

Management Committee

For the Metropolitan Council meeting of February 10, 2016

Subject: Approval of changes to the Met Council policy 3-4-6 Inclusion of Disadvantaged Business Enterprises and Metropolitan Council Underutilized Business Program, and expansion of the MCUB program.

Proposed Action

That the Metropolitan Council approve changes to the Metropolitan Council Policy 3-4-6 Inclusion of Disadvantaged Business Enterprises and Metropolitan Council Underutilized Business Program, and that the Metropolitan Council expand the MCUB program in order to increase the inclusion of small disadvantaged businesses in the Council's procurement and grant activities as articulated in Council policy and procedures.

Summary of Committee Discussion/Questions

Committee Member Rodriguez asked how the Council would report progress of the expanded MCUB program, and if the Council would collect data from small disadvantaged businesses regarding the barriers to insurance that they are experiencing.

Director Kirkpatrick stated that the Council would track inclusion information and would routinely present information to Council divisions and committees, and that OEO would be collecting information from small disadvantaged businesses to better understand the barriers caused by the Council's insurance.

Management Committee members shared several thoughts and raised some questions about the previously discussed loan program and efforts to reduce barriers caused by the Council's insurance requirements.

Committee Member Rodriguez requested clarification on the scope of the loan program. Director Kirkpatrick explained that the program would provide short-term loans (rather than long term start-up financing) to assist businesses with cash flow during a project's initial billing, which can result in delayed payments for several months.

Chair Chavez shared several thoughts for Council staff to consider as they research a loan program for small and disadvantaged businesses:

- Changing the vocabulary used for describing the program from "working capital" to the more appropriate term "cash flow";
- Researching other agencies across the region and nation for best practice models;
- Exploring a multi-jurisdictional loan program since all regional entities are likely drawing from the same pool of small disadvantaged businesses in need of cash flow;
- Exploring the idea of having the Council advance payments to a prime contractor who can then expedite payments to small disadvantaged subcontractors.

Chair Chavez also noted that staff should focus on the packaging and price for insurance products available to small disadvantaged businesses.

The Council's Chief Financial Officer Mary Bogie clarified that Council staff will continue to research and analyze the added workflow as part of the MCUB

program expansion in order to identify and request the needed resources at a future date through the budget amendment process.

Management Committee

Meeting date: January 27, 2016

For the Metropolitan Council meeting of February 10, 2016

Subject: Authorization to Amend the MCUB Metropolitan Council Underutilized Business Program Policy

District(s), Member(s): All

Policy/Legal Reference: MN Statutes Section 473.142; 3-4-6; Policy – Inclusion of Disadvantaged Business Enterprises and Metropolitan Council Underutilized Business Program

Staff Prepared/Presented: Wanda Kirkpatrick (651-602-1085), Luis Morales (612-349-7567)

Division/Department: Office of Equal Opportunity, Regional Administration

Proposed Action

That the Metropolitan Council approve changes to the Metropolitan Council Policy 3-4-6 Inclusion of Disadvantaged Business Enterprises and Metropolitan Council Underutilized Business Program, and that the Metropolitan Council expand the MCUB program in order to increase the inclusion of small disadvantaged businesses in the Council's procurement and grant activities as articulated in Council policy and procedures.

Background

The current policy authorizes the Council to administer two small business inclusion programs: the Disadvantaged Business Enterprise (DBE) program and the Metropolitan Council Underutilized Business (MCUB) program. This policy was out of date, included confusing and contradictory language, and needed to be changed to reflect the MCUB program. The revised policy clarifies and expands the activities to which the MCUB program applies. These activities include construction, construction design, professional technical services, goods and services, and other procurements. The revised policy also identifies several strategies that the Council can use to increase the inclusion of small disadvantaged businesses in the Council's procurement and grant-making activities:

- Setting subcontract goals on non-federally funded projects that are over \$100,000 and feature subcontracting opportunities;
- Targeted solicitations on projects that are under \$100,000; and
- Other outreach efforts.

