

No. 29-16-OR

ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania setting forth a new Chapter 435 of the County Code of Ordinances in order to improve operations of the County's M/W/DBE Program.

WHEREAS, the then Board of Allegheny County Commissioners enacted an ordinance in 1981 creating a County-wide Minority Business Enterprise (MBE) Program in order to eliminate impediments to and to increase the participation of minority and woman business enterprises (MBEs and WBEs) in the award of County contracts for supplies and services; and

WHEREAS, the County's original MBE Program Ordinance, which is currently codified in Chapter 435 of the County Code of Ordinances, has only been amended twice since its enactment more than thirty years ago; and

WHEREAS, at the request of the Chief Executive and the County's M/W/DBE Advisory Committee, the County's Minority, Women and Disadvantaged Business Enterprise (M/W/DBE) Department has conducted a review of the County M/W/DBE Program Ordinance; and

WHEREAS, the County's M/W/DBE Department, with the concurrence of the County's M/W/DBE Advisory Committee, has recommended to the Chief Executive that the existing M/W/DBE Program Ordinance should be amended to improve operations of the County's M/W/DBE Program; and

WHEREAS, the Chief Executive concurs in the recommendation of the County's M/W/DBE Department that the County's M/W/DBE Program will be improved by the substitution of an improved County M/W/DBE Ordinance; and

WHEREAS, County Council is of the considered opinion that substituting an improved M/W/DBE Program Ordinance as recommended by the County's M/W/DBE Department and by the Chief Executive for the existing MBE Ordinance will improve and enhance the operations of the County's MBE Program.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Repeal of Existing Chapter 435 of the County Code of Ordinances and Replacement with a new Chapter 435.

Chapter 435 of the County's Code of Ordinances is deleted in its entirety and the

following is hereby substituted in its place:

Chapter 435. MINORITY, WOMEN AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

§ 435-1. Definitions.

A. The following words and terms, when used in this Chapter, unless the context clearly indicates otherwise, or specifically redefined for purposes of a section or subsection, shall have these meanings:

ALLEGHENY COUNTY (or the COUNTY) – The County of Allegheny, a home rule county and political subdivision of the Commonwealth of Pennsylvania.

BIDDER/PROPOSER – Any individual, partnership, joint venture, corporation or firm submitting a bid or proposal for a Contract with the County.

BUSINESS, BUSINESS CONCERN OR BUSINESS ENTERPRISE – a Small Business Concern organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

CFR – The Code of Federal Regulations.

COMPLIANCE - The condition existing when a Contractor or Subcontractor has correctly implemented the requirements of the Program as set forth in this Chapter.

CONTRACT - A mutually binding agreement, or any modification thereof, under which a Bidder/Proposer agrees, as a Contractor, to furnish or provide work, goods or services to the County.

CONTRACTOR - A Bidder/Proposer who has entered into a Contract to provide work, goods or services to the County.

DEPARTMENT – The County’s Department of M/W/DBE Programs.

DIRECTOR - The person appointed by the County Manager in consultation with the Chief Executive to supervise the operations of the Department.

DISADVANTAGED BUSINESS ENTERPRISE (or DBE) - A Small Business Concern which is both owned and controlled by a Socially or Economically Disadvantaged Person. This means that the Socially or Economically Disadvantaged Person or persons must own 51% of the Business and must control the management and daily operations of the Business.

GOOD FAITH EFFORT - Efforts to achieve a MBE, WBE or DBE goal or other requirement of this Chapter which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill a requirement or the requirements of the Program.

JOINT VENTURE - An association of a MBE, WBE or DBE firm and one or more other firms to carry out a single, for-profit Business Enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the MBE, WBE or DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

LEASE – A mutually binding agreement, or any modification thereof, under which a Bidder/Proposer agrees, as a Lessee, to rent space at a County-owned building or recreational facility from the County for the purpose of providing goods or services to the individuals working or using the County-owned building or recreational facility.

