



FINANCIAL SERVICES DEPARTMENT



SMALL AND MINORITY BUSINESS RESOURCES

Local Preference and Small Business *Program Enhancements – Clarifications, Update*

James Scarboro
Chief Procurement Officer
Financial Services Department

Edward Campos
Director
Small and Minority Business Resources Department

Audit and Finance Committee
March 27, 2024



Disparity Study

- 2022 Disparity Study – Adopted by City Council, October 2022
- New MBE/WBE Program Ordinance (2-9A and B) - Approve by Council July 2023

Administrative Rules

- Updated Administrative Rules – Adopted December 2023

Inclusive Procurement Working Group

- Made 20 recommendations to improve MBE/WBE Program
 - Ordinance revisions – July 2023
 - New Personal Net Worth calculation

SMBR – Events to Date



SMALL AND MINORITY
BUSINESS RESOURCES

- New Disparity Study
 - *Showed lower MBE / WBE availability*
 - *Adopted by Council, October 2022*
- MBE/WBE Ordinance
 - *Updated / revised*
 - *In response to new disparity study*
 - *Adopted by Council, July 2023*
- Complimentary Procurement Program(s)
 - *Council requested examination of other / complimentary program(s)*
 - *Specifically including local / small business preferences*
 - *Program(s) to offset lower MBE / WBE availability*

Stakeholder Engagement



FINANCIAL SERVICES
DEPARTMENT

- Meetings

- *Asian Contractors Association*
- *Austin Asian Chamber*
- *Austin Black Contractors Association*
- *Austin Chamber of Commerce*
- *Austin LGBT Chamber of Commerce*
- *Local Business Stakeholders, meeting (various)*
- *Greater Austin Hispanic Chamber of Commerce*
- *US Hispanic Contractors Association*
- *Audit and Finance Committee (May 24, and Aug 23, 2023)*
- *Minority and Small Business Conference (Sept 12, 2023)*

- Survey

- www.surveymonkey.com/r/VZSNJ9Z



- Feedback from Meetings and Survey
 - *Continue / do not harm existing MWBE Program (strong emphasis)*
 - *Maintain Local and Small programs separately*
 - *Equal priority for Local and Small*
 - *Include preference for Local and Small subcontractors if possible*
 - *Small status based on SBA Small Size Standard*
 - *Local status based on Greater Austin*
 - *Local status based on Headquarters*
 - *Explore future enhancements to identify Local firms (certification)*
 - *Concern – Program enhancements may not positively impact all groups equally*
 - *Concern – Programs do not apply to Pro Services and most Construction*

Program Enhancements – Both



- Began 2-Year Pilot Period (10/01/2023 – 09/30/2025)
 - *Capped both Programs to Solicitations for Contracts below \$50M*
 - *Monitor and Report on programs performance*
 - *Control against negative impacts to other programs*
 - *Determine program elements that may be revised further*
- Local Preference Program
 - *Revised / streamlined program criteria*
 - *Optimized preferences where necessary*
- Small Business Program
 - *Implemented Small Business program elements*
 - *Mirrored Local Preference program*

Local Preference – *Enhancements*



- Definition of Local Area
 - *Was – Austin, Full Purpose Jurisdiction only*
 - *Now – Greater Austin (5-County, “Austin-Round Rock-San Marcos, MSA”)*
- Entity within Local Area
 - *Was – Headquarters or Branch Office*
 - *Now – Headquarters only*

- Definition of Small
 - *Any recognized Cert., that includes SBA Small Business Size Standard*
- Small Certifications Recognized
 - *Was – City of Austin (MBE, WBE, SBE) only*
 - *Now – Added State of Texas, Historically Underutilized Businesses (multiple), Federal, Small and Disadvantaged Business Enterprises (multiple)*

Both Programs – *Preference Amounts*



| Invitations for Bids (IFB) | Est. Contract Value | LOCAL | SMALL | BOTH |
|--|---------------------|------------|-------|------------|
| Goods, General Services & Construction | \$50K - \$100K | <u>5</u> % | 5% | 10% |
| Goods & Services | \$100K - \$500K | <u>5</u> % | 5% | 10% |
| Goods & Services | \$500K - \$50M | <u>3</u> % | 3% | 6% |

| Requests for Proposals (RFP) | Est. Contract Value | LOCAL | SMALL | BOTH |
|--|---------------------|-------|-------|------------|
| Goods, General Services & Construction | \$50K - \$100K | 10% | 10% | 20% |
| Goods & Services | \$100K - \$500K | 10% | 10% | 20% |
| Goods & Services | \$500K - \$50M | 6% | 6% | 12% |