This policy does not include language authorizing the Council to create a working capital loan program, or language identifying strategies to reduce insurance cost barriers for small disadvantaged businesses. Staff will continue to research both possibilities to assess their viability.

Procedure 3-4-6c specifies how the Council will execute the revised policy. Please refer to the following attachments for details:

- 3-4-6 Policy: Inclusion of Disadvantaged Business Enterprises and Metropolitan Council Underutilized Businesses Program,
- 3-4-6c Procedure: Metropolitan Council Underutilized Business (MCUB) Program.

Rationale

Thrive MSP 2040 and Governor Mark Dayton's Executive Order 15-02 both stress the importance of equity for the region's continued prosperity. This policy change would provide small disadvantaged businesses with more opportunities to benefit from the Council's procurement and grant-making activities.

Funding

Funding for anticipated staffing needs (estimated to be up to 3 full time staff - 2 for the Office of Equal Opportunity and 1 for Procurement) and to make technical enhancements to the MCUB directory and administrative systems to track expenditures with small disadvantaged businesses will be considered separately through the budget amendment process.

Known Support / Opposition

No known opposition.

POLICY – INCLUSION OF DISADVANTAGED BUSINESS ENTERPRISES AND METROPOLITAN COUNCIL UNDERUTILIZED BUSINESS PROGRAM

Section/Number: 3-4-6	Total Pages: <u>43</u>
Dept. Responsible: Office of Diversity and Equal Opportunity	Effective Date: <u>5/7/21</u>
Special Note:	Last Revision Date:
	Last Review Date:
	Revision No. <u>34</u>

I. Policy

The Metropolitan Council recognizes its role as public policy makers in enacting policy that serve to eliminate the effects of illegal discrimination. The Council has previously approved several policies that clearly state its commitment to the prohibition of discrimination in employment and the provision of public services. This policy conveys the Council's commitment to create and support programs that result in the inclusion of women-owned, minority-owned and other small disadvantaged businesses in ~~all of~~ its procurement and contracting activities.

The Council will, in accordance with authority granted by federal regulations and state statute, act affirmatively to create a "level playing field" for woman-owned, minority-owned and other small disadvantaged business enterprises to achieve the goal of equal opportunity.

To help ensure equal opportunity, tThe Metropolitan Council will utilize ~~businesses owned and controlled by socially and economically disadvantaged individuals~~ small disadvantaged businesses in the procurement of goods and services, and the award of contracts. The Council will set inclusion goals on construction contracts and on contracts for consultant, professional, or technical services that feature subcontract opportunities. Where feasible, the Council will encourage its grant recipients to engage in efforts to solicit and include small disadvantaged businesses and to report to the Council the results of these efforts. The Council will set benchmarks to track and measure its efforts to include small disadvantaged businesses across its divisions.

~~The Council will, in accordance with authority granted by federal regulations, state statute, and local laws and ordinances, act affirmatively to create a "level playing field" for woman-owned, minority-owned and other small disadvantaged business enterprises to achieve the goal of equal opportunity.~~

~~**Whenever subcontracting is possible on a USDOT-assisted procurement over \$50,000,** the Council will set numeric goals no less than the Council's approved overall Disadvantaged Business Enterprise Program goal. On USDOT-assisted procurements less than \$50,000, the Council will require good faith efforts in the soliciting of bids or proposals from DBE firms.~~

~~**Whenever a procurement is funded by the Public Facilities Authority (PFA),** the bid or proposal solicitation will include a numeric goal no less than the PFA fair-share target percentage for women-owned and minority-owned business participation. The Council will require good faith efforts to meet the fair-~~



~~share target percentage for women and minority-owned business participation.~~

~~Whenever a procurement over \$100,000 is not funded with federal monies, the bid or proposal solicitation will include a numeric Metropolitan Council Underutilized Business (MCUB) goal. The MCUB goal will be determined on a per contract basis and be determined per the relative availability of MCUBs. The Council will require good faith efforts in the soliciting of bids or proposals from the MCUB firms.~~