LESSEE – A person or business who rents space at a County-owned building or recreational facility from the County for the purpose of providing goods or services to the individuals working or using the County-owned building or recreational facility.

MANUFACTURER - A supplier which produces goods from raw materials or substantially alters them before resale. The gross proceeds from a sale by an M/W/DBE manufacturer may be credited toward the percentage for minority business utilization.

MINORITY - A Person who is a citizen or lawful permanent resident of the United States who is rebuttably presumed to be disadvantaged: (i) because that Person is a member of the groups listed below; or (ii) because that Person holds him or herself out to be a member of a group listed below; or (iii) because that Person is currently identified by others as a member of a group listed below:

(a) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa; or

(b) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race; or

(c) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; or

(d) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong; or

(e) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; or

(f) Any additional groups whose members are designated as a Minority by the SBA at such time as the SBA designation becomes effective.

MINORITY BUSINESS ENTERPRISE (or MBE) - A Small Business Concern which is both owned and controlled by a Minority. This means that the Minority or minorities must own 51% of the business and control the management and daily operations of the business.

MINORITY/WOMEN/DISADVANTAGED BUSINESS ENTERPRISE DIRECTORY - The list of the M/W/DBEs found on the Pennsylvania Unified Certification Program (PA UCP) website. Such M/W/DBEs have been certified as having met the eligibility requirements as outlined in the Federal Department of Transportation regulations found in Title 49 of the CFR Parts 23 and 26 respectively.

M/W/DBE – Minority, Women and Disadvantaged Business Enterprise.

M/W/DBE ADVISORY COMMITTEE - The committee established by the Chief Executive and County Council performing the duties and functions described in Section 435-4 of this Chapter.

NONCOMPLIANCE - The condition existing when a Contractor or a Subcontractor has not correctly implemented the requirements of the Program as set forth in this Chapter.

PENNSYLVANIA UNIFIED CERTIFICATION PROGRAM (PA UCP) – the statewide program in which the County is a participant that provides “one-stop shopping” for firms seeking certification as a MBE, WBE and DBE in accordance with 49 CFR Part 26.

PA UCP APPEALS COMMITTEE – A nine (9) member committee composed of participants in the PA UCP which entertains appeals concerning: (i) the Department’s denial of certification of a Person, Business, Business Concern or Business Enterprise as a MBE, WBE and DBE under the Program; or (2) the Department’s removal of the certification of a Person, Business, Business Concern or Business Enterprise as a MBE, WBE and DBE under the Program.

PERSON – An individual.

PROGRAM – The Minority Women and Disadvantaged Business Enterprise requirements established by this Chapter and administered by the County through the Department and by other County departments.

PROJECT – The work to be performed or the goods or services to be provided under a particular Contract.

PRIME CONTRACTOR - A Bidder/Proposer who has entered into a Contract to provide work, goods or services to the County under which it is contemplated that that Bidder/Proposer will enter into an agreement or agreements with one or more Subcontractors to furnish or provide a defined piece of work and/or delivery of specified

goods or services making up the total work, goods or services to be furnished or provided to the County under the Contract.

SMALL BUSINESS ADMINISTRATION (or SBA) - The United States Small Business Administration.

SMALL BUSINESS CONCERN - a for-profit business that does not exceed the size standards under 49 CFR §26.5.

SOCIALLY AND ECONOMICALLY DISADVANTAGED – The determination made by the County, through the Department, on a case-by-case basis that a Person: a) has been subjected to racial or ethnic prejudice or cultural bias within American society due to the person’s identification with or as a member of a particular group or for other reasons and causes not common to individuals who are not socially disadvantaged made without regard to a Person’s individual qualities or character; or b) a Person whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially or economically disadvantaged.

SUBCONTRACTOR - A person, partnership, joint venture, corporation or firm approved by the County with whom a Contractor, acting as a Prime Contractor, enters into an agreement to furnish or provide a defined piece of work and/or delivery of specified goods or services that is part of the total goods, services or work that the Prime Contractor is obligated to furnish or provide to the County.

