



**Request for City Council Committee Action
From the Department of Civil Rights**

Date: June 18, 2007

To: Council Member Scott Benson, Chair
Health, Energy & Environment Committee

Subject: Extension of the Small and Underutilized Business Program through
December 31, 2008.

Recommendation:

It is recommended that the City of Minneapolis amend Title 16, Chapter 423 of the Minneapolis Code of Ordinances to extend the Small and Underutilized Business Program until December 31, 2008 to allow for the completion of a disparity study.

Previous Directives:

- In December of 2005 Council authorized the continuation of the City's Small & Underutilized Business Program until June 30, 2007.
- In April of this year, Council approved the rollover of budget dollars to fund a disparity study.

Prepared/Submitted by: Marvin D. Taylor, Acting Manager of Contract Compliance

Approved by:

Michael S. Jordan
Director of Civil Rights

Presenter in Committee: Marvin Taylor

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget
If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact (use any categories that apply)

- Neighborhood Notification
- City Goals
- Comprehensive Plan
- Zoning Code
- Other

Background/Supporting Information

The City of Minneapolis, has had a long history of promoting equality for women and minority citizens in employment and contracting. These efforts have not been taken to favor one segment over another, but rather to share economic opportunities with all citizens. To this end, policy makers have established a number of programs over the years. Major efforts include the Women and Minority Business Program of the early eighties, The Emerging Small Business Program of the early nineties and the current Small and Underutilized Business Program established in 1997.

Starting in 1980, the Women and Minority Business Program promoted women and minority participation by establishing arbitrary goals of two percent and ten percent participation respectively on all city assisted contracts. Such programs were later deemed to be unconstitutional. The courts indicated that such a race and gender based program required a two pronged test which could be addressed within the competition of a disparity study. Without the legal bases to continue, the program was dropped to settle a law suit.

The City instituted the Emerging Small Business Program in 1990, as a replacement. Criteria were based on company size rather than the sex or race of the owners. Goals were established at twenty percent and later raised to twenty four percent. Unfortunately, participation by companies owned by women or minority citizens grossly declined.

June 18, 2007
Page 3 of 4

The City of Minneapolis commissioned a disparity study in partnership with Hennepin County and the Public Housing Authority. The study was completed in June of 1995 and provided the legal background and data necessary to entertain a race and gender specific program. The current Small and Underutilized Business Program (SUBP), was established in 1997. Program participation goals are set on a project by project basis, based on the availability of targeted group companies within the particular opportunities of the project.

Courts have been clear to say that such a program should address the effects of past and present discrimination, but not be a set aside or entitlement program that is based solely on will. Such programs must also be periodically reviewed to determine their necessity and effectiveness. We therefore established a program sunset date, as a checkpoint, to review our activity and legal bases. The original sunset date was December 31, 2005. That sunset date was later extended to June 30, 2007.

Over the past two years, staff has been working on partnerships to complete another disparity study. Since 2005, meetings and negotiations have been held with St. Paul, Ramsey and Hennepin Counties, The Metropolitan Council, Airports Commission and Minnesota Department of Administration. Request for proposals were sent out and consultants were interviewed by and on behalf of participating parties. Many jurisdictions were not prepared to follow through. The City of St. Paul has selected a vendor from that process and is currently doing a study.

Early in 2007, staff had informally agreed to partner with Hennepin County on a study. The National Economic Research Associates (NERA), was the consensus choice for a vendor to conduct the study. We then negotiated a scope and cost to do a study with Hennepin County. In April of 2007, Council approved the rollover of \$350,000 in funds for a study. This amount was the negotiated cost in partnership with Hennepin County. The County decided to wait for the Minnesota Department of Administration. The Department of Administration has recently had \$500,000 approved in their 2008 budget for a study. They are obligated to invite the Metropolitan Council and Airports Commission to participate. The City of Minneapolis would also be welcomed, but the selection process will likely not start until next year. The Department of Civil Rights continues to negotiate for the best possible study at the best possible price. Our preference is to have the study start by July 31st of 2007 and completed by June 30th of 2008. Our options are as follows:

1. Minneapolis reestablish the partnership with Hennepin County.
2. Minneapolis stand alone to complete a study within budget.
3. Minneapolis partner with the Department of Administration and others.
4. Minneapolis connect with the study currently underway in St. Paul.

Council Member Scott Benson, Chair
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June 18, 2007
Page 4 of 4

In summary, the Small and Underutilized Business Program is a very important function of the City. It is structured to give equal protection to all citizens, by establishing equitable participation targets that are not an undue burden on any sector of our society. It also strives to fulfill policy goals in support of "One Minneapolis." It is imperative that this program be allowed to continue and grow to enhance economic opportunities for all sectors of our society. We therefore, respectfully ask that section 423 of the Minneapolis Code be amended to allow the program to continue until a disparity study and strategic work plan on program function can be completed.