

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 231017

Amending Chapter 3, Code of Ordinances, by deleting Section 3-457, “Procedures for all other contracts,” and inserting in lieu thereof a new Section 3-457 of like title, for the purpose of giving the Director of the Civil Rights and Enforcement Opportunity (“CREO”) Department the discretion to allow certain request for proposal (“RFP”) documents to be submitted prior to a notice to proceed on Housing and Community Development Department or other incentive projects.

WHEREAS, Section 3-457 sets out MBE/WBE document procedures required for certain City contracts to be executed, including when a notarized contractor utilization plan (“CUP”), letter of intent to subcontract (“LOI”) and request for waiver of contract goals must be submitted; and

WHEREAS, Section 3-457 requires CUPs, LOIs and request for waiver of contract goals be submitted; and

WHEREAS, the nature of Housing and Community Development Department incentive contracts, such as Central City Economic Development and Housing Trust Fund contracts, necessitates discretion by the Director of CREO to allow for submission of those documents at a later time, but before a notice to proceed is issued; and

WHEREAS, requiring these documents prior to contract award of Housing and Community Development Department incentive contracts has caused issues due to several reasons, such as:

1. many projects have multiple capital stacking applications in the pipeline, and some incentive funds can be used for predevelopment costs, which would need to be available sooner, rather than later;
2. the current requirement can prevent or hold up closings due to financial contract requirements from lenders; and
3. many projects have federal funds included in their capital stack and include prohibitions of bidding until after final closing since bid shopping is prohibited; and

WHEREAS, a later timeline for these documents will help facilitate movement of projects in areas with much need for economic development; and

WHEREAS, such flexibility may prove beneficial to similar contracts from other departments;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 3, Code of Ordinances, is hereby amended by deleting Section 3-457, "Procedures for all other contracts," and inserting in lieu thereof a new Section 3-457 of like title and subject matter, said section to read as follows:

Sec. 3-457. Procedures for all other contracts.

The following procedures shall apply to all contracts not covered by ~~Section 3-455 and 3-456, and for which goals have been established.~~ ~~Section 3-455 and 3-456, and for which goals have been established;~~

- (1) For contracts awarded pursuant to competitive bidding, bidders shall submit an affidavit of intended utilization with their bid. Within 48 hours after bid opening, they shall submit the following additional documentation:
 - a. A notarized contractor utilization plan in conformance with ~~section 3-433~~ ~~section 3-433~~ hereof; and
 - b. Letters of intent to subcontract; and
 - c. A request for waiver of contract goals pursuant to ~~section 3-437~~ ~~subsection 3-437(a)~~ if the bidder failed to meet or exceed the goals.
- (2) For contracts awarded pursuant to requests for proposals, proposers shall submit an affidavit of intended utilization with their proposal. Prior to the award of any contract, they shall submit the following additional documentation:
 - a. A notarized contractor utilization plan in conformance with ~~section 3-433~~ ~~section 3-433~~ hereof; and
 - b. Letters of intent to subcontract; and
 - c. A request for waiver of the contract goals pursuant to ~~section 3-437~~ ~~subsection 3-437(a)~~ if the proposer fails to meet or exceed the goals.

The Director is authorized to allow the award of a Housing and Community Development Department or other incentive contract without the additional documentation listed in items (a), (b), & (c) above, as long as they are submitted prior to the issuance of a notice to proceed.

- (3) Timely submission of the contractor utilization plan is a material element of the bid submission. The director is authorized to extend the 48-hour deadline for the letters of intent to subcontract but not the deadline for submission of the contractor utilization plan.

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- (4) Documentation of good faith efforts shall be submitted when requested by the city or the incentive agency.
- (5) Any increase in the amount of MBE/WBE participation after submission of the contractor utilization plan shall not count toward meeting the contract goals, unless otherwise permitted under ~~section 3-443 hereof.~~ section 3-443 hereof.

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Approved as to form:

Joseph A. Guarino
Senior Associate City Attorney