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Title: AN ORDINANCE creating a program to promote the use of small contractors and suppliers in competing for county contracting opportunities; and amending Ordinance 13983, Section 1, and K.C.C. 4.19.010, Ordinance 13983, Section 2, and K.C.C. 4.19.020, Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030, Ordinance 13983, Section 4, and K.C.C. 4.19.040, Ordinance 13983, Section 5, and K.C.C. 4.19.050, Ordinance 13983, Section 6, and K.C.C. 4.19.060, Ordinance 13983, Section 7, and K.C.C. 4.19.070, Ordinance 13983, Section 8, and K.C.C. 4.19.080, Ordinance 13983, Section 9, and K.C.C. 4.19.090 and Ordinance 13983, Section 10 and K.C.C. 4.19.100 and adding a new section to K.C.C. chapter 4.19.

Sponsors: Larry Gossett, Larry Phillips, Bob Ferguson, Dow Constantine, Julia Patterson

Indexes: Contracts

Code sections: 4.19 -, 4.19.010 -, 4.19.020 -, 4.19.030 -, 4.19.040 -, 4.19.050 -, 4.19.060 -, 4.19.070 -, 4.19.080 -, 4.19.090 -, 4.19.100 -

Attachments: 1. 15703.pdf, 2. A. King County Administrative Rules, 3. Attachment 2 to Staff Report 2-27-07, 4. Staff Report 2-27-07

Date	Ver.	Action By	Action	Result
3/12/2007	1	Metropolitan King County Council	Hearing Held	
3/12/2007	1	Metropolitan King County Council	Passed	Pass
2/27/2007	1	General Government and Labor Relations Committee	Recommended Do Pass	Pass
2/26/2007	1	Metropolitan King County Council	Introduced and Referred	

Clerk 2/22/2007

AN ORDINANCE creating a program to promote the use of small contractors and suppliers in competing for county contracting opportunities; and amending Ordinance 13983, Section 1, and K.C.C. 4.19.010, Ordinance 13983, Section 2, and K.C.C. 4.19.020, Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030, Ordinance 13983, Section 4, and K.C.C. 4.19.040, Ordinance 13983, Section 5, and K.C.C. 4.19.050, Ordinance 13983, Section 6, and K.C.C. 4.19.060, Ordinance 13983, Section 7, and K.C.C. 4.19.070, Ordinance 13983,

Section 8, and K.C.C. 4.19.080, Ordinance 13983, Section 9, and K.C.C. 4.19.090 and Ordinance 13983, Section 10 and K.C.C. 4.19.100 and adding a new section to K.C.C. chapter 4.19.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 13983, Section 1, and K.C.C. 4.19.010 are each hereby amended to read as follows:

The executive shall implement ~~((a boost))~~ the King County contracting opportunities program under which the county and its contractors have an incentive to make use of small ~~((economically disadvantaged businesses))~~ contractors and suppliers as prime contractors, subcontractors and suppliers on county contracts.

SECTION 2. Ordinance 13983, Section 2, and K.C.C. 4.19.020 are each hereby amended to read as follows:

The ~~((boost))~~ King County contracting opportunities program shall apply to county public works, consulting and procurement contracts.

SECTION 3. Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030 are each hereby amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Administrator" means the manager of the ~~((contract compliance and minority/women and disadvantaged business division in the department of finance office))~~ office of business relations and economic development.

B. ~~((Economically distressed area" means a geographic area determined by the county council to require the use of incentives in order to stimulate economic activity and revitalize declining neighborhoods.~~

C. ~~"Located within" the county or an economically distressed area means that a business that at least:~~

~~-1. Has its primary offices or distribution points, other than residential or post office box, physically~~

~~within the relevant boundaries;~~

- ~~-2. Lists the address on a valid business permit as being within the relevant boundaries;~~
- ~~-3. Has been doing business within the relevant boundaries for at least twelve months; and~~
- ~~-4. Submits other proof of compliance with subsection C. 1. through 3. of this section as required by~~

~~the administrator.~~

~~D.)) "Small contractor and supplier" means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. In assessing these financial conditions, the administrator shall substantially adopt the approach used by the federal Small Business Administration, but the administrator shall adjust the Small Business Administration's ((dollar ceilings)) maximum revenue standards for various standard business classifications and levels for owners' personal net worth to account for local market conditions. ((Initially, the dollar ceiling))However, the maximum revenue standard for standard business classifications ~~shall~~ may not be more than ~~be~~ fifty percent of the ((1999)) Small Business Administration's thresholds, as now existing or hereafter amended.~~