II. Purpose of ~~policy~~Policy

This policy and its implementing procedures are intended to establish the following:

- To make ~~it~~ clear to staff, the public and anyone who expects to do business with the Council, that the ~~organization~~ Council is committed to providing opportunities to ~~disadvantaged small business disadvantaged enterprises~~ businesses;
- To provide guidance to staff on the solicitation, evaluation and award of contracts, ~~bids, proposals, quotes, or grants~~ to facilitate the inclusion of ~~small~~ disadvantaged businesses; enterprises;
- ~~To give notice to staff and the public that wherever the phrase "good faith efforts" appears in this policy, or its implementing procedures, the Council will assess whether the actions employed are of the amount and scope that would reasonably be expected to yield participation by disadvantaged businesses; and,~~
- ~~To implement additional mechanisms to facilitate the inclusion of small disadvantaged businesses, such as division-specific inclusion benchmarks;~~
- ~~To ensure that small disadvantaged businesses enterprises are not discriminated against in the award of Council contracts procurements.~~
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III. Background and reasons for policy

The Metropolitan Council has adopted this policy pursuant to ~~two federal programs and one Minnesota state statutes, each described below.~~

A. U.S. Department of Transportation (USDOT) and U.S. Environmental Protection Agency (Public Facilities Authority) Disadvantaged Business Enterprise (DBE) Programs

~~the authority of Chapter 49, Part 26 of the Code of Federal Regulations "Participation of Disadvantaged Business Enterprises in Department of Transportation Programs" and Chapter 40, Part 35 of the Code of Federal Regulations which establishes procedures for participation of woman-owned and minority-owned businesses in federally assisted transportation, water and wastewater programs.~~

~~Disadvantaged business enterprise programs include:~~

~~U.S. Department of Transportation Disadvantaged Business Enterprise (DBE) Program—Recipients of USDOT, e.g. Federal Transit Administration, The USDOT DBE program applies to the Council as a recipient of USDOT funding assistance ~~who that~~ reasonably expects to award \$250,000 or more of prime contracts are required to establish a Disadvantaged Business Program. The Council is required to establish an overall DBE program goal based on local~~

evidence of the actual availability of qualified DBEs. Key elements of the program are listed below.

The Public Facilities Authority DBE program applies when the Council receives funds via the revolving loan program that is administered by the Public Facilities Authority (PFA). The Council must have an EPA DBE program, which establishes program goals, or separate "fair share" target percentages for minority-owned DBE and women-owned DBE participation.

The Council administers the USDOT and Public Facilities Authority DBE programs in the same manner as described below.

- ~~• Quotas and set-asides are prohibited.~~
- ~~• Recipients must set goals based on local evidence of the actual availability of qualified DBEs. An overall program goal must be established. Contract goals may be set on individual contracts based on actual availability of qualified DBEs.~~
- ~~• Recipients must use race-neutral methods (such as outreach and technical assistance) to meet as much as possible of their overall goals.~~
- ~~• Business owners with a personal net worth of more than \$1,320,000 (excluding the value of the primary residence and the ownership interest in the business) may not participate in the program.~~
- ~~• Firms owned by socially and economically disadvantaged white males must be allowed to participate as DBEs. Determination of the eligibility of those firms owned by socially and economically disadvantaged white males will be made on a case-by-case basis according to criteria established by USDOT 49 CFR Part 26.~~
- ~~• Individual firms must graduate from the program if they exceed the small business size caps or if the firm's owner exceeds the personal net worth cap. The entire DBE program will expire at the point that it is not reauthorized by Congress.~~

~~To be eligible to participate in the Council's DBE program, a business must meet the certification standards in 49 CFR 26 and have completed a certification application and on-site review by one of the certifying member agencies of the MnUCP (Metropolitan Council, the Minnesota Department of Transportation or the Metropolitan Airports Commission).~~

