



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

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PROPOSED ORDINANCE AMENDMENT

MINORITY AND WOMAN OWNED BUSINESS ENTERPRISES

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34, Finance, Article IV, Procurement, Division 8, Minority And Woman Owned Business Enterprises, Section 34-263 of the Cook County Code is hereby amended as Follows:

Sec. 34-263. - Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, Terms not defined in this Section are defined in Division 1 of this Procurement Code, or in Section 1-3 of the County Code. Additional terms applicable to Subdivision II are set forth in such subdivision.

Affiliate. An "Affiliate" of or a Person "Affiliated" with, a specified Person shall mean any Person that directly or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, the Person Specified. Affiliates shall be considered together in determining whether a firm is a small business.

Broker means a Person who or which neither manufactures the supplies, equipment or goods supplied nor owns or operates a store, warehouse or other establishment (and related distribution equipment) in which it maintains, consistent with industry standards, an inventory of the supplies, equipment or goods required for performance of the Contract for sale in the normal course of business. A Broker provides no substantial service other than acting as a conduit between his or her supplier and his or her customer.

Commercially Useful Function means the performance of a distinct element of work required for the Procurement, with the requisite skill and expertise.

Contract means any Procurement or Contract (as defined in Section 34-121 in an amount exceeding \$25,000.00.

Contract Specific Goals means the goals established under Section 34-267 that are based upon relevant factors, including, but not limited to, the availability of MBEs or WBEs in the scopes of work of the Project.

County Marketplace means the six-county region, currently the counties of Cook, DuPage, Kane, Lake, McHenry and Will.

Economically Disadvantaged means an individual with a Personal Net Worth less than \$2,000,000.00 indexed annually for the Chicago Metro Area Consumer Price Index for Urban Wage Earners and Clerical Workers, published by the U.S. Department of Labor, Bureau of Labor Standards, beginning January 2008.

Expertise means demonstrated skills, knowledge or ability to perform, as defined by normal industry practices, including licensure where required, in a field.

Good Faith Efforts shall have the meaning set forth in Section 34-271.

Manufacturer means a Person that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required for a Procurement and of the general character described by the specifications.

Minority Business Enterprise or *MBE* mean a Local Small Business, including a sole proprietorship, partnership, corporation, limited

liability company, Joint Venture or any other business or professional entity:

- (1) Which is at least 51 percent owned by one or more Minority Individuals, or in the case of a publicly owned business, at least 51 percent of all classes of the stock of which is owned by one or more Minority Individuals;
- (2) Whose management, policies, major decisions and daily business operations are independently managed and Controlled by one or more such Minority Individuals; and
- (3) Which has its principal place of business and a majority of its regular, full-time workforce located within the County's Marketplace.

Minority Individual means an individual in one of the following groups:

- (1) African-Americans or Blacks, which includes persons having origins in any of the Black racial groups of Africa;
 - (2) Hispanic-Americans, which includes persons who are Mexican, Puerto Rican, Cuban, Caribbean, Dominican, Central or South American, regardless of race;
 - (3) Native-Americans, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; or
 - (4) Asian-Americans (persons whose origins are in any of the original peoples of the Far East Asia, Southeast Asia, the islands of the Pacific or the Northern Marianas, or the Indian Subcontinent); or
 - (5) Other groups, including, but not limited to, Arab-Americans, found by the County to be socially disadvantaged by having suffered racial or ethnic prejudice or cultural bias within American society, without regard to individual qualities, resulting in decreased opportunities to compete in the County's Marketplace.
- (6) Individuals with physical and mental disabilities, which includes an individual who has an impairment that substantially limits one or more major life activities, who is regarded generally by the community as having such a disability, and whose disability has substantially limited the individual's ability to engage in competitive business.

Owned means having all the customary incidents of ownership, including the right of disposition, and the sharing in all risks and profits commensurate with the degree of ownership interest.

Personal Net Worth means the net value of the assets of an individual after total liabilities are deducted. An individual's personal net worth does not include the individual's ownership interest in an applicant or other Certified MBE or WBE, provided that the other Person is certified by a governmental agency that meets the County's eligibility criteria or the individual's equity in his or her primary place or residence. As to assets held jointly with a spouse, an individual's Personal Net Worth includes only that individual's share of such assets. An individual's Personal Net Worth also includes the present value of the individual's interest in any vested pension plans, individual retirement accounts, or other retirement savings or investment programs less the tax and interest penalties that would be imposed if the asset were distributed at the present time.

Program means the Minority- and Women-Owned Businesses Enterprise Program established in this division, and shall include the Public Works Participation Program.

Program Goals means the goals set forth in Section 34-267.

Protected Class Enterprise or *PCE* shall mean those Persons qualifying under the definitions of Minority Business Enterprise and Women's Business Enterprise contained in this section.

Public Works Participation Program means the program established pursuant to Subdivision II.

Regular Dealer means a Person that owns, operates, or maintains a store, warehouse, or other establishment in which the supplies, equipment, or goods (excluding software licenses) of the general character required for the Procurement are bought, kept in stock, and regularly sold or leased in the usual course of business. To be a Regular Dealer, the Person must be an established business that engages, as its principal business and under its own name, in the Procurement and sale or lease of the products in question. A Person may be a Regular Dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the Person both owns and operates distribution equipment for the products. Any supplementing

of such Person's distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packers, manufacturer representatives, or other Persons who arrange or expedite transactions are not Regular Dealers.

Socially Disadvantaged means an individual who has been subjected to racial, ethnic or gender prejudice or cultural bias within American society because of his or her identity as a member of a group and without regard to individual qualities. Social disadvantage must stem from circumstances beyond the individual's control. A Socially Disadvantaged individual must be a citizen or lawfully admitted permanent resident of the United States.

Woman means a person of the female gender.

Woman-owned Business Enterprise or *WBE* means a Local Small Business, including a sole proprietorship, partnership, corporation, limited liability company, Joint Venture or any other business or professional entity:

- (1) Which is at least 51 percent Owned by one or more Women, or in the case of a publicly owned business, at least 51 percent of all classes of the stock of which is Owned by one or more Women;
- (2) Whose management, policies, major decisions and daily business operations are independently managed and Controlled by one or more such Women; and
- (3) Which has its principal place of business and a majority of its regular, full-time work force located within the County's Marketplace.

Effective date: This ordinance shall be in effect immediately upon adoption.