SUPPLIER - A business enterprise which owns and provides the goods or materials which it sells.

WOMAN (or WOMEN) – A Person(s) of the female gender regardless of race or ethnicity.

WOMEN BUSINESS ENTERPRISE (or WBE) - A Small Business Concern which is both owned and controlled by a Woman or Women. This means that the Woman or Women must own 51% of the Business and must control the management and daily operations of the Business.

B. Except as they may have been modified or changed above, all other words and terms set forth in 49 CFR § 26.5, as are necessary to fully and completely implement the Program and its goals described herein, are incorporated by reference in their entirety as part of this Chapter.

§ 435-2. Findings.

A. The County recognizes that businesses owned by Minorities, Women, and Socially and Economically Disadvantaged Persons have not participated in County Contracts and Leases to the extent that is desirable.

B. The County further recognizes that there are certain impediments to achieving greater participation by Businesses, Business Concerns or Business Enterprises owned by Minorities, Women, and Socially and Economically Disadvantaged Persons in the award of County Contracts and Leases.

C. Based upon these findings, Allegheny County hereby reaffirms the County-Wide Minority, Women and Disadvantaged Business Enterprise Program originally established in 1981 (the Program) with the goal of removing any impediments to the involvement of Minorities, Women, and Socially and Economically Disadvantaged Persons in the award of County Contracts and Leases.

§ 435-3. General Program Goals.

To assure the success and growth of Minority, Women, and Socially and Economically Disadvantaged Businesses, Business Concerns or Business Enterprises in the County and to achieve the purposes described in this Chapter, the County hereby establishes the following general Program goals:

A. The County establishes overall goals of having thirteen percent (13%) Minority Business Enterprise and two percent (2%) Women/Socially and Economic Disadvantaged Business Enterprise participation in the award of various types of County Contracts and in the award of County Leases.

B. The County shall make a diligent effort to award various types of County Contracts and County Leases to M/W/DBE Contractors, Manufacturers, Suppliers and Lessees where the County has, by law, the discretion to select its Contractors, Manufacturers, Suppliers and Lessees.

C. The County shall undertake to provide the equitable opportunities described in Section 435-9 of this Chapter to assist M/W/DBE Contractors, Manufacturers, Suppliers and Lessees in obtaining the award of various types of County Contracts and County Leases or in participating in the award of various types of County Contracts and County Leases based upon the goals established in Section A above.

D. The County shall encourage other municipalities within Allegheny County to develop similar M/W/DBE programs and to assist them in implementing these programs.

§ 435-4. M/W/DBE Advisory Committee.

A. Organization.

1. A M/W/DBE Program Advisory Committee (the “Advisory Committee”) consisting of no more than fifteen (15) members is hereby established. The Chief Executive shall appoint all Advisory Committee members with the approval of County Council.

2. Up to five (5) members of the Advisory Committee may be County department directors who are engaged in procurement activities. The remaining members of the Advisory Committee shall be representatives of such civic, community, minority and other entities as the Chief Executive shall determine in the Chief Executive's discretion.

3. The terms of the members of the Advisory Committee shall be as follows:

a. Of the initial Advisory Committee member appointments, five (5) shall be for a term of two (2) years, five (5) shall be for a term of three (3) years, and five (5) shall be for a term of four (4) years.

b. After the appointment of the initial Advisory Committee, all appointments to the Committee shall be for a term of four (4) years.

c. In the event that the Chief Executive does not offer an appointment for approval within thirty (30) days of the expiration of any Advisory Committee member's term, County Council may nominate and approve an appointee for that member's seat.

4. All seated members of County Council, the Chief Executive and the County Manager shall be ineligible to serve on the Advisory Committee and shall not, at any time, serve as or perform any function as a member of the Advisory Committee. No County employee, elected County official, or party to any County Contract shall serve as or perform the functions of the Chair for the Advisory Committee at any time. No Advisory Committee member may serve beyond the expiration of his or her term of appointment unless and until the member is reappointed to serve on the Advisory Committee.