Procurements Featuring DBE Goals & Good Faith Efforts By Prime Contractors or Consultants. The Council will apply DBE program inclusion goals and good faith efforts to USDOT and EPA assisted procurements that are \$50,000 and above, and include subcontracting opportunities. The Council will set goals in one of two ways. When procuring construction services, the Council will set contract-specific DBE goals and will require good faith efforts from prime contractors to meet those goals. When setting these contract-specific goals, the Council will consider the relative availability of DBE firms in the needed scopes of work, DBE achievements on similar projects, the type of and total subcontracting opportunities, use of DBE firms on other projects in the area, the season in which the project work is scheduled, and a review of the Council's overall DBE program goal. When procuring non-construction services, such as consultants, professional, and technical services; the Council will apply the overall DBE program goal, which is set every three years. These procurements will also require good faith efforts from bidders and proposers.

Procurements Featuring Business Inclusion Efforts Performed by Council Staff. The Council will require its staff to engage in efforts to solicit and include DBE firms in USDOT-assisted procurements up to \$50,000. These solicitation efforts will follow the inclusive strategies for the purchase of goods and services outlined in Council Procedure. The Council will also require its

staff to engage in efforts to solicit and include DBE firms in USDOT and EPA assisted procurements that are over \$50,000 but feature no subcontracting opportunities.

~~**U.S. Environmental Protection Agency (Public Facilities Authority) DBE Program** – The Metropolitan Council receives funds via the revolving loan program that is administered by the Public Facilities Authority (PFA). Program goals, or "fair share" target percentages for minority-owned DBE and women-owned DBE participation, are established by PFA. Municipalities that receive loan funding must comply with federal requirements concerning utilization of Disadvantaged Business Enterprises. These requirements are designed to encourage loan recipients and prime contractors to utilize minority / women DBE's whenever procurement opportunities occur. Requirements of the DBE Program are listed below.~~

- ~~• Loan recipients must include as part of their loan application a fair share statement proposing a "fair share" pre-determined target percentage for minority DBE and women DBE participation in the project for which the loan is requested.~~
- ~~• Recipients must take affirmative steps during all project procurement actions to meet the fair share target percentage for DBE participation.~~

~~To be recognized as a DBE under the U.S. Environmental Protection Agency (Public Facilities Authority) program, a firm must be certified as a Disadvantaged Business Enterprise (DBE) by the Minnesota Unified Certification Committee (MnUCP). To be eligible to participate in the Council's EPA/PFA DBE program, a business must meet the certification standards in 49 CFR 26 and have completed a certification application and on-site review by one of the certifying member agencies of the MnUCP (Metropolitan Council, the Minnesota Department of Transportation or the Metropolitan Airports Commission).~~

~~The Council is encouraged to purchase from DBE businesses when making EPA/PFA funded purchases that are not subject to the competitive bidding procedures.~~

B. Metropolitan Council Underutilized Business (MCUB) Program–

~~The Council receives funds from a numerous non-federal sources, and it is authorized by Minnesota state statute 473.142 to operate a targeted small business program. This statute gives the Council authority to adopt rules to facilitate the inclusion of small disadvantaged businesses in the Council's non-federally funded procurements. The Council has exercised this authority to create the Metropolitan Council Underutilized Business program. For all Council construction and design projects that are wholly funded by non-federal monies, \$100,000 or more, and contain subcontracting opportunities, the Council requires bidders and proposers to follow the prescribed actions to ensure opportunities for underutilized businesses. Key elements of the MCUB program are listed below.~~

~~Quotas and set-asides are prohibited~~

~~The Council's Office of Diversity and Equal Opportunity (ODEO) will set contract specific MCUB goals based on the relative availability of MCUB firms~~

~~ODEO will evaluate and pass/fail all proposals and the apparent low three responsive bidders~~

~~Firms are automatically defined as a MCUB if they are a Minnesota based business that are certified as either a 1) DBE by the MnUCP, 2) TGB by the Minnesota Department of~~

