

AGENDA



Recommendation for Council Action

Austin City Council	Item ID	28564	Agenda Number	38.
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Meeting Date:	11/21/2013	Department:	Small and Minority Business Resources
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Subject

Approve an ordinance amending City Code Chapters 2-9A, 2-9B, 2-9C and 2-9D extending the Minority-Owned and Women-Owned Business Enterprise Procurement Program and revising the 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; Cindy Crosby, 974-2113
Boards and Commission Action:	
MBE / WBE:	
Related Items:	

Additional Backup Information

The City's MBE /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 MBE /WBE's performing work for the City as prime contractors and subcontractors.

In 1992, 2003 and 2005, the City responded to Croson by engaging a consultant to conduct a disparity study to measure the availability of MBE /WBEs in the City's marketplace and any disparities in the City's utilization of these

businesses. Evidence continued to demonstrate that MBE/WBEs were being 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 study, which identified disparities between the number of available MBE/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 MBE/WBE/DBE and veteran owned businesses' in the City's geographic and product markets, the number being utilized on City contracts, and document any evidence to the City 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, 2015.