



**TO:** MBE/WBE and Small Business Advisory Committee

**FROM:** Veronica Briseño Lara, Director, Small & Minority Business Resources

**DATE:** April 05, 2011

**SUBJECT:** Recommendations on Austin Energy's Weatherization Program.

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This memorandum is in response to the MBE/WBE Advisory Committee's recommendations to Austin Energy's Weatherization Program that apply to the Small & Minority Business Resources Department (SMBR).

***Recommendation: Include MBE/WBE participation goals in all AE Weatherization Program solicitation and contractual documents. Beginning with their inclusion in all RFP documents and required vendor responses/bid submissions.***

It is SMBR's responsibility to review procurements above the City Manager's administrative spending authority in order to determine the appropriate MBE/WBE goals based on the projects cost estimate, potential scopes of work, and MBE/WBE availability. This process is applicable to all city departments. The City's standard project solicitation packages include the goals set for the project, MBE/WBE Program requirements, MBE/WBE availability lists, and the Compliance Plan forms for bid submission. Austin Energy's Weatherization Program included this information along with the MBE/WBE goals that were established. The goals set for the Weatherization project were MBE 14.0% and WBE 2.0% and included in the solicitation documents.

***Recommendation: Evaluate and review everyone involved (prime and subcontractor) in the project is actually serving a commercially useful function that is prudent and necessary for the project.***

A firm that performs a Commercially Useful Function is responsible for performing, managing, and supervising work involved in a contract. SMBR asks that all certified firms perform a Commercially Useful Function if they are identified to work on a City project. MBE/WBE participation is counted based on certified firms that perform a Commercially Useful Function. SMBR makes this determination on the type of work involved and normal industry practice.

***Recommendation: Improve the transparency and accountability of the project relative to MBE/WBE participation. Contract language should include that “if goals are not met, sanctions will be applied according to but not limited to removal from the project as well as restricting future participation. (Federal procurement practices allow for “debarment” of non-performing contractors).***

The City Code and MBE/WBE Program Rules provide the accountability relative to not complying with program requirements. On April 16, 2008, SMBR implemented progressive sanctions within a rolling twenty-four month period. On January 1, 2010, the Program Rules were amended that included allowing the SMBR Director the discretion of recommending the appropriate violation based on the severity of the action. Contracts between the Contractor and the City incorporate the MBE/WBE Program language which includes sanctions for not meeting program requirements. The language was included in the current Weatherization contracts.

SMBR will continue to work with Austin Energy and the weatherization contractors in order to ensure compliance with the MBE/WBE Procurement Program. If you have any questions, please do not hesitate to call me at 974-2156.