

**ORDINANCE/RESOLUTION REQUEST**

Please email requests to the Mayor’s Legislative Team  
at [MileHighOrdinance@DenverGov.org](mailto:MileHighOrdinance@DenverGov.org) by **3:00pm on Monday**.

*\*All fields must be completed.\**

*Incomplete request forms will be returned to sender which may cause a delay in processing.*

**Date of Request: January 17, 2014**

Please mark one:       **Bill Request**                      or                       **Resolution Request**

**1. Has your agency submitted this request in the last 12 months?**

**Yes**                       **No**

**If yes, please explain:**

**2. Title:** 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”.

**3. Requesting Agency:** Office of Economic Development and General Services

**4. Contact Person:**

- **Name:** Christopher Martinez
- **Phone:** 720-913-1999
- **Email:** Chris.Marinez@Denvergov.org

**5. Contact Person:**

- **Name:** Seneca Holmes
- **Phone:** 720-913-1533
- **Email:** seneca.holmes@denvergov.org

**6. General description of proposed ordinance including contract scope of work if applicable:** The purpose of this proposed ordinance is to enable the city, through the department of general services, user departments, and the DSBO, to undertake specific activities to prevent discrimination and its effects against business enterprises that have been certified as MBEs and/or WBEs in the award of City contracts and purchase orders for covered goods and covered services and to increase opportunities for all small business enterprises that have been certified as SBEs to compete for City contracts and purchase orders for covered goods and covered services.

- a. Contract Control Number:** TBD
- b. Duration:** N/A
- c. Location:** N/A
- d. Affected Council District:** Citywide

**Benefits:** Addresses a statistical disparity that found evidence of impediments to the development of the availability of MBEs and WBEs and the underutilization of those businesses in the following procurement industries: electronic parts and equipment; office equipment; machinery, equipment and supplies; electrical and industrial equipment

including parts and supplies; communication equipment; building management and maintenance services including janitorial services; parking services; security services; maintenance and repair services including landscaping; communication equipment related services; and general business services consisting of staffing, interpretation, graphic design, printing and photocopying, transportation, and courier delivery services.

f. **Costs:** N/A

7. **Is there any controversy surrounding this ordinance? Please explain:** There is potential for controversy surrounding this ordinance. Please contact Chris Martinez or Adrienne Benavidez for more information.

## EXECUTIVE SUMMARY

### **Ordinance for nondiscrimination and opportunities for minority, woman-owned, and small business enterprises in certain City procurement contracts and purchase orders.**

#### **I. Background.**

**A.** In 2000, the City suspended its aspirational goals program administered by the Department of General Services to prevent discrimination and its effects against minority and woman owned business (M/WBEs) in City procurement opportunities after the U.S. District Court enjoined the City from implementing the City's construction goals program in *Concrete Works of Colorado, Inc. v. The City and County of Denver*, 86 F. Supp. 1042 (D. Colo. 2000). Even though the General Services procurement program itself was not the subject of this litigation, the Court restricted all activities related to the collection of data and the certification of MBEs and WBEs for both the construction and the procurement goals programs.

**B.** In 2003, the Tenth Circuit Court of Appeals reversed the district court's decision and upheld the constitutionality of Denver's construction goals ordinance. The City then undertook various studies concerning the utilization and availability of M/WBEs in the goods and services Denver metropolitan area marketplace including a study completed in 2013 by MGT of America, Inc. The 2013 Disparity Study found evidence of impediments to the development of the availability 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.

**C.** The Manager of the Department of General Services, the Director of the Division of Small Business Opportunity, and representatives of affected City agencies have proposed a revised ordinance to address the impediments faced by MWBEs seeking to conduct business with the City and to assist small business entities (SBEs) in the goods and services industries and markets in which the City participates.

## **II. COMPONENTS OF PROCURMENT SBE/MBE/WBE PROGRAM**

### **A. Multi-tiered approach.**

**1. SBE Defined Procurement Pool** – Bid opportunities for procurements \$5,000 to \$49,999 or less 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.

**2. SBE Bid Preference** – Bid opportunities for procurements \$50,000 to \$250,000 for SBEs on the DSBO certification list.

**3. 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.

**4. 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. The goals program provides for graduation from the program of minority business enterprises and woman business enterprises whose size indicates that they have had the opportunity to overcome the effects of discrimination.

**B. 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.

**C. Procurement Advisory Committee.** Department of General Services will have a Procurement Advisory Committee for recommendations regarding the MBE/WBE procurement program.

**D. Graduation.** The MBE/WBE/SBE procurement provides for graduation from the program for business enterprises whose exceed one hundred percent (100%) of the applicable SBA size standards.