

# **METROPOLITAN COUNCIL UNDERUTILIZED BUSINESS (MCUB)**

*PROGRAM EVALUATION AND AUDIT*



**METROPOLITAN  
COUNCIL**

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### What We Found

#### *What's Working Well*

The Council is effectively collecting, reviewing, and issuing approvals of Good Faith Efforts (GFE's) submitted by vendors to meet the MCUB requirement. Additionally, the Office of Equity and Equal Opportunity is conducting monitoring activities of MCUB vendors according to requirements.

#### *What Needs Improvement*

Vendors who do not meet the MCUB certification requirements are included on the list of MCUB vendors maintained and distributed by the Council. Controls for the maintenance of the MCUB vendor list should be improved to align with OEEO's criteria for list maintenance. Documentation regarding the MCUB program should be created or updated to specify when it is necessary to justify changes to MCUB goals.



### What We Recommend

OEEO should:

- Review practices regarding maintenance of the MCUB vendor list.
- Determine if an explanation of an MCUB goal change and Director sign-off is necessary.
- Ensure that MCUB information on the Council's website aligns with Council procedures.

### Why We Did This Work

We did this audit to ensure that Council funds are monitored according to Council policies and procedures and are given to certified MCUB vendors.

### What We Reviewed

We reviewed procurement data and documentation in PeopleSoft. We also reviewed documentation in the Contract Management System (CMS).

### How We Did This Work

We reviewed certification lists to ensure the MCUB vendor list contained qualified vendors. We interviewed staff members from OEEO to understand the process for including MCUB vendors on Council projects, and reviewed documentation monitoring MCUB involvement. Lastly, we reviewed procurement data to analyze trends in MCUB vendor use and the fulfillment of MCUB contract awards.

## Summary of Findings

Number	Description	Recommendation	Follow-up Action	Page
<b>Observation 1</b>	MCUB Documents Should Be Updated for Accuracy	OEEO should determine whether a documented explanation for MCUB goal adjustment needs to be provided in the Goal Calculation Worksheet, and if the OEEO Director signature and date is needed. Once a determination has been made, the work instruction should be updated as appropriate.	Confirmation	Page 7
		OEEO should ensure that MCUB information on the Council's website aligns with Council procedures.	Confirmation	
<b>Observation 2</b>	Controls for MCUB Vendor List Maintenance Should Be Improved	Review practices regarding list maintenance to ensure that MCUBs are properly certified.	Retest	Page 9

# Introduction

## *Background*

The Metropolitan Council Underutilized Business (MCUB) program is an initiative, overseen by OEEA, that is available to the Council's procurement process, per Minnesota Statute 473.142. The program's overarching purpose is to create a level playing field for businesses owned and operated by women; Black, Indigenous, Hispanic, and Asian people; veterans; and people with disabilities. The program also emphasizes the Council's commitment to providing opportunities for disadvantaged businesses and offers guidance to include them in the procurement process, incorporating division-specific inclusion benchmarks to prevent discrimination in contract awards.

Within the MCUB program are three additional programs or processes, all with the intention of reducing barriers for targeted groups and veteran owned businesses. The additional programs are MCUB Select, MCUB Direct, and MCUB Preference.

MCUB Select is a sheltered market procurement that applies when at least three small, targeted businesses or three veteran-owned businesses are expected to bid and can perform the scope of work identified. These procurements must not have any federal funding and have an anticipated total value of up to \$175,000.

MCUB Direct is for micro level procurements valued at \$25,000 or less, where at least one small, targeted group business, or one veteran-owned small business is likely to bid, and multiple quotes are not required.

MCUB Preference is a program in which the Council provides a 6% evaluation preference for the procurement of goods or services between \$25,000 and \$175,000, solicited via request for quote or invitation to bid, when one small, targeted group businesses, or one veteran-owned businesses are likely to bid. This means that MCUBs get a 6% reduction on their bid to make them more competitive with non-MCUB vendors/contractors.

Table 1 below outlines how much business the Council does with MCUB vendors. For reference, the goal for MCUB spending for Construction projects was 14%, and 10% for Goods and Services in both 2022 and 2023. Values are rounded to the nearest million dollars and whole percent.