B. Purposes of the Advisory Committee.

1. The Advisory Committee generally shall review the availability of M/W/DBEs in construction, services and related businesses, the progress of existing M/W/DBE programs currently in operation within the Commonwealth of Pennsylvania, and the current level of M/W/DBE participation in various types of County Contracts and in County Leases.

2. The Advisory Committee may from time-to-time make recommendations to the Chief Executive and County Council concerning M/W/DBE participation in various types of County Contracts and County Leases, including but not limited to, the following:

a. Construction Contracts.

b. Contracts for supplies of goods.

- c. Economic development projects initiated by the County.
- d. Other Contracts for the provision of services, including professional services.

3. The Advisory Committee also may from time-to-time make recommendations to the Chief Executive and County Council concerning any other specific activities which would improve the Program.

§ 435-5. Implementation of the Program.

A. The County's Program and the Program requirements established by this Chapter shall be primarily administered through the Department. To the extent provided for in this Ordinance, other County departments shall be involved in the efforts to achieve the general goals of the Program.

B. The Department's Director shall report to the County Manager on all matters related to the implementation and administration of the Program. At his or her discretion, the Chief Executive may consult directly with the Director and the Department staff concerning any matter relating to the implementation and administration of the Program.

§ 435-6. Department Staff; Duties of Staff.

A. The County shall provide resources to implement the Program established under this Chapter, including the provision of staff for the Department.

B. The Department's staff shall perform the following duties:

- 1. Review documents soliciting bids or proposals for various types of County Contracts and for County Leases for inclusion of desired M/W/DBE goals and language.
- 2. Monitor records either by itself or with the assistance of other County departments to document compliance with M/W/DBE participation goals and Program requirements.
- 3. Report from time-to-time to the Advisory Committee on the progress of the Program.
- 4. Compile information on the Program as may be requested from time-to-time by the Advisory Committee.

§ 435-7. Certification Standards and Procedures.

A. To the fullest extent possible, the Department shall adhere to and follow the standards as set forth in detail in 49 CFR Parts 23 and 26 in certifying a Business, Business Concern or Business Enterprise as a MBE, WBE or DBE under the Program.

B. In accordance with the requirements set forth in 49 CFR Parts 23 and 26 and in this Chapter, all MBEs, WBEs and DBEs must be independently-owned businesses controlled and operated by Minorities, Women, and Socially and Economically Disadvantaged Persons. The ownership shall be real, substantial and continuing. The minority, women, and socially and economically disadvantaged owners shall enjoy the customary incidents of ownership, possessing the power to direct or cause the direction of management and policies of the firm on a daily basis. The business shall not be subject to any formal or informal restrictions through bylaw provisions, partnership agreements, charter requirements or any other form, written or oral including, but not limited to, voting rights, ultimate power to hire and fire, buy-out rights, and other similar corporate limitations.

C. The Department also shall recognize as a MBE, WBE and DBE under the Program:

1. Any Person, Business, Business Concern or Business Enterprise furnishing adequate proof that the Business, Business Concern or Business Enterprise has been certified as a MBE, WBE and DBE by a federal agency, by another governmental agency whose method of certification has been approved by a federal agency, or by the Small Business Administration; provided however, that the County shall not recognize Person, Business, Business Concern or Business Enterprise obtaining MBE, WBE and DBE status from a federal or governmental agency through a process of self-certification; or
2. Any Person Business, Business Concern or Business Enterprise which appears on the Minority/Women/Disadvantaged Business Enterprise Directory found on the Pennsylvania Unified Certification Program (PA UCP) website.

D. The Department may within its sound discretion review all MBEs, WBEs and DBEs participating in a Joint Venture to determine whether the distinct and clearly defined portion of the work being performed by the MBE, WBE and WBE as part of the Joint Venture has a commercially useful function. Nothing herein shall be construed or interpreted as exempting any MBE, WBE and DBE participating in a Joint Venture from compliance with MBE, WBE and DBE reporting requirements established under this Chapter or by the Department.