SECTION 4. Ordinance 13983, Section 4, and K.C.C. 4.19.040 are each hereby amended to read as follows:

To be certified for the ((boost)) King County contracting opportunities program, a business must be a small ((economically disadvantaged business)) contractor or supplier, have a valid business license, and ((serving)) must serve a commercially useful function, as defined in K.C.C. chapter 4.18 ((, and must be a business involved with business development)). ((A)) To maintain its certification, within one year of its certification a small ((economically disadvantaged business can meet and maintain this criterion by having)) contractor or supplier must have the person or persons who own and control the business ((annually)) complete at least fifteen hours of business-related training in a program approved by the administrator. Based on the administrator's assessment of the small contractor or supplier's need for additional training, the administrator

may require a small contractor or supplier to complete up to fifteen additional hours annually of business-related training. ~~((In establishing regulations for approval of such a training program, t))~~The administrator shall evaluate and approve training programs based on ~~((look for))~~ one or more of the following indications of the program's value: the relevant industry's historical use of ~~((support from within the relevant industry))~~ the program; affiliation the program has with established schools, if any~~((;))~~; and accreditation by an established association.

SECTION 5. Ordinance 13983, Section 5, and K.C.C. 4.19.050 are each hereby amended to read as follows:

The administrator may develop a process for certifying businesses for participation in the ~~((boost))~~ King County contracting opportunities program. If feasible, the administrator shall arrange or contract for a coordinated certification agency in cooperation with other agencies that may adopt compatible programs.

SECTION 6. Ordinance 13983, Section 6, and K.C.C. 4.19.060 are each hereby amended to read as follows:

To provide significant opportunities and incentives for ~~((boost program))~~ small contractors and suppliers to prove themselves competitive within the market, the certification of the businesses is limited to five years or a specified contract and dollar volume of participation.

SECTION 7. Ordinance 13983, Section 7, and K.C.C. 4.19.070 are each hereby amended to read as follows:

A. The ~~((boost))~~ King County contracting opportunities program shall use one or more methods to create an incentive to promote the use of ~~((boost program))~~ small contractors and suppliers. This incentive shall be produced either through a bonus system in which the increased participation of ~~((boost program businesses))~~ small contractors and suppliers is a factor in the award of contracts~~((; through a factor in compensation to the contractor))~~; or through a set-aside system under which contractors are required to achieve a specified level of participation by ~~((boost))~~ King County contracting opportunities program businesses. If the

bonus system is used, the contract shall state the maximum incentive available for ~~((boost program))~~ the participation of small contractors and suppliers and the possible methods for making use of the incentive. If a set-aside system is used, the contract shall state a required minimum utilization.

B. As a matter of policy, opportunities for small ~~((economically disadvantaged businesses))~~ contractors and suppliers to act as prime contractors will be identified on an ~~((on-going))~~ ongoing basis.

C. The specific methods to be used to provide incentives to ~~((boost program participating))~~ small ~~((economically disadvantaged businesses))~~ contractors and suppliers and for them to be prime contractors, as opportunities arise, shall be fully addressed in the rule-making process.

D. Beginning in 2008, the administrator shall by May 1 of every year, file twelve copies with the clerk of the council, for distribution to all councilmembers and the lead staff of the general government and labor relations committee or its successor, a report to council on the progress of the King County contracting opportunities program during the previous year, January through December. The report shall include:

1. The total amounts awarded by contract category;
2. The total amount awarded by contract category for which an incentive was available;
3. The total amounts awarded to small contractors and suppliers reported by contract category and by race and gender, to the extent businesses voluntarily provide this race and gender information;
4. For goods and services contracts, the total amount awarded to small contractors and suppliers by race and gender to the extent businesses voluntarily provide this race and gender information, for those contractors for which the small contractor or supplier was not the low bidder;
5. For goods and services, the total amount paid by the county.
6. A listing of all participating small contractors and suppliers by contract category, race and gender to the extent businesses voluntarily provide this race and gender information, their location by city and zip code, and the specific contracts including dollar amounts awarded;
7. A listing of the number of small contractors and suppliers by race and gender ,to the extent

businesses voluntarily provide this race and gender information, in each of the following revenue categories that was certified in the program:

a. for goods and services:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to one million dollars;
- (3) one million to two million dollars; and
- (4) two million dollars to the maximum revenue amount allowed by the program rules;

b. for consulting:

