

Division of Small Business Opportunity:
Minority and Women Business Enterprise (MWBE)
Ordinances

Business, Workforce & Sustainability
January 29, 2014



DENVER
THE MILE HIGH CITY

MWBE Ordinance Requests

- A bill for an ordinance amending Divisions I and III of Article III and Article VII both in Chapter 28 of the Denver Revised Municipal Code pertaining to the establishment and duties of the Division of Small Business Opportunity, implementation of the Minority and Women Business Enterprise contracting ordinance in furtherance of nondiscrimination in City construction and construction related contracts, and the implementation of the Small Business Enterprise program for construction and construction related contracts.
- A bill for an ordinance repealing and reenacting a new Article V of Chapter 28 of the Revised Municipal Code entitled “Nondiscrimination in City Contracts and Purchase Orders for Covered Goods and Covered Services and Opportunities for Minority and Woman-Owned Businesses and Small Business Enterprises in Procurements for Covered Goods and Covered Services”.

Denver MWBE Program

- Make opportunities created by expenditure of public funds for construction, design services, and for covered goods and covered services available to all community members
- Provide capacity-building tools and pathways for all construction and design companies to grow and succeed
- Follow the guidance of recent court decisions in implementing race- and gender-conscious programs

2013 MWBE Disparity Study

- Analyzed City spend for:
 - Construction related contracts funded by the City
 - Procurement of concession related goods and services at Denver International Airport
 - Procurement of certain goods and services by the City
- Determined statistical disparity between availability of qualified MWBEs and the utilization of such firms by the City and City's prime contractors
- Reviewed policies and procedures of the existing MWBE programs and provided recommendations for improvements

Ordinance Outreach

- Outreach – Construction Empowerment Initiative (CEI)
 - Disparity/Ordinance Task Force – held over 15 meetings, 50+ individuals participated
 - CEI Advisory Council Meeting – 20 monthly meetings, 80+ individuals participated
- Outreach – Other
 - Open Forums – 5 community open forums – 125+ individual participants
 - Several presentation to industry and community groups throughout the process both on Disparity Study and New Ordinance

MWBE Ordinance: Construction

- The 2013 Disparity Study found (in part) that:
 - Minority Businesses (MBE) were awarded **9.92%** of total for construction during the study period.
 - Women businesses (WBE) were awarded **3.75%** of total for construction during the study period.
 - Minority Businesses (MBE) were awarded **19.11%** of total for construction-related professional services during the study period.
 - Women businesses (WBE) were awarded **8.93%** of total for construction-related professional services during the study period.
 - Substantial disparities were found in all MBE and WBE groups in construction and construction-related professional services.
- Disparity Study Recommendations:
 - Annual goals of **22%** for construction and **33%** for construction-related professional services.
 - City will adopt these goals and revisit them annually.

MWBE Proposed Changes: Construction

- **Five Current Certification Classifications:**
 - ACDBE** – Airport Concession
 - DBE** – Federal Program w/ Federal Dollars
 - SBE** – Race Neutral Program
 - M/WBE** – Local Program w/ City Dollars
 - SBEC** – Market Place at DIA
- **One new one EBE – Emerging Business Enterprise** – the smallest firms, revenues well below the SBA standards. Three Year Average Revenue - Construction <\$3m Professional Services <\$1m
- **Increased Size Standards for Construction:** 100% of SBA size standards (Professional Services-Construction Related 50% of SBA Size Standards)
- **Mentor Protégé Program:** to encourage majority and minority trade associations to work jointly to connect MBE and WBE protégés with well established mentor firms. DSBO shall facilitate the implementation and coordination of this program. The program may include appropriate incentives to encourage firms to mentor MBE and WBE protégés.

MWBE Proposed Changes: Construction

- **Encouragement of more Joint Ventures:** Partnerships with certified firms and the primes.
- **Teaming Agreements:** An agreement between a prime or general contractor and an MBE or WBE subcontractor or an agreement between a consultant and an MBE or WBE sub-consultant to:
 - (a) develop the capacity of the MBE or WBE under the bid or proposal to the City;
 - (b) describes how the parties are going to share work under the bid or proposal for the prime scope of work under the bid or proposal.
- **Mega Projects:** Projects (Construction >\$10m and Professional Services >\$250K), Agency and DSBO will evaluate if what participation tools can be utilized on these projects.
- **Set Asides for SBE's** – More projects put into the SBE pool giving certified firms the opportunity to be the prime.
- **Set Asides for EBE's** – Putting some projects (Target under \$100,000) where only the certified EBE's complete for the opportunity.