E. If the Department denies the certification of a Person, Business, Business Concern or Business Enterprise as a MBE, WBE and DBE under the Program or if the Department removes the certification of a Person, Business, Business Concern or Business Enterprise as a MBE, WBE and DBE under the Program, then that Person, Business, Business Concern or Business Enterprise shall have the right to appeal the Department's action to the PA UCP Appeals Committee. The Department shall provide assistance to any Person, Business, Business Concern or Business Enterprise wishing to file an appeal to the PA UCP Appeals Committee.

§ 435-8. Good Faith Effort to Meet Contract Participation Goals.

A. The County requires all Contractors and Lessees to demonstrate a good faith effort to include M/W/DBEs to the greatest extent possible in the award of County Contracts and County Leases by satisfying the minimum goals of thirteen percent (13%) Minority Business Enterprise and two percent (2%) Women/Socially and Economic Disadvantaged Business Enterprise participation.

B. The Department shall determine whether a Contractor or Lessee has demonstrated a good faith effort by using the standards set forth in 49 CFR §26.53.

§ 435-9. Equitable Opportunities to Obtain County Contracts and Leases.

A. Consistent with sound planning, construction, procurement principles and applicable laws and policies, the County shall adopt and implement the following procedures and techniques to achieve the goal of having thirteen percent (13%) Minority Business Enterprise and two percent (2%) Women/Socially and Economic Disadvantaged Business Enterprise participation in the award of various types of County Contracts and in the award of County Leases:

1. Authorize the solicitation/invitation in specific publications (to include special invitations) in order to apprise all potential Bidders/Proposers of Allegheny County's M/W/DBE Program.
2. Arrange pre-bid or pre-qualification meetings to be advertised and scheduled to facilitate M/W/DBE participation.
3. Provide technical assistance, including assistance to overcome barriers in Contract bid preparation, bonding requirements and financing; to provide pertinent information necessary to answer Bidder/Proposer questions; and to enhance Bidder/Proposer opportunities to bid and to be awarded Contracts in the proper manner.
4. Use outside consultants, when appropriate, to assist in getting proper financial and technical M/W/DBE experience.
5. Use and encourage the use of M/W/DBE banks and other financial institutions.
6. Give priority to M/W/DBE suppliers and manufacturers in areas of purchasing where a County department has discretion in the award of a Contract or Lease.
7. Encourage the directors of all County departments to the extent permitted by applicable law and regulations take the appropriate steps involving the award of Contracts or Leases let by their respective departments in their discretion to be structured and implemented to enable the County to achieve its overall M/W/DBE goals.
8. Encourage existing Contractors and Lessees having Contracts and Leases

with the County to voluntarily develop goals for use of M/W/DBE Contractors, Suppliers, Manufacturers and financial institutions.

B. In cases where sound planning, construction, procurement principles and applicable laws and policies dictate that goals for M/W/DBE participation in a County Contract or in a County Lease are less than those overall goals established under this Chapter, the County shall prepare and retain a written explanation as to why M/W/DBE participation in a County Contract or in a County Lease are less than the overall goals established under this Chapter.

§ 435-10. Prime Contractor's Submission of M/W/DBE Plan and Selection Criteria.

A. Where appropriate, solicitations of bids and proposals for various types of County Contracts or for County Leases shall require that Bidders/Proposers to do the following:

1. Create, at the time of bid or proposal submission, a M/W/DBE Plan identifying M/W/DBEs to be utilized, a description of the work to be performed by each M/W/DBE and the dollar value of the services to be provided or the goods to be supplied by each M/W/DBE.
2. Submit a written assurance of meeting the M/W/DBE Plan submitted in the bid or proposal.
3. Provide written assurances that no agreement, written or oral, between Prime Contractor and M/W/DBEs exists or will be entered into, whereby any M/W/DBE promises or agrees not to provide quotes to other Prime Contractors.
4. Submit a written assurance that, if any M/W/DBE contractor(s) is/are unable to perform successfully, the Bidder/Proposer shall make every effort to replace the unsuccessful M/W/DBE with another M/W/DBE in accordance with the M/W/DBE Plan and the utilization of the resource identified to provide assistance.