TABLE 1: Breakdown of MCUB Spending<sup>1</sup>

		Q1 '22	Q2 '22	Q3 '22	Q4 '22	Q1 '23	Q2 '23	Q3 '23	Q4 '23
Construction	MCUB Eligible	\$10M	\$7M	\$8M	\$9M	\$12M	\$5M	\$14M	\$9M
	MCUB Spend %	12%	5%	6%	6%	14%	16%	10%	19%
Goods and Services	MCUB Eligible	\$57M	\$65M	\$59M	\$68M	\$76M	\$72M	\$76M	\$67M
	MCUB Spend %	4%	3%	4%	9%	5%	7%	5%	6%

### Objectives

The objectives of this audit were to:

- Ensure the Council has an accurate MCUB vendor list, and the list is updated regularly.
- Verify overall, Council-wide MCUB goals and goals for procurements are consistently developed by Office of Equity and Equal Opportunity staff.
- Ensure Pre- and Post-Award activities related to MCUB vendors are performed according to Council policy 5-1 *Inclusion of Disadvantaged Business Enterprises (DBEs) and Metropolitan Council Underutilized Business (MCUBs)* and its subsequent procedures.

### Scope

Audit examined MCUB vendor reviews, the MCUB list, goals, and MCUB related Council policies, procedures, and activities for a sample of projects that included MCUB vendors and procurements from 2022 to 2023.

### Methodology

Audit staff interviewed staff members from the Office of Equity and Equal Opportunity, Procurement, and Project Managers to understand how MCUBs are included in Council projects. Audit checked the MCUB vendor list against certification lists to ensure MCUB vendors meet eligibility criteria. Audit took samples of Council contracts that included MCUBs to assess if MCUBs were paid on time, that appropriate documentation of MCUB payments were produced, and that change orders considered amending the total award given to contracted MCUBs. Audit also reviewed procurement data to assess the variation in use of MCUB vendors by the Council.

### Limitations

Prior to conducting this review, Audit was made aware that an external consultant had been hired by the Council to evaluate the MCUB program, including external processes with MCUB vendors, such as quality of vendor recruitment and communication. Therefore, to avoid duplication of work and

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<sup>1</sup> Data obtained from quarterly reports on MetNet: [Small Business Programs Unit - MCUB Program](#).

allocate staff resources, Audit limited the scope of this audit to only internal policies and procedures related to the MCUB program.

### *Thrive 2040 – Strategic Planning – Equity and Stewardship*

This audit considered the Council's Thrive MSP 2040 Outcomes of Equity and Stewardship. This audit supports Equity by ensuring that contracted vendors are being compensated fairly for the work designated to them by the Council. Stewardship was prompted by ensuring the appropriate use of public funds as determined by Council policies and procedures.

### *Recognition*

We want to thank the Office of Equity and Equal Opportunity, Procurement, and Project Managers for their cooperation and collaboration during this audit.

# Non-Finding Observations

Audit completed the following testing that did not result in a finding observation:

## **Pre- and Post- Award Activities Conducted Effectively**

Good Faith Efforts are effectively collected, reviewed, and approved or denied by the Council. Audit reviewed eight contracts where vendors submitted GFE's. OEEO reviewed all documentation submitted by vendors. Of the eight total contracts, four vendors failed to submit adequate GFE documentation, and as a result were not awarded the contract. The four other vendors submitted adequate GFE documentation and were awarded the contract.

OEEO is effectively monitoring MCUB vendors according to Council requirements. Audit randomly selected eight contracts to review monitoring activities for MCUB vendors conducted by OEEO. Two of the contracts did not have monitoring activities for MCUB vendors because the MCUB hadn't begun their portion of the work on the contract. While the level of detail varied between the remaining six contracts, each had documented monitoring activities for the MCUB vendors, which included Commercially Useful Function (CUF) forms, invoices, and photos taken onsite.

Audit did observe that certain MCUB vendors were selected more frequently than others. OEEO is aware that this does happen and is concerned about it. However, in most procurements, OEEO does not have control over which MCUB vendors bidders select to meet stated MCUB goals. OEEO does believe it would be beneficial to explore how to maximize the MCUB directory to have a broader spend with small businesses.

## **MCUB's Receive Additional Payment to Meet Percent Goal After Contract Change Orders**

Interviews with OEEO found that MCUB vendors still receive the same percent goal even when contracts have change orders. The Contract Management System (CMS) keeps track of each contract with an MCUB vendor and includes percent goals. Audit reviewed seven contracts with change orders to determine if MCUB vendors still received the percent goal. Of the seven contracts, two did show payments to MCUBs in alignment with percent goals. Three of the contracts had end dates of 2024 or later, and the remaining two did not show documentation that MCUB percent goals had been met. The contracts reviewed showed that CMS was either updated to show percent goals had been met or had yet to be updated due to the status of the contract as in progress.



