



## Recommendation for Action

---

**File #:** 23-2223, **Agenda Item #:** 113.

7/20/2023

---

### **Posting Language**

Approve an ordinance amending City Code Chapters 2-9A, 2-9B, 2-9C and 2-9D, the Minority-Owned and Women-Owned Business Enterprise Procurement Program, to consolidate the four chapters into two; include the findings of the 2022 Disparity Study; and implementing key recommendations of the study and the final report of the Inclusive Procurement Working Group.

### **Lead Department**

Small and Minority Business Resources

### **Fiscal Note**

There is no fiscal impact.

### **Prior Council Action:**

October 27, 2022 - Council approved Ordinance No. 20221027-035 extending the MBE/WBE Program's sunset date to August 31, 2023.

October 27, 2022 - Council approved Resolution No. 20221027-034 adopting the 2022 Disparity Study completed by Collette Holt & Associates.

December 2, 2021 - Council approved Ordinance No. 2011202-042 extending the MBE/WBE Program's sunset date to December 31, 2022.

March 26, 2020 - Council approved Resolution No. 20200326-053 establishing the Inclusive Procurement Working Group (IPWG) to perform a programmatic assessment of the MBE/WBE Program ordinance.

February 20, 2020 - Council approved Ordinance No. 20200220-039 extending the MBE/WBE Program's sunset date to March 31, 2022.

March 1, 2018 - Council approved Ordinance No. 20180301-043 extending the MBE/WBE Program's sunset date to March 31, 2020.

March 23, 2017 - Council approved Ordinance No. 20170323-047 extending the MBE/WBE Program's sunset date to March 31, 2018

December 15, 2016 - Council approved Ordinance No. 20161215-054 extending the MBE/WBE Program's sunset date to March 31, 2017.

March 3, 2016 - Council approved Resolution No. 20160303-016 accepting the 2015 completed by National Economic Research Associates, Inc.

November 19, 2015 - Council approved Ordinance No. 20151119-059 extending the MBE/WBE Program's sunset date to December 31, 2016.

---

November 21, 2013 - Council approved Ordinance No. 20131121-038 extending the sunset dates in City Code Chapters 2-9A, 2-9B, 2-9C, and 2-9D ("MBE/WBE Program") date to December 31, 2015.

**For More Information:**

Edward Campos, Director, Small and Minority Business Resources Department, (512) 974-7206

**Council Committee, Boards and Commission Action:**

April 4, 2023 - The MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee was briefed on draft proposed revisions to the MBE/WBE Procurement Program Ordinance.

**Additional Backup Information:**

The City's Minority-Owned Business Enterprise and Women-Owned Business Enterprise Procurement Program (MBE/WBE 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, as long as the remedies adopted are narrowly tailored to address the discrimination identified by way of the collected evidence.

In 2020, the City Council authorized an agreement with Colette Holt & Associates (CHA) to perform a disparity study examining the MBE/WBE Program for locally-funded contracts. Based on the results of the study, CHA provided a number of recommendations to improve and tailor the City's MBE/WBE Program. A few key recommendations include the City utilizing additional race-neutral measures, developing an annual procurement forecast, and implementing a comprehensive supportive services program. In addition, CHA recommended that the City consolidate the four ordinance chapters into two. The 2022 Disparity Study was adopted by Council on October 27, 2022.

The Inclusive Procurement Working Group (IPWG), established by Council by Resolution No. 20200326-05, performed a programmatic assessment of the MBE/WBE Program, including the administrative processes & procedures. The IPWG issued its final report to Council on March 10, 2023, which outlined 20 final recommendations, including enhancing transparency and communications related to SMBR's processes, increasing additional resources for certified firms, and expanding supportive services to meet the needs of firms.

The draft ordinances align with both the Disparity Study and the IPWG's recommendations. The revision process provided an opportunity for staff to not only perform necessary substantive changes that came from those reports, but also perform general clean-up of program language and administrative items. The draft ordinance was shared with stakeholders and posted to SMBR's website for a 30-day public comment period, May 15 through June 16, 2023.

After approval of the revised ordinances, staff will begin work to revise the program rules, which will occur in Fall of 2023. In addition, staff will continue to implement the recommendations from the disparity study and IPWG final report and further develop comprehensive support services to enhance participation of MBE/WBE firms.