~~Administration, or 3) Veteran owned business identified by the US Department of Veteran Affairs at time of bid or proposal.~~

~~Bidders and proposers on Council contracts with MCUB goals will be required to commit to MCUB businesses equal or greater than the numeric contract goal.~~

~~Bidders and proposers who do not meet or exceed the MCUB goal may pass evaluation and receive a waiver based on good faith efforts.~~

~~The MCUB program will adopt existing DBE good faith effort standards found in 49 CFR 26.53~~

~~The Council's MCUB program adopts the following federal standards articulated in 49 C.F.R. 26: 26.39 (fostering small business participation, excluding the DOT approval requirement); 26.53 (good faith efforts procedures); 26.55 (counting participation towards inclusion goals); and Appendix A – GFE (good faith efforts guidance).~~

~~Procurements Featuring MCUB Goals & Good Faith Efforts. The Council will apply MCUB program inclusion goals and good faith efforts to non-federally assisted procurements for construction or consultant, professional, or technical services that are over \$100,000, and include subcontracting opportunities. Council staff will set contract-specific MCUB goals and will require good faith efforts from bidders and proposers to meet those goals. To set contract-specific goals, the Council will consider the relative availability of MCUB firms in the needed scopes of work, MCUB achievements on similar projects, the type of and total subcontracting opportunities available, use of MCUB firms on other projects in the area, and the season in which the project work is scheduled.~~

~~Procurements Featuring Business Inclusion Efforts Performed by Council Staff. Council staff must engage in efforts to solicit and include MCUB firms in non-federally assisted procurements up to \$100,000. These solicitation efforts will mirror the inclusive strategies outlined in Council procedure. Council staff must also engage in efforts to solicit and include MCUB firms in non-Federally assisted procurements that are over \$100,000 but feature no subcontracting opportunities.~~

C. Grants from Council Funds

~~The Council encourages recipients of grants of Council funds to solicit and include MCUB firms in all grant-funded activities involving scopes of work that MCUB firms can perform.~~

IV. Implementation/Accountability

~~All employees are responsible for complying with this policy when involved with purchasing and contracting goods or services on behalf of the Council. The ~~Council's~~ Director, ~~of the~~ Office of ~~Diversity and~~ Equal Opportunity, is responsible for developing procedures to fulfill the objectives of this policy. The Regional Administrator, General Managers and Division Directors are responsible for holding their staff accountable ~~and for adherence to this policy, persons under their supervision who purchase goods and services for the Council, and will ensure that relevant business item submittals to the Council include information on the inclusion of disadvantaged businesses.~~ satisfying the requirements of this policy. Approval to deviate from this policy must be documented and authorized by the Regional Administrator, or by other Council staff as delegated by the Regional Administrator in accordance with Council policies and procedures. ~~The Regional Administrator, or his/her designee, will make periodic reports to the Council on the utilization of disadvantaged business enterprises. Staff must collect and submit information and~~~~

documentation on the inclusion of small disadvantaged businesses to the Office of Equal Opportunity. The Regional Administrator, or his/her designee, will make periodic reports to the Council on the utilization of small disadvantaged businesses.

Implementing Procedures:

Links:

- Goal Setting and Good Faith Efforts [3-4-6a](#)
- Contractor Compliance and Monitoring for Disadvantaged Business and Affirmative Action Programs 3-4-6b
- [Metropolitan Council Underutilized Business \(MCUB\) Program 3-4-6c](#)

Revision/Review Tracking

Date	Revision No.	Review Only – No changes
	12	

POLICY – INCLUSION OF DISADVANTAGED BUSINESS ENTERPRISES AND METROPOLITAN COUNCIL UNDERUTILIZED BUSINESS PROGRAM

Section/Number: 3-4-6	Total Pages: 3
Dept. Responsible: Office of Equal Opportunity	Effective Date: 1/21/2016
Special Note:	Last Revision Date:
	Last Review Date:
	Revision No. 4

I. Policy

The Metropolitan Council recognizes its role as public policy makers in enacting policy that serve to eliminate the effects of illegal discrimination. The Council has previously approved several policies that clearly state its commitment to the prohibition of discrimination in employment and the provision of public services. This policy conveys the Council's commitment to create and support programs that result in the inclusion of women-owned, minority-owned and other small disadvantaged businesses in its procurement and contracting activities.