# Observations

## MCUB Documents Should Be Updated for Accuracy

Audit reviewed 10 MCUB Goal Calculation Worksheets, and one worksheet did not provide an explanation why the goal was adjusted from 0.67% to 3%. The other nine worksheets contained an explanation of why the goal was increased or decreased. Additionally, there is a section on the worksheet for Director Approval and Date. None of the 10 worksheets sampled were signed or dated by a director.

During a review of the Metropolitan Council Underutilized Business (MCUB) Program procedure (OEO 5-1b), Audit noted that the MCUB Direct and MCUB Preference programs were not documented in the procedure. However, the MCUB program and its additional procurement programs are all featured on the Council's MCUB website<sup>2</sup>. Additionally, there is a discrepancy between what is written in the procedure compared to what is published on the website about the MCUB Select Program<sup>2</sup>. The procedure states that eligible procurements "must have an anticipated total between \$5,000 and \$100,000", while the Council's MCUB website states that MCUB Select is for "a procurement for goods or services of up to \$175,000..."

According to the Government Accountability Office (GAO) Green Book:

**Principle 3.09:** "Management develops and maintains documentation of its internal control system."

**Principle 3.10:** Effective documentation assists in management's design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel. Documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties, such as external auditors."

OEEO does have an internal work instruction that outlines how MCUB goals are created and to use the Goal Calculation Worksheet. However, the work instruction does not state whether a justification is required when MCUB goals are adjusted and whether the OEEO Director needs to sign and date the worksheet. Additionally, during the pre-exit meeting OEEO staff stated they updated procedure OEO 5-1b several months ago that would address the omissions and discrepancies noted above. OEEO submitted the updated procedure to the Policy and Procedure Committee but has not heard what the current status is from the committee.

Without well-defined documented procedures or work instructions, institutional knowledge could be lost over time. This could result in MCUB goals not being consistently created or documented, or steps in the process being missed which ultimately may have a negative financial impact on MCUB vendors and the Council's reputation.

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<sup>2</sup> Metropolitan Council's MCUB website: <https://metro council.org/About-Us/What-We-Do/DoingBusiness/Small-Business-Programs/mcub.aspx>

Without having all and consistent information documented about the MCUB programs, employees may not know about the programs or apply them incorrectly, which could result in lost opportunities for MCUB vendors.

**Recommendations:**

1. OEEO should determine whether a documented explanation of why an MCUB goal was adjusted needs to be provided in the Goal Calculation Worksheet, and if the OEEO Director signature and date is needed. Once a determination has been made, the work instruction should be updated as appropriate.
2. OEEO should ensure that MCUB information on the Council’s website aligns with Council procedures.

**Management Response:**

OEEO agrees that there should be a defined goal setting process. OEEO’s work instructions detail that process including factors to consider when making adjustments to the base goal. These work instructions are saved to the OEEO shared drive so that employees have constant access and to safeguard institutional knowledge. Additionally, OEEO uses a planner system now to electronically review goals and approve so we don't sign the forms anymore.

OEEO reviewed and submitted updates to the MCUB procedure OEO 5-1b in November of 2023 as well as other OEEO small business procedures. OEEO recently became aware that these were never processed. The policy review team recently provided OEEO with a shared file that included the updates OEEO submitted in 2023. OEEO will work to incorporate new edits per this audit as well as the Small Business Equity Audit OEEO conducted, in addition to those made in 2023 and submit again for review and approval

**Timetable:**

OEEO’s work instructions which detail that process including factors to consider when making adjustments to the base goal were already in place. These work instructions remain saved to the OEEO shared drive so that employees have constant access and to safeguard institutional knowledge. OEEO will work to finalize and made any necessary updates to the goal setting work instructions by Jan. 31, 2025.

Updates to the MCUB procedure OEO 5-1b were submitted in November of 2023, but were never processed. OEEO reached out to Enterprise Content Management November 22, 2024, to get these moving through the Policy Review process. OEEO received the documents and will make additional updates based on this audit and submit for policy review no later than Jan. 31, 2025.

**Staff Responsible:**

Ashanti Payne, OEEO Assistant Director overseeing the SBU team  
Megan Solberg, OEEO Small Business Unit Manager  
Eli Brandenburg, OEEO Small Business Specialist

**Audit Follow-Up:** Confirmation.

## Controls for MCUB Vendor List Maintenance Should Be Improved

As part of the eligibility requirements for being added to the Metropolitan Council's list of MCUB vendors, the vendor must be certified as a Disadvantaged Business Enterprise (DBE), Targeted Group Business (TGB), certified woman, Black, Indigenous, Hispanic and Asian-owned (CERT), or veteran-owned business. Certification lists that qualify for the MCUB program are the MNUCP, CERT, City of St. Paul, and Department of Veterans Affairs Small Business Administration certification lists. Testing of the current MCUB vendor list, as of June 6, 2024, found that 62 of the 1,766 vendors on the list could not be found on any of the required certification lists. OEEO reviewed the MCUB vendor list as well and found that 57 of the 1,766 vendors on the list could not be found on any of the required certification lists.

