

ORDINANCE REAUTHORIZATION

Division of Small Business Opportunity (DSBO)

Business, Arts, Workforce &
Aviation Services Committee

March 25, 2020



DENVER
ECONOMIC DEVELOPMENT
& OPPORTUNITY



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Background

- **DSBO's authority is created by Executive Order, the Construction Ordinance, and the Goods & Services Ordinance, and both ordinances are re-authorized at five-year intervals.**
- **The Construction Ordinance is found in D.R.M.C. Chapter 28 Article III; the Goods & Services Ordinance in Article V; and Small Business Enterprise in Article VII.**
- **The purpose of D.R.M.C Chapter 28 Articles III, V, and VII is to enable the city, through the departments and agencies of the city, to undertake specific activities to prevent discrimination and its effects against business enterprises that have been certified as M/WBEs AND SBEs.**



DIVISION OF SMALL BUSINESS OPPORTUNITY

- ☑ Creates and expands contract opportunities for small, minority, and women-owned businesses



January – March 2020

- ✓ **Contractor Prompt Pay – citywide implementation work team**
- ✓ **Targeted public outreach involving ~550 unique attendees**
Black Roundtable, American Council of Engineering, Conference of Minority Transportation Officials, Black Construction Group, HCC Colorado's Diversity Leader, Construction Empowerment Initiative, Committee for City and Airport Fairness (CCAF)
- ✓ **Utilization Plan requirements added to RFPs to date**
Proposers must develop independently and submit with proposal for: NWC Livestock, NWC Triangle, Great Hall, Campus Energy, Central Library, DEN Janitorial, Downtown Janitorial
- ✓ **Four additional citywide implementation work teams**
Procurement/Contract Language, General Services, Rules & Regulations, Standard Operating Procedures

Contractor Prompt Pay

Prompt payment to certified subcontractors

Effective with contracts advertised by the city for procurement on or after May 2, 2020, each contractor on a city contract with certified subcontractors shall pay the respective subcontractors any invoiced and undisputed amounts for accepted and completed work within thirty-five (35) days of the contractor's receipt of the subcontractor's invoice. Payment to the subcontractor shall be timely made as required under this section regardless of whether the contractor has been paid for the same work or payment period.

IMPLEMENTATION

- Complaint-based monitoring
- Streamlined dispute process
- Streamlined internal processes (both for city prompt pay and subcontractor prompt pay)
- Training
- Technology solutions

SEVEN REAUTHORIZATION GOALS

1 To Expand Opportunities

- Significant expansion of goods & services categories and thresholds applied to the Purchasing Program
- Ability to assign goals to individual task orders and work orders for on-call contracts
- Ensuring equity and utilization language in contract and procurement language



Hundreds of NAICS codes



Ordinance



Rules & Regulations

SEVEN REAUTHORIZATION GOALS

2 To Increase Oversight

- Preparing, approving, and ensuring quality control for M/WBE language in procurement and contract
- Prevent termination of a subcontractor without good cause
- Defining compliant vs. non-compliant processes with more ability to apply corrective actions and/or sanctions
- Added protections for whistleblowers



3 To Ensure Transparency and Fairness

- M/WBE utilization plans are due at time of bid opening (not after award)
- “Commercially useful function” is defined so that small businesses are responsible for performing and controlling the work – eliminating pass-throughs and conduits
- Internal goal-setting process informed by data analysis, availability



Ordinance



Ordinance



Ordinance

SEVEN REAUTHORIZATION GOALS

4 To Provide Clarification

- What counts toward goal (i.e., regular supplier)
- Defined “good faith effort” and the process by which it is evaluated
- Re-organized the Ordinances in a more logical manner for better readability



Ordinance



Ordinance

5 To Respond to the Changing Marketplace

- Defining parameters for public/private partnerships, integrated contracts
- Putting in place systems to address complex projects, including creative strategies to advance subs into primes (Mentor-Protégé)
- Allowing flexibility and consistency with small biz certification size standards for changes in the industry, market and business practices



Rules & Regulations



Rules & Regulations



Rules & Regulations

6 To Streamline Processes and Timing

- Move to three-year certification (from annual) → Ordinance
- Modifying and advancing information required during contract procurements and throughout the life of the contract → Rules & Regulations
- Refining guidelines through improved inter-agency coordination → Ordinance

SEVEN REAUTHORIZATION GOALS

7 To Remove Barriers

- Strengthen prompt pay for all M/WBE subcontractor tiers working on city projects
- Formalize engagement by BELT committee to focus concerted efforts towards equity and maximizing opportunities
- Establishment of Citywide Utilization Plans – to create accountability and promote the responsibility of all city agencies



Ordinance



Rules & Regulations

Timeline

MAR

File Ordinance Request
(March 16)

Council 1:1s

BIZ Committee
(March 25)

APR

1st and 2nd Readings – Council
(April 6 & 13)

DSBO Staff Training

Rules and Regs Public Comment
(20 day)

Rules and Regs – Public Mtg (tbd)

MAY

REAUTHORIZATION OF
ORDINANCE
(May 2, 2020)

Rules and Regs Finalized

Agency Partners Training

Certified Firms &
Primes Training

Community Outreach &
Education (opportunities)

New Projects Released with
Ordinance Requirements



Thank You & Discussion