The Council will, in accordance with authority granted by federal regulations and state statute, act affirmatively to create a "level playing field" for woman-owned, minority-owned and other small disadvantaged business enterprises to achieve the goal of equal opportunity.

To help ensure equal opportunity, the Council will utilize small disadvantaged businesses in the procurement of goods and services, and the award of contracts. The Council will set inclusion goals on construction contracts and on contracts for consultant, professional, or technical services that feature subcontract opportunities. Where feasible, the Council will encourage its grant recipients to engage in efforts to solicit and include small disadvantaged businesses and to report to the Council the results of these efforts. The Council will set benchmarks to track and measure its efforts to include small disadvantaged businesses across its divisions.

II. Purpose of Policy

This policy and its implementing procedures are intended to establish the following:

- To make clear to staff, the public and anyone who expects to do business with the Council, that the Council is committed to providing opportunities to small disadvantaged businesses;
- To provide guidance to staff on the solicitation, evaluation and award of contracts, bids, proposals, quotes, or grants to facilitate the inclusion of small disadvantaged businesses;
- To implement additional mechanisms to facilitate the inclusion of small disadvantaged businesses, such as division-specific inclusion benchmarks;
- To ensure that small disadvantaged businesses are not discriminated against in the award of Council procurements.

III. Background

The Metropolitan Council has adopted this policy pursuant to two federal programs and Minnesota state statutes, each described below.



A. U.S. Department of Transportation (USDOT) and U.S. Environmental Protection Agency (Public Facilities Authority) Disadvantaged Business Enterprise (DBE) Programs

The USDOT DBE program applies to the Council as a recipient of USDOT funding assistance that reasonably expects to award \$250,000 or more of prime contracts. The Council is required to establish an overall DBE program goal based on local evidence of the actual availability of qualified DBEs.

The Public Facilities Authority DBE program applies when the Council receives funds via the revolving loan program that is administered by the Public Facilities Authority (PFA). The Council must have an EPA DBE program, which establishes program goals, or separate "fair share" target percentages for minority-owned DBE and women-owned DBE participation.

The Council administers the USDOT and Public Facilities Authority DBE programs in the same manner as described below.

Procurements Featuring DBE Goals & Good Faith Efforts By Prime Contractors or Consultants.

The Council will apply DBE program inclusion goals and good faith efforts to USDOT and EPA assisted procurements that are \$50,000 and above, and include subcontracting opportunities. The Council will set goals in one of two ways. When procuring construction services, the Council will set contract-specific DBE goals and will require good faith efforts from prime contractors to meet those goals. When setting these contract-specific goals, the Council will consider the relative availability of DBE firms in the needed scopes of work, DBE achievements on similar projects, the type of and total subcontracting opportunities, use of DBE firms on other projects in the area, the season in which the project work is scheduled, and a review of the Council's overall DBE program goal. When procuring non-construction services, such as consultants, professional, and technical services; the Council will apply the overall DBE program goal, which is set every three years. These procurements will also require good faith efforts from bidders and proposers.

Procurements Featuring Business Inclusion Efforts Performed by Council Staff. The Council will require its staff to engage in efforts to solicit and include DBE firms in USDOT-assisted procurements up to \$50,000. These solicitation efforts will follow the inclusive strategies for the purchase of goods and services outlined in Council Procedure. The Council will also require its staff to engage in efforts to solicit and include DBE firms in USDOT and EPA assisted procurements that are over \$50,000 but feature no subcontracting opportunities.