B. Where appropriate, the County, through the Department, shall use the following methods to require Prime Contractors to comply with the M/W/DBE requirements stated in this Chapter:

1. M/W/DBE goals shall be applicable in accordance with the specifications for each such Contract.
2. Allegheny County will provide assistance and direction in drafting and implementing the Prime Contractor's M/W/DBE Plan.
3. The Prime Contractor's good faith effort to satisfy the Program goals set forth in Section 435-3 are to be substantiated and documented based upon the standards set forth in Section 435-8 of this Chapter.

4. The County shall be advised as to exactly how much work, if any, a M/W/DBE Subcontractor intends to contract out and to whom such work is being contracted.

C. The following selection procedure, or such other selection procedure as the County Solicitor may determine to be appropriate for that particular Contract or Lease, will be used to ensure that Contracts and Leases are awarded to Bidders/Proposers who meet the M/W/DBE goals stated in this Chapter. If any Bidder/Proposer offering a reasonable price meets the M/W/DBE participation goals, Allegheny County shall presume that all competitors that failed to meet the goals have failed to exert a good faith effort, are in noncompliance and, consequently, are ineligible to be awarded the Contract or Lease. To implement this presumption:

1. Allegheny County shall determine whether a Bidder/Proposer offering the lowest price of all those meeting the M/W/DBE participation goals has made a reasonable bid. If reasonable, that Bidder shall be awarded the Contract or Lease.

2. If unreasonable, Allegheny County shall consider the price offered by the Bidder/Proposer with the highest percentage of M/W/DBE participation who has failed to meet the M/W/DBE participation goals. If the price is reasonable, Allegheny County shall award the Contract or Lease to that Bidder/Proposer.

3. If unreasonable, Allegheny County shall next consider other Bidders/Proposers that did not meet the M/W/DBE goals in order of the percentage of M/W/DBE participation until a Bidder/Proposer with a reasonable price is selected.

4. If no Bidder/Proposer with M/W/DBE participation has offered a reasonable price, Allegheny County can award the Contract or Lease to any Bidder/Proposer which has demonstrated that it has made sufficient reasonable good faith effort to meet the M/W/DBE participation goals.

D. The precise selection criteria applicable to each Contract and Lease will be set forth in the instructions, specifications and other contract documents published by Allegheny County for that particular Contract or Lease.

E. Bidders/Proposers failing to meet the M/W/DBE participation goals and failing to demonstrate sufficient good faith effort to meet the M/W/DBE participation goals shall be deemed to be in noncompliance and shall not be eligible to be awarded the particular Contract or Lease.

§ 435-11. Prime Contractor M/W/DBE Commitment.

In accordance with federal Executive Order 11625, the Prime Contractor agrees to:

A. Be bound by the terms of its M/W/DBE Plan included as a general provision in the bid specifications, which Plan is expressly made a part of its bid.

B. Take action to the fullest extent consistent with sound procurement principles, applicable law and efficient construction of a Project:

1. to identify Minority Women, and Socially and Economically Disadvantaged Businesses, Business Concerns or Business Enterprises;

2. to solicit bids and quotations from M/W/DBEs; and

3. to give special consideration to Minority Women, and Socially and Economically Disadvantaged Businesses, Business Concerns or Business Enterprises in making awards and purchases.

C. Submit periodic reports to document continued maintenance of its M/W/DBE Plan.

§ 435-12. Allegheny County Contract Reporting Obligations.

A. The Allegheny County Controller shall forward a written report to the County Council on all Contracts to which the County is a party.

