disparity study.				
For More Information:	Veronica Briseño, Director, Small and Minority Business Resources Department, (512) 974-2156				
Council Committee, Boards and Commission Action:	November 1, 2016 - Recommended by the MBE /WBE and Small Business Enterprise Procurement Program Advisory Committee on a 6-0 vote with Committee Members Burciaga, Espinosa, Liao, and Worlds absent.				
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 if the remedies adopted are narrowly tailored to remedy the discrimination identified by way of the collected evidence.

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 statistical and anecdotal evidence of continued discrimination in the marketplace and the necessity of the Program. NERA completed its study and provided a presentation to the Economic Development Council Committee on January 11, 2016. The disparity study has been available to the public since January 8, 2016 on the City's website. The disparity study and its findings were adopted by City Council on March 3, 2016, Council directed the City Manager to take the necessary steps to continue the Program.

In fall 2016, Small Minority Business Resources Department (SMBR) staff proposed amendments to City Code Chapters 2-9A, 2-9B, 2-9C, and 2-9D to update the findings and annual goals in those chapters based on the disparity study and to also extend the sunset date of those chapters. However, due to concerns raised by the stakeholder community regarding the disparity study, the amendments to the findings and annual goals sections were put on hold. Instead, in December 2016, Council approved an ordinance that extended the sunset date of the existing four City Code chapters from December 31, 2016 to March 31, 2017, to allow SMBR staff time to meet with the stakeholders to address their concerns. After several meetings with the stakeholders, SMBR staff would like more time to address these concerns with NERA.

The proposed ordinance revises the sunset date of the Program to allow for additional review and possible validation of the proposed availability and utilization numbers presented in the disparity study. The new sunset date will be March 31, 2018. Currently, the Program sunsets or ends on March 31, 2017.

SMBR anticipates bringing forth the study review and validation findings to the impacted community later in the year. Staff will bring recommendations for ordinance changes to the City Council next year after all reviews and validations have been completed.