



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

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PROPOSED ORDINANCE AMENDMENT

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES AMENDMENT

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 Finance, Article IV Procurement Code, Division 8 Minority and Women Owned Business Enterprises, Section 34-263 Definitions 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.

Applicant means a person who submits documents and information seeking certification, continued certification, or re-certification as a PCE to the Office of Contract Compliance.

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.

Business means a sole proprietorship, partnership, corporation, limited liability company, Joint Venture or any other business or professional entity.

Certified firm means a firm that has been accepted by the County as a certified MBE or WBE or Established Business.

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

Compliance Contract Director or "CCD" means the Contract Compliance Director.

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

Contractor means any business that seeks to enter into a contract with the County, and includes all partners and Affiliates Business.

Contract Specific Goals means the goals established under Section 34-267(b) that are based upon relevant factors, including, but not limited to, the availability of MBEs or WBEs relative to the scope 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, with respect to an individual, means having a Personal Net Worth less than ~~\$2,000,000.00~~ \$20,000,000.00, 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.

Established Business means a Local Business that is not a Small Business and was certificated as an MBE or WBE within the past 12 months:

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

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.

Joint Venture means an association of two or more Businesses proposing to perform a for-profit business enterprise. Joint Ventures must have an agreement in writing specifying the terms and conditions of the relationships between the partners and their relationship and responsibility to the contract.

Local Business means a Business located within the County's Marketplace which has the majority of its regular, full-time work force located within the County's Marketplace.

Local Small Business means a Local Business which is also a Small Business.

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* 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 Minority Individuals who are economically disadvantaged, 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 such 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.

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.

Person or *Persons* means any natural person, corporation, partnership, Joint Venture, trust, association, limited liability company, sole proprietorship or other legal entity.

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 of 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 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, and shall not include future payments receivable from a pension or Social Security.

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(a).

Protected Class Enterprise or *PCE* means a business meeting the definition of Minority Business Enterprise, Women's Business Enterprise, or Established Business as set forth 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. Packagers, manufacturer representatives, or other Persons who arrange or expedite transactions are not Regular Dealers.

Small Business means a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 CFR Part 121, as related to the nature of the work the Person seeks to perform on Contracts. A Person is not an eligible small business enterprise in any calendar fiscal year in which its gross receipts, averaged over the Person's previous five fiscal years, exceed the size standards of 13 CFR Part 121.

Socially Disadvantaged means having been subjected to racial, ethnic or gender prejudice or cultural bias within American society because of identity as a member of a group, and without regard to individual qualities, stemming from circumstances beyond the relevant person's control.

Using Agency or *User Agency* means the departments or agencies within Cook County government, including

Elected Officials.

Utilization Plan means the document, submitted to the County as part of a bid or proposal, in which one or more bidders or proposers commit to a level of PCE participation in the subject contract, identify the associated responsibilities and scope of work, and dollar value or the percentages of the work to be performed.

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 economically disadvantaged 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 such 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.