



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 24-3706, Version: 1

PROPOSED RESOLUTION

RESOLUTION TO SUPPORT MINORITY AND WOMEN OWNED BUSINESSES AMIDST LAWSUITS ALLEGING DISCRIMINATION IN GOVERNMENT CONTRACTS

WHEREAS, The Cook County Minority/ Women Business Enterprise (M/WBE) program was first enacted in 1988, with the purpose of remediating past County discrimination against minorities and women on construction contracts;

WHEREAS, many local governments, including Cook County, were active and passive participants in discriminatory practices that adversely affected the growth and full participation of minority and women-owned businesses in the government marketplace;

WHEREAS, the Cook County M/WBE program evolved over time to apply to goods and services contracts, professional services contracts, and health and hospital contracts;

WHEREAS, in 2000, the construction portion of the program was ruled unconstitutional, and Cook County was without a M/WBE construction program for several years;

WHEREAS, under the leadership of President Preckwinkle, the construction program is now reinstated and on firm constitutional footing, and supported by the County's first ever Disparity Study in 2013;

WHEREAS, a number of cases challenging M/WBE and DBE (disadvantaged business enterprise) programs employed by local governments, including those in Cook County, are now before federal courts across the United States;

WHEREAS, in June 2023, the U.S. Supreme Court ruled in the case Fair Admissions v. Harvard that the university's use of race considerations in their undergraduate admissions process was impermissible, triggering litigation in other areas, including transportation and infrastructure contracting, citing this case as new precedent;

WHEREAS, Mid-America Milling Company v. USDOT was filed in October 2023; plaintiffs assert that the DBE program is unconstitutional because it ultimately uses race and gender in government contracting decisions; the plaintiffs in this case rely heavily upon the U.S. Supreme Court decision in Fair Admissions v. Harvard; plaintiffs, who are based in southern Indiana, have requested that the U.S. District Court, Eastern District of Kentucky enter a nationwide USDOT DBE injunction;

WHEREAS, in Landscape Consultants of Texas and Metropolitan Landscape Management v. City of Houston and Midtown Management District, plaintiffs filed a case that challenges local M/W/DBE programs under the Equal Protection Clause of the US Constitution; discovery in that case ends in June 2025, and one or both parties are expected to file motions for summary judgement shortly thereafter; the outcome of this case could impact M/W/DBE programs employed by local governments including Cook County.

THEREFORE, BE IT RESOLVED, M/WBE and DBE programs are essential in ensuring that business opportunities are provided to contractors and workers who reflect the diverse composition of a state/ county/ city's residents.

BE IT FURTHER RESOLVED, Cook County is committed to the inclusion and expansion of opportunities for small, local, minority, and women-owned businesses, which have demonstrated success in promoting economic opportunity,

equity, and access.

BE IT FURTHER RESOLVED, the Cook County Board of Commissioners supports M/WBE and DBE programs throughout the nation, including programs employed by the US Department of Transportation and the City of Houston, and we urge Congress to take action to protect the USDOT DBE program and M/WBE and DBE programs overall.