

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ACTING AS THE PUBLIC CONTRACT REVIEW BOARD FOR MULTNOMAH COUNTY

ORDINANCE NO. 861

An ordinance amending Ordinance 807, Division 60,
Affirmative Action In Public Contracts, of the Multnomah County
Public Contract Review Board Rules and declaring an emergency.

(Underlined sections are new or replacement, ~~strikeout~~ sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings

(A) The Board of County Commissioners has been established
as the local Public Contract Review Board (PCRB) for Multnomah
County with authority to adopt rules and regulations relating to
the award of County contracts.

(B) There is need to amend Division 60, Affirmative Action
In Public Contracts, to make additions and changes to the current
rule that reflect Multnomah County Resolution 93-301 regarding
Intergovernmental Cooperation to Develop Incentives to Increase
Minority-Owned and Women-Owned Business Participation In Public
Contracts.

Section II. Amendment: Adoption of Rule

MCC 2.20.250 is amended to add Section C:

(C) Division 60 of the public contract review board

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administrative rules is amended in accordance with Exhibit A attached hereto and incorporated by reference herein.

Section III. Emergency Clause

This ordinance, being necessary for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and the ordinance shall take effect upon its execution by the County Chair, pursuant to section 5.50 of the Charter of Multnomah County.

ADOPTED this 11th day of July, 1996 being the date of its first reading before the Board of County Commissioners of Multnomah County, Oregon.



MULTNOMAH COUNTY, OREGON

By

Beverly Stein

Beverly Stein
Multnomah County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
for MULTNOMAH COUNTY, OREGON

By

John S. Thomas

John S. Thomas
Assistant County Counsel

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MULTNOMAH COUNTY PUBLIC CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES

DIVISION 60

60.000 AFFIRMATIVE ACTION IN PUBLIC CONTRACTS

60.010 Purpose

- (1) The purpose of this Chapter is to establish procedures to assure that Multnomah County contractors and vendors provide adequate opportunities for minority, and women and emerging small business subcontractors to participate and compete for business opportunities provided through Multnomah County, State of Oregon.

60.015 Affirmative Action Contracts

- (1) Public contracts may be awarded pursuant to a specific Affirmative Action plan. This rule sets forth the Multnomah County Affirmative Action Plan. ~~Affirmative Action is a program designed to insure equal opportunity in employment and business for persons otherwise disadvantaged by reason of race, color, religion, sex, national origin, age or physical or mental handicap, including, but not limited to, personnel practices of contractors, and programs designed to promote competitive bids by minority and women business enterprises.~~

60.020 Definitions

- ~~(1) "Affirmative Action" as used in this rule means efforts designed to insure equal opportunity in employment and business for persons, and business enterprises otherwise disadvantaged by reason of race, color, religion, sex, national origin, age, or economic status, or physical or mental handicap.~~
- ~~(2) (1) "Minority or Women Business Enterprise" means a business concern described in ORS 200.005(6), which is at least 51% of the stock which is owned by one or more minorities or women, as the case may be, or in the case of a corporation, at least 51% of the stock which is owned by one or more minorities or women, and whose management and daily business operations are controlled by one or more of the minority or women stockholders.~~
- ~~(3) (2) "Minority individual" means a person described in ORS 200.005(7), who is a citizen or lawful permanent resident of the United States and who also is a:
 - (a) — Black American or person having origins in any of the Black racial groups of Africa.
 - (b) — Hispanic American or person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
 - (c) — Asian or Pacific American or person whose origin is from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific or the Northern Marianas.
 - (d) — Native American or person whose origin is from India, Pakistan or Bangladesh.~~

- (4) ~~"Good Faith Effort" means performing all of the actions described in Oregon Revised Statute 200.045 (a) through (j) to assure minority and women business enterprises an opportunity to participate and compete for subcontracts based upon Multnomah County contracts.~~
- (5) (3) "Responsive Bidder" for purposes of this rule means a bidder who submits complete documentation of "good faith effort" for any and all bids which specify their documentation as a submittal requirement.
- (6) (4) "Equal Employment Opportunity" or "EEO" shall mean non-discrimination in hiring and employment on the basis of race, religion, color, national origin, sex, age, or handicap.
- (5) Emerging Small Business" means a business described in ORS 200.005(3) and ORS 200.005(4):
- (6) Hereinafter Minority Business Enterprises, Emerging Small Business Enterprises and Women Business Enterprises may be abbreviated to read MBE, ESB, and WBE, respectively.

60.030 Policy

- (1) It is the intent of Multnomah County to provide opportunities for all segments of the business population to participate in the Multnomah County Purchasing Program. In order to assure opportunity, every County contract and/or subcontract for construction, maintenance, or services shall include provisions barring discrimination or differential treatment in contracting for business entities described in AR 60.020 (2) and 3 (a) through (d) (1) and (5).
- (2) For all contracts designated by the Purchasing Director, bid specifications shall require compliance with a "good faith effort" program. Such provisions for equitable contracting and subcontracting opportunities shall be reviewed and substantiated through a "good faith effort" program.