OEEO oversees the maintenance of the MCUB vendor list. OEEO reviews the list of MCUB vendors every two weeks and adds or removes vendors as needed.

The 57 vendors on the MCUB list that cannot be found on any certification lists were not found on the MCUBs added list and have not been noted as being removed. OEEO explained that discrepancies between the MCUB vendor list and their certification could be due to human error and not being able to see that the vendor's certification was removed due to difficulties with obtaining accurate and timely information from the agencies that run the certification lists.

If vendors are not certified but are still listed as MCUBs, that poses a financial risk and a reputational risk to the Council. The financial risk is that MCUBs who are certified will lose business to vendors who are not certified. The reputational risk is that the MCUB program loses credibility in the eyes of key stakeholders upon learning the MCUB policies and procedures are not being followed.

### Recommendation:

1. OEEO should consider reviewing their practices regarding the maintenance of the MCUB vendor list. This review should consider which and how many personnel review the accuracy of the vendor list, the timing of vendor list reviews, additional reviews (e.g. an annual 100% review of the MCUB vendor list), the methods for obtaining information from certification lists and if the process could be automated to reduce likelihood of human error.

### Management Response:

OEEO agrees that there is a need to ensure the MCUB information provided in the MCUB directory is accurate. When Audit provided the list to OEEO, OEEO staff made the necessary updates to reconcile the directory. The directories are constantly changing as new firms get certified or removed from programs. OEEO has discussed the challenges the Council's technology plays in the compliance work OEEO performs on several occasions. OEEO has also detailed the need for technology to automate this process as part of the data gap analysis submitted by Ashanti Payne. Without new technology, OEEO must continue to update this database manually which has the continued risk of human error. OEEO's margin of error currently is extremely small and OEEO will continue to evaluate the data in a timely manner.

OEEO is currently working with IS to complete an assessment of our data needs and where current technology falls short. IS will then determine if OEEO's needs can be met by building out current Council systems or if the Council must purchase new software to meet the current compliance needs of OEEO.

**Timetable:**

Timetable is dependent upon completion of the work that is on-going with IS and approval of funding to address technology gaps. OEE0 is currently engaged in work to document requirements. That work is expected to be complete by end of year 2024. These gaps in current technology were communicated three years prior and a funding request for a solution to address gaps in current technology was submitted two years prior but was not approved.

Once OEE0 and IS have finalized the requirements process, which is anticipated to be done by end of 2024, then IS will determine if the Council's current technology can be built out to meet OEE0's needs or if there will be a need to purchase new software. OEE0 will continue to partner with IS and provide timely responses to help expedite this process. OEE0 is eager to have technology solutions in place to address current deficits.

**Staff Responsible:**

Ashanti Payne, OEE0 Assistant Director overseeing the SBU team

Megan Solberg, OEE0 Small Business Unit Manager

Eli Brandenburg, OEE0 Small Business Specialist

**Audit Follow-Up:** Retest

## Conclusions

Overall, the Council is administering the MCUB program according to policy and procedures, in that MCUB goals are determined according to a defined method and pre- and post-award activities are being performed. However, to maintain the integrity and quality of the program, OEEA should consider both the finding observation and the three non-finding observations to ascertain if improvements to the MCUB program can be implemented.



December 12, 2024  
Matthew J. LaTour, Chief Audit Executive  
Program Evaluation & Audit

# Appendix A

Program Evaluation and Audit recommendations are categorized according to how Audit will follow-up on them. The categories are:

- **Retest** — Audit will retest the area using the same or similar procedures after a recommendation has been implemented and sufficient time has passed for the changes to take effect. The retest will take place on a specified timetable. The recommendation will be closed once the change has occurred. A new audit project will be opened for retesting and any new findings will include new recommendations
- **Confirmation** — Audit will confirm that an adequate risk response has been completed on the agreed upon timeline. The recommendation will be closed once the change has taken place.
- **Assess Risk** — Audit will not plan for specific follow up to these recommendations. Audit will discuss the area as part of its annual risk assessment activities and consider future audit work in the area.

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