MWBE Proposed Changes: Construction

- **Technical Assistance:** Through the city resources and partners create a listing of resources available to certified firms. Seminars to include:
 - How to do business with the City/DIA
 - How to qualify for or increase Bonding
 - Relationship Building, compliance, and other industry related opportunities.
- **Graduation:** re-entry if eligible (size standards and/or Personal Net Worth)
- **Reporting:** DSBO will be preparing public quarterly and annual reports on the participation of certified firms (MWBE and SBE).

Outcomes not in the Ordinance but from the process:

- **Cash Flow Loan Program:** OED created a program to assist MWBE firms that are City/DIA projects.
- **Concessions Loan Program:** A loan program designed to enhance airport concession opportunities to small businesses by lending up to \$250k or 25% of capital cost. Objective is to increase the number of and diversity of new airport concessionaires.

MWBE: Goods & Services

- The 2013 Disparity Study found evidence of impediments to the development of MBEs and WBEs and underutilization of those businesses in the following procurement industries:
- **Goods:**
 - (1) electronic parts and equipment,
 - (2) office equipment,
 - (3) machinery, equipment and supplies,
 - (4) electrical and industrial equipment including parts and supplies, and
 - (5) communication equipment.
- **Services:**
 - (1) building management and maintenance services including janitorial services,
 - (2) parking services,
 - (3) security services,
 - (4) maintenance and repair services including landscaping,
 - (5) communication equipment related services, and
 - (6) general business services consisting of staffing, interpretation, graphic design, printing and photocopying, transportation, and courier delivery.

MWBE: Goods & Services

- The 2013 Disparity Study found (in part) that:
 - (MBE) were awarded **1.84%** of total procurement of goods and services (as listed in previous slide) during the study period.
 - Women businesses (WBE) were awarded **1.04%** of total procurement of goods and services (as listed in previous slide) during the period.
 - Substantial disparities were found in all MBE and WBE groups in most procurement areas listed.
- Disparity Study Recommendations:
 - Annual goals for the selected procured goods and services during the first year of the M/WBE Participation Plan to be **8% for services** and **5% for goods**.
 - City will adopt these goals and revisit them annually.

MWBE Proposed Changes: Goods & Services

Components of Procurement SBE/MBE/WBE Program

- **Multi-tiered approach:**
 - **SBE Defined Procurement Pool** – bid opportunities for procurements under \$50,000 for SBEs on the DSBO certification list. The SBE Defined Procurement Pool is similar to the SBE Defined Selection Pool administered by DSBO for construction and construction related contracts.
 - **SBE Bid Preference** – bid opportunities for procurements over \$50,000 and up to \$250,000 for SBEs on the DSBO certification list.

MWBE Proposed Changes: Goods & Services

- **Multi-tiered approach cont'd:**
 - **M/WBE Goals** - Procurements \$1,000,000 or more. The Goals program is similar to the Goals program for construction and construction related contracts. It sets a specific goal for each City procurement contract based on the availability of woman business enterprises and minority business enterprises for that particular City procurement contract.
 - **Independent Partnerships** – All procurements (bids and proposals) for covered goods or covered services that are not included in goals, bid preference, or defined procurement pool programs. The City will include language in solicitation documents (RFPs, etc) encouraging independent partnerships with SBEs, MBEs, WBEs, and other business enterprises in supply chain activities, prime/subcontractor partnerships, and joint ventures on City contracts and purchase orders.

MWBE Proposed Changes: Goods & Services

- **Certification.** Certification of SBEs/MBEs/WBEs will be administered by DSBO using the procedures established under the City's construction ordinance for certification of business enterprises.
- **Procurement Advisory Committee.** Department of General Services will have a Procurement Advisory Committee for recommendations regarding the MBE/WBE procurement program.

Q&A
