

AGENDA



Thursday, October 28, 2010

**Small & Minority Business Resources
RECOMMENDATION FOR COUNCIL ACTION**

Item No. 41

Subject: Approve an ordinance repealing and replacing Chapter 2-9A of the City Code, the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program for Construction.

Fiscal Note: There is no anticipated fiscal impact. A fiscal note is not required.

For More Information: Veronica Briseno Lara, 974-2156; Amelie Flores, 974-7014; Sabine Romero, 974-2518

Boards and Commission Action: Recommended by the MBE/WBE Small Business Advisory Committee and Small Business Council Subcommittee.

Prior Council Action: June 8, 2006 - Council approved the establishment of a procurement program for Construction and extension of the ordinance sunset deadline to December 31, 2010; December 11, 2008 - Council approved ordinance amendment based on the results of the updated availability and disparity study and the extension of the ordinance sunset deadline to December 31, 2013.

In order to comply with the MBE/WBE Procurement Program, Bidders/Proposers must either achieve the goals or subgoals that are established for City procurements or submit documentation that meets the good faith effort requirements. The Small & Minority Business Resources (SMBR) Department uses the criteria established in Section 2-9(A)-21 of the City Code to determine whether Bidders/Proposers at a minimum, and in some cases, with additional efforts, comply with the MBE/WBE Procurement Program.

The proposed ordinance amendments increase minimum efforts by incorporating the following requirements: -- Soliciting certified MBEs/WBEs through at least two reasonable, available and verifiable methods of communications (i.e. fax, email, and phone); -- Advertising through a local newspaper, trade association publication, or electronic/social media; -- Breaking out portions of the work to increase the likelihood of meeting goals or subgoals; -- Using the services of minority and women community organizations; and -- Seeking the assistance of SMBR.

The proposed amendments also allow SMBR to consider the performance of other Bidders/Proposers in meeting goals or subgoals when assessing minimum good faith effort compliance; clarify that bid shopping at the Pre-Award Compliance stage is prohibited; and further clarify that unapproved contract changes and bid shopping are sanctionable violations.

In an effort to inform and obtain public comments on the proposed ordinance changes, SMBR provided the following outreach opportunities: conducted a total of three workshops (two in July and one in August); posted press releases; sent written notices to certified, non-certified, and trade and professional organizations; presented at meetings with minority and non-minority trade associations; and presented changes and posted for public comments at the MBE/WBE Small Business Advisory (July, August, September and October meetings) and Council Subcommittee (October meeting). Both the MBE/WBE Small Business Advisory Committee and Council Subcommittee approved the proposed changes.

Chapter 2-9A was last amended on December 11, 2008, including extension of the Chapter's sunset to December 31, 2013.