- (1) zero to two hundred fifty thousand dollars;
- (2) two hundred fifty to five hundred thousand dollars;
- (3) five hundred thousand to one million dollars; and
- (4) one million dollars to the maximum revenue amount allowed under the program rules;

c. for construction:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to three million dollars;
- (3) three million to eight million dollars; and

insrsid7367285 (4) eight million to the maximum revenue amount allowed under the program rules.

8. A listing of the number of small contractors and suppliers by race and gender, to the extent

businesses voluntarily provide this race and gender information, in each of the following revenue categories that was awarded a contract:

a. for goods and services:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to one million dollars;
- (3) one million to two million dollars; and

(4) two million dollars to the maximum revenue amount allowed by the program rules;

b. for consulting:

(1) zero to two hundred fifty thousand dollars;

(2) two hundred fifty thousand to five hundred thousand dollars;

(3) five hundred thousand to one million dollars;

(4) one million dollars to the maximum revenue amount allowed under the program rules;

c. for construction:

(1) zero to five hundred thousand dollars;

(2) five hundred thousand to three million dollars;

(3) three million to eight million dollars; and

(4) eight million to the maximum revenue amount allowed under the program rules.

SECTION 8. The administrator shall by September 2, 2007, file twelve copies of a report with the clerk of the council, for distribution to all councilmembers and the lead staff of the general government and labor relations committee or its successor, regarding options for increasing the participation of small contractors and suppliers in goods and services contracts. The report shall include an analysis of the feasibility of offering:

A. A bonus system such that the increased participation of small contractors and suppliers is a factor in the award of goods and services contracts; and

B. Other options as appropriate.

SECTION 9. Ordinance 13983, Section 8, and K.C.C. 4.19.080 are each hereby amended to read as follows:

A person who violates this chapter or the rules adopted under this chapter or who fails to comply with representations or commitments made to receive a benefit or qualify for an incentive under the ~~((boost))~~ King County contracting opportunities program is subject to sanctions including but not limited to: liquidated damages; withholding of funds~~((;))~~; a civil fine or penalty; and disqualification from eligibility for bidding on

or entering into or participating, as a subcontractor or in any other manner, in a contract with the county for a period not to exceed five years. If imposing sanctions, ~~((F))~~the administrator shall: set forth ~~((either))~~ the sanctions ~~((or liquidated damages, or both,))~~ to be imposed and the reasons for the imposition in a written order; promptly furnish a copy of the order to the contract awarding authority or contract administering authority; and mail a copy of the order by certified mail, return receipt requested, to the person being sanctioned.

SECTION 10. Ordinance 13983, Section 9, and K.C.C. 4.19.090 are each hereby amended to read as follows:

A person against whom ~~((sanctions are imposed by))~~ the administrator under this chapter imposes sanctions may appeal within fifteen days from the date the administrator's decision ~~((was))~~ is mailed to the person being sanctioned, by filing a notice of appeal with the office of the hearing examiner. Within forty-five days after receiving the notice of appeal, the hearing examiner shall convene the appeal hearing. The hearing examiner shall provide ~~((W))~~written notice of the hearing date ~~((shall be given))~~ to the appellant and to the department of ~~((finance))~~ executive services, finance and business operations division at least thirty days before the hearing. Within thirty days after conclusion of the appeal hearing, the hearing examiner presiding at the hearing shall prepare a written decision and order. The final decision shall be filed by the hearing examiner as a public record with the county recorder's office, and copies of the final decision mailed to each party of record and to the administrator.

SECTION 11. Ordinance 13983, Section 10, and K.C.C. 4.19.100 are each hereby amended to read as follows:

The executive shall adopt rules to implement this chapter, the council must approve them before they become effective. ~~((Where appropriate, the executive may employ a factor in favor of businesses located in economically disadvantaged areas of King County.))~~

NEW SECTION. 12. There is hereby added to K.C.C chapter 4.19 a new section to read as follows:

The rules in Attachment A to this ordinance are the rules to administer the King County contracting opportunities program created under this chapter.