



Legislation Text

File #: 230401, **Version:** 2

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 230401

Sponsor(s): Councilmembers; Kevin O'Neill, Andrea Bough and Ryana Parks-Shaw

Amending Chapter 3, Code of Ordinances, by repealing Section 3-431, "Setting Goals for Individual Contracts" and Section 3-427, "City-Wide Goals" and enacting in lieu thereof new sections of like number and subject matter regulating the application of numeric MBE/WBE goals on certain projects leased for development or receiving economic development incentives or tax abatement and the continuation of the MBE/WBE program.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 3, Code of Ordinances, is hereby amended by repealing Section 3-431, "Setting Goals for Individual Contracts" and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 3-431. Setting goals for individual contracts.

(a) Except for goals to be established by the applicable board as provided in sections 3-450, goals shall be established for individual contracts by the director, as determined pursuant to this section. Goals shall be applied to the total dollar value of the contract, unless otherwise authorized by the director.

(b) Individual contract goals shall be flexible and are to be determined on a contract-by-contract basis. In determining whether goals should be established for an individual contract or in setting the specific goal for an individual contract, the following shall be considered:

- (1) The scope of work; and
- (2) The number and types of qualified MBEs and WBEs available to perform such work, or portions of it; and
- (3) Whether the contract can be structured to create potential opportunities for qualified MBEs and WBEs to participate as subcontractors, service providers and/or suppliers; and
- (4) The level of participation of certified MBEs and WBEs in similar contracts awarded by other city departments and incentive agencies, and on local projects awarded by the state and federal governments in the previous and current fiscal years; and

- (5) The city department's or incentive agency's progress toward meeting its annual MBE/WBE goals and its expectations as to how future contracts will be used toward meeting such goals; and
- (6) The potential dollar amount of the contract.

(c) When goals for individual contracts are set, they shall be set as follows:

- (1) For all city and incentive agency professional service and goods and services contracts with an estimated cost of more than \$160,000, by the fairness in professional services and goods board, upon the recommendation of the director, as provided in section 3-450.

(d) When goals are established for a contract, such goals shall be stated in any invitation for bid or request for proposals. No invitation for bid or request for proposals shall be released until goals have been requested and set in accordance with subsection (b) of this section, or until the city department or incentive agency soliciting the contract has been notified by the director that goals will not be established. If the goals are to be set by a board and such board shall have failed to meet for any reason within thirty calendar days from the date upon which such board shall have last convened, then the invitation for bid or request for proposals may be released with the goals as recommended by the director and an addendum thereto shall be issued setting forth the goals once established by the board.

(e) For contracts other than construction contracts and contracts for projects leased for development or receiving economic development incentives or tax abatement as described in section 3-425, the director is authorized to require a bidder or proposer to make good faith efforts to achieve MBE/WBE participation without setting a numeric MBE/WBE goal on the solicitation as long as the director could have set an MBE/WBE goal based on the factors in section 3-431(b).

Section 2. That Chapter 3, Code of Ordinances, is hereby amended by repealing Section 3-427, "City Wide Goals" and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 3-427. City-wide goals.

(a) The goals set forth in this section are city-wide annual goals to be used by city departments and incentive agencies. The city-wide goals are not goals for individual contracts. They are goals for total MBE and WBE participation in all contracts entered into each year. The city-wide goals are established as follows:

Classification Annual Goal

MBE 14.7

WBE 14.4

(b) The MBE and WBE program will continue as described by this division with the city-wide goals adjusted bi-annually unless the director has undertaken a comprehensive disparity study, and upon completion of the disparity study, presented the study results to the city council to consider whether to maintain, modify, or terminate the business enterprise program described by this division. (c) Neither city-wide annual goals nor

individual contract goals should be construed as a limitation on contracting opportunities for the above listed classifications. Such classifications shall be eligible to be awarded contracts consistent with bidding or other contract procedures over and above the percentages listed.

Approved as to form:

Emalea Black
Associate City Attorney