Both Programs – *Excluded Elements*



- Will continue to consider excluded elements during pilot
- Subcontractors
 - *Excluded from both programs*
 - *Stakeholder Feedback, avoid negative impacts to MBE/WBE Program*
- Construction Services, Over \$100,000
 - *Excluded from both programs*
 - *Statute limits Local preference for Construction*
- Professional Services
 - *Not included previously*
 - *Two (2) Categories*

Both Programs – *Excluded Elements, Professional Services*



- Specified Professional Services
 - ***Subject to Texas Gov Code Ch. 2254, and Ch. 2269*** (CIP Procurement, State and Local Gov)
 - ***Includes Architects, Engineers, Surveyors Physicians, Nurses, CPAs, etc.***
 - ***Must be selected based on qualifications and experience only*** (No IFB, RFP)
- Exempt Professional Services
 - ***Not subject to Texas Gov Code, Ch. 2269***
 - ***Exempt from Texas Local Gov Code, Ch. 252*** (Municipal Procurement, General)
 - ***Subject to City Charter*** (Prohibits use of IFB)
 - ***Includes all manner of Consultants, Advisors, Analysts, Experts, etc.***
 - ***May only be selected based on qualifications and experience*** (No IFB)
 - ***Not considered Professional Service if RFP is possible***

Both Programs – *Current Status*



- Program(s) numbers to-date (since October 2023)
 - ***Solicitations, Completed (with enhanced programs)..... 26***
 - ***Offers Received, Total..... 102***
 - ***Offerors receiving Local Business Preference..... 31 (30%)***
 - ***Offerors receiving Small Business Preference..... 16 (16%)***
 - ***Solicitation Outcomes, changed due to Program(s)..... 0***

 - ***Contracts Awarded, Total..... 33***
 - ***Contracts Awarded to Local or Small Businesses..... 16 (48%)***
- Adjustments / Observations
 - ***Adjusted Invitation for Bids (IFB) evaluation method, Best Value (3 Criteria)***
 - ***Calculating preferences is manually intensive, Seeking automated solution***

Both Programs – *Going Forward, Next Steps*



- Continue reviewing Program Numbers and Exclusions
 - *Number and percentage of responses from Local and Small offerors*
 - *Comparison of participation in solicitations with and without programs*
 - *Continue examining excluded elements for possible options*
- Develop Program Awareness and Impact
 - *Pursue Vendor outreach for greater awareness and participation*
 - *Support program recognition from other governments in Greater Austin*
 - *Determine other certification sources and opportunities*
- Program Efficiencies
 - *Continue seeking automated solution for calculating preferences*
- Next Program Check-Ins and Updates
 - *Review FY24 Numbers and Observations (Early CY 2025)*

Questions / Discussions

Local Preference and Small Business

Program Enhancements – Clarifications, Update

James Scarboro
Chief Procurement Officer
Financial Services Department

Edward Campos
Director
Small and Minority Business Resources Department

Audit and Finance Committee
March 27, 2024



FINANCIAL SERVICES
DEPARTMENT

Direction from Council



"To further Council's ongoing commitment to support the City's Minority and Women Owned Business Enterprise Procurement Program, the City Manager is directed to explore the development of additional, complementary, procurement programs that will promote further contracting opportunities for small businesses, including but not limited to minority and women owned businesses. Such programs should consider a **local preference feature** and be presented to council for action before August 31, 2023, so that Council can align their adoption with the implementation of future updates to the disparity study goals for MWBE. As part of the envisioned stakeholder process for developing updated MWBE goals and the above complementary procurement programs, the City Manager is directed to work with the local chambers of commerce to review the 2022 Disparity Study and to identify ways that the City can further support small, local businesses in accordance with race and gender-neutral guidelines offered by past legal assessments."

SMBR – Weighted Availability



SMALL AND MINORITY
BUSINESS RESOURCES

Aggregated Weighted Availability for City Contracts

| Black | Hispanic | Asian | Native American | MBE | White Women | MBE/WBE | Non-MBE/WBE | Total |
|-------|----------|-------|-----------------|------|-------------|---------|-------------|--------|
| 1.5% | 4.7% | 1.4% | 0.4% | 8.0% | 6.5% | 14.4% | 85.6% | 100.0% |

Source: CHA analysis of City of Austin data