1. The Controller shall create a written report for every Contract for which the County receives bids or proposals that identifies:

a. The purpose of the Contract for which bids or proposals were considered;

b. The aggregate value of the Contract for which bids or proposals were considered;

c. The business(es) or individual(s) identified by name that submitted each bid or proposal considered for final selection of the award of a Contract; and

d. The M/W/DBE status of each listed individual or business as determined by the Department.

2. The reports required under Subparagraph (1) of Paragraph A of this Section 435-12 above shall be created immediately upon the identification of candidates for consideration for the award of a County Contract or Lease. Copies of the reports required under the terms of this section shall be forwarded to County Council and to the Chief Executive no less frequently than once every three months.

3. The County Controller, with the assistance and cooperation of the Allegheny County's Department of Administrative Services, Division of Computer Services, shall create and maintain a website upon which the reports required by this section shall be posted immediately upon issuance. Access to this website shall be granted to all individuals at no charge.

4. All businesses or individuals submitting bids or proposals which are identified by the County for final selection shall receive a letter from the County Controller informing them of their continued consideration.

5. All businesses or individuals submitting bids or proposals which are not identified by the County for final selection shall receive a letter from the County Controller informing them that their bid or proposal will receive no further consideration, together with the reasons for the County's decision, if known.

6. The County Controller shall provide written notice no less frequently than once every three months to County Council and the Chief Executive describing any award or any amendment to the terms of any existing Contract to which Allegheny County is a party. Such written notice shall include a delineation of the M/W/DBE status of each party to the awarded or amended Contract as determined by the Department and a description of the M/W/DBE status of any Subcontractors known at the time of the award or amendment of the Contract.

7. County Council shall be deemed in receipt of any report required under the terms of this section on the date that such report is received by Council's Chief Clerk.

§ 435-13. Preservation of the Chief Executive's Contracting Power.

Nothing in this Chapter shall be read to fix, alter, or redefine in any fashion the prerogative of the Chief Executive to negotiate, award or sign on behalf of the County any and all contracts, agreements and other instruments as described in Article V, Section 2 (i) of the Home Rule Charter of Allegheny County or in other applicable law.

SECTION 2. Effective Date.

This Ordinance shall enter into effect immediately.

SECTION 3. Severability.

If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.

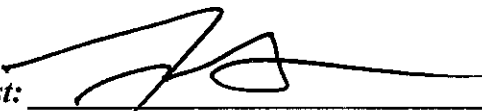
SECTION 4. Repealer.

Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.

Enacted in Council, this 30th day of August, 2016.

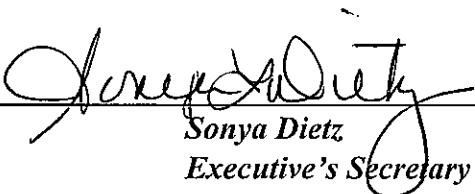
Council Agenda No. 9735-16


John DeFazio
President of Council

Attest: 
Jared Barker
Chief Clerk of Council

Chief Executive Office September 2, 2016.

Approved: 
Rich Fitzgerald
County Executive

Attest: 
Sonya Dietz
Executive's Secretary

SUMMARY PAGE

Chapter 435 of the County's Code of Ordinances presently sets forth the County's Minority, Women and Disadvantaged Business Enterprise (M/W/DBE) Program Ordinance.

The existing County M/W/DBE Ordinance has only been amended twice since its original enactment by the then Board of County Commissioners in 1981. Consequently, the existing Ordinance in Chapter 435 is filled with antiquated references, does not include contemporary terms and terminology currently being used in the administration of the County's M/W/DBE Program and contains duplicative provisions.

This proposed ordinance would delete the existing Chapter 435 of the County's Code of Ordinances in its entirety and substitute in its place a new County M/W/DBE Ordinance that has more modern and comprehensive terminology and a tighter organization. Nothing in the proposed Ordinance in any way changes the basic commitment of the County, which has been in place since 1981, to increase the participation of minority and woman business enterprises (MBEs and WBEs) in the award of various types of County contracts.