B. Metropolitan Council Underutilized Business (MCUB) Program

The Council receives funds from a numerous non-federal sources, and it is authorized by Minnesota state statute 473.142 to operate a targeted small business program. This statute gives the Council authority to adopt rules to facilitate the inclusion of small disadvantaged businesses in the Council's non-federally funded procurements. The Council has exercised this authority to create the Metropolitan Council Underutilized Business program.

The Council's MCUB program adopts the following federal standards articulated in 49 C.F.R. 26: 26.39 (fostering small business participation, excluding the DOT approval requirement); 26.53 (good faith efforts procedures); 26.55 (counting participation towards inclusion goals); and Appendix A – GFE (good faith efforts guidance).

Procurements Featuring MCUB Goals & Good Faith Efforts. The Council will apply MCUB program inclusion goals and good faith efforts to non-federally assisted procurements for construction or consultant, professional, or technical services that are over \$100,000, and include subcontracting opportunities. Council staff will set contract-specific MCUB goals and will require good faith efforts from bidders and proposers to meet those goals. To set contract-specific goals, the Council will consider the relative availability of MCUB firms in the needed scopes of work, MCUB achievements on similar projects, the type of and total subcontracting opportunities available, use of MCUB firms on other projects in the area, and the season in which the project work is scheduled.

Procurements Featuring Business Inclusion Efforts Performed by Council Staff. Council staff must engage in efforts to solicit and include MCUB firms in non-federally assisted procurements up to \$100,000. These solicitation efforts will mirror the inclusive strategies outlined in Council procedure. Council staff must also engage in efforts to solicit and include MCUB firms in non-Federally assisted procurements that are over \$100,000 but feature no subcontracting opportunities.

C. Grants from Council Funds

The Council encourages recipients of grants of Council funds to solicit and include MCUB firms in all grant-funded activities involving scopes of work that MCUB firms can perform.

IV. Implementation/Accountability

All employees are responsible for complying with this policy when involved with purchasing and contracting goods or services on behalf of the Council. The Director of the Office of Equal Opportunity is responsible for developing procedures to fulfill the objectives of this policy. The Regional Administrator, General Managers and Division Directors are responsible for holding their staff accountable for satisfying the requirements of this policy. Staff must collect and submit information and documentation on the inclusion of small disadvantaged businesses to the Office of Equal Opportunity. The Regional Administrator, or his/her designee, will make periodic reports to the Council on the utilization of small disadvantaged businesses.

Implementing Procedures:

Links:

- Goal Setting and Good Faith Efforts 3-4-6a
- Contractor Compliance and Monitoring for Disadvantaged Business and Affirmative Action Programs 3-4-6b
- Metropolitan Council Underutilized Business (MCUB) Program 3-4-6c

Revision/Review Tracking

Date	Revision No.	Review Only – No changes
	2	

PROCEDURE – Metropolitan Council Underutilized Business (MCUB) Program

Section/Number: 3-4-6c	Total Pages: 3
Dept. Responsible: ODEO Office of Equal Opportunity	Effective Date: 5/7/12 1/21/2016
Special Note:	Last Revision Date:
	Last Review Date:
	Revision No. 12

I. Policy

The Metropolitan Council recognizes its role as public policy makers in enacting policy that serve to eliminate the effects of illegal discrimination. The Council has previously approved several policies that clearly state its commitment to the prohibition of discrimination in employment and the provision of public services. This policy conveys the Council's commitment to create and support programs that result in the inclusion of women-owned, minority-owned and other small disadvantaged businesses in ~~all of~~ its procurement and contracting activities.

The Council will, in accordance with authority granted by federal regulations, and state statute, ~~and local laws and ordinances,~~ act affirmatively to create a "level playing field" for woman-owned, minority-owned and other small disadvantaged business enterprises to achieve the goal of equal opportunity.

~~To help ensure equal opportunity, t~~The ~~Metropolitan~~ Council will utilize small disadvantaged businesses owned and controlled by socially and economically disadvantaged individuals in