

## ORDINANCE

By Jenkins

### **Amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to Planning and Development: Small and Underutilized Business Enterprise Program.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 423.40 of above-entitled ordinance be amended to read as follows:

**423.40. - Applicability and enforcement.** (a) Applicability. This ~~chapter~~ section applies to any contract in excess of one hundred seventy-five thousand dollars (\$175,000.00).

(b) Overall, annual goal. The department will set overall, annual goal(s) for MBE/WBE participation for all anticipated contracts, based on the overall availability of minority-owned and women-owned businesses in the city's marketplace.

(c) Contract specific goals. The department will also review each contract and when appropriate set contract specific goals based on the scopes of work of the contract; the availability of qualified, ready, willing and able eligible MBEs/WBEs to perform those scopes; the city's progress towards meeting its annual goal(s); the location of the contract's performance; and any other relevant factors.

If the department places no specific goals on a contract, the department may submit a list of MBEs/WBEs, which may have the capability to offer a bid or proposal, to the soliciting department or the Park and Recreation Board. If the city or the Park and Recreation Board seeks bidders or proposers on a master contract, the department may offer any and all available MBEs/WBEs to the soliciting department or the Park and Recreation Board so that the soliciting department or the Park and Recreation Board may directly solicit the businesses for inclusion on the master agreement.

(d) Commitments a material contract condition; enforcement. Any bid or proposal, where there is or has been a material lack of compliance with the requirements of this chapter, shall be deemed to be an unresponsive bid or proposal and such lack of compliance shall be a sufficient basis for the rejection of that bid or proposal by the city or Park and Recreation Board. The bidder or proposer's commitment(s) to each eligible MBE/WBE firm, and its percentage commitment to the total contract, will be material conditions of contract award. A bidder or proposer's obligation to meet these commitments or demonstrate good faith efforts to do so extends throughout the ~~life~~ entire term of the contract, including any contract amendments.

The department will monitor participation on contracts to ensure eligible MBEs/WBEs are utilized on the contract as submitted by the bidder or proposer.

Every contract covered by this chapter shall be drafted in such a way as to comply with the terms of section 139.50 of this Code, except to the extent that the terms of section 139.50 conflict with the terms of this chapter.

(e) Contract amendments.

(1) If a contract in an amount of one hundred seventy-five thousand dollars (\$175,000.00) or less is proposed to be amended, and the amended contract will be in excess of one hundred seventy-five thousand dollars (\$175,000.00), the contract shall not be amended until the department has reviewed the proposed contract amendment and when appropriate set goals based on the scopes of the work; the availability of qualified, ready, willing and able eligible MBEs/WBEs to perform those scopes; the city's progress towards meeting its annual goal(s); the location of the contract's performance; and any other relevant factors, and the contractor has met the goals or demonstrated good faith efforts to do so. The contractor's obligation to meet these goals or demonstrate good faith efforts extends throughout the remaining term of the contract.

(2) If a contract upon which the department previously set goals is proposed to be amended, and the proposed amendment is in excess of fifty thousand dollars (\$50,000.00), the contract shall not be amended until the department has reviewed the proposed contract amendment and when appropriate set goals based on the scopes of work; the availability of qualified, ready, willing and able eligible MBEs/WBEs to perform those scopes; the city's progress towards meeting its annual goal(s); the location of the contract's performance; and any other relevant factors, and the contractor has met the goals or demonstrated good faith efforts to do so. The contractor's obligation to meet these goals or demonstrate good faith efforts extends throughout the term of the contract.