60.031 Good Faith Effort Program

- (1) The following ~~described activities~~ described in ORS 200.045 are standards for good faith efforts to provide equitable opportunities for MBEs, and WBEs, and ESB's to participate in subcontract opportunities created through Multnomah County contracts. ~~[:]~~
- (2) The Purchasing Director shall implement a good faith effort program utilizing the standards described in ORS 200.045 that are determined to be effective to achieve the purpose of this section together with such other standards as are appropriate to such a program. Bid or proposal specifications for contracts requiring good faith effort shall state the requirements necessary to show that a good faith effort has been made and shall require documentation of such effort. The Purchasing Director shall cooperate with other municipal and state agencies to design, to the maximum extent possible, a program that is uniform between agencies.
 - (a) ~~Performing all of the following actions by a bidder constitutes a rebuttable presumption that the bidder has made a good faith effort to obtain participation by MBE and WBE firms.~~

- ~~(1) The bidder attended any pre-solicitation meetings scheduled by the County to inform M/WBEs of subcontracting or material supply opportunities available on the project;~~
- ~~(2) The bidder identified and selected specific economically feasible units of projects to be performed by M/WBEs to increased likelihood of participation by such enterprises;~~
- ~~(3) The bidder advertised in general circulation, trade association, minority and trade oriented publications, if any, concerning the subcontracting opportunities;~~
- ~~(4) The bidder provided written notice to a reasonable number of specific M/WBEs, identified from the M/WBE Director maintained by the Purchasing Section for the selected subcontracting or material supply work, in sufficient time to allow the enterprises to participate effectively;~~
- ~~(5) Making not later than five (5) days before bids/proposals are due, follow up phone calls to all M/WBE's who attended any pre-solicitation or prebid meetings to determine if they would be submitting bids and or to encourage them to do so.~~
- ~~(6) The bidder provided interested M/WBEs with adequate information about the plans, specifications and requirements for the selected subcontracting or material supply work;~~
- ~~(7) The bidder negotiated in good faith with the enterprises, and did not, without justifiable reason, reject as unsatisfactory bids prepared by any M/WBEs;~~
- ~~(8) Where applicable, the bidder advised and made efforts to assist interested M/WBEs in obtaining bonding, lines of credit or insurance required by the County or contractor;~~
- ~~(9) The bidder's efforts to obtain M/WBE participation were reasonably expected to produce a level of participation sufficient to meet the goals or requirement of the County.~~
- ~~(10) The bidder used the services of M/WBE community organizations, minority contractor groups, local, state and federal MBE assistance offices and other organizations identified by the Advocate for M/WBE that provide assistance in recruitment and placement of M/WBEs.~~

60.032 Evaluation of Good Faith Effort

- ~~(1) After bids requiring good faith are opened, the Purchasing Director or his/her designee shall [review the bid documents to] determine if there is the bid complies with bid specifications for good faith effort. MBE and/or WBE subcontract participation.] This would be evidenced by a letter of intent to subcontract with a specific Minority and/or Women Business Enterprise, specifying the category of work to be performed, and the dollar amount of such work.~~
- ~~(2) If there is no subcontract participation by MBEs and/or WBEs, the evidence of good faith effort shall be reviewed and verified consistent with Multnomah County Public Contract Review Board Administrative Rule 60.031, Subsections (a) through (j). Failure of bidder to submit good faith effort documentation required by the bid specifications shall be determined "non-responsive" to the bid specifications. Non-responsive bids will be rejected by the Multnomah County Purchasing Section.~~
- ~~(3) Failure of bidder to submit good faith effort documentation required by the bid specifications shall be determined "non-responsive" to the bid specifications. Non-responsive bids will be rejected by the Multnomah County Purchasing Section.~~

60.040 Requirement for Certification as Equal Employment Opportunity Employer

- (1) No vendor shall furnish goods or services to the County in any year, whether by single contract or multiple contracts, for an amount in excess of the limit set for formal bids in AR 10.010 unless such vendor is certified as an Equal Employment Opportunity Employer. No County agency shall enter into a contract by which a vendor shall exceed such limitation unless the vendor is, at the time of such contract, certified by the Purchasing Director as an EEO Employer.

60.041 Certification Procedure/Appeal

- (1) Vendors furnishing goods and services to the County in excess of the limits set forth in AR 60.040 shall apply for and obtain EEO certification from the City of Portland as an EEO employer. The Purchasing Director shall maintain a list of certified vendors based upon City of Portland certification. A vendor may appeal from a decision to deny certification or revoke certification in accordance with the procedure prescribed in AR 40.090 for denial or revocation of prequalification.

60.050 Workforce Requirements in Construction Contracts

- (1) For all contracts designated by the Purchasing Director as being appropriate for such a program, the Purchasing Director shall establish specifications to be included in the bid specifications which require for such contracts that contractors make reasonable efforts to increase apprenticeship training and work opportunities for women and minorities, and, to ensure that their workforce reflects the diversity of Multnomah County and is reasonably consistent with the availability of qualified women and minorities. The specifications shall state the requirements necessary to show that a reasonable effort has been made, shall require documentation of such effort, and shall provide for remedies to the County for failure to comply with any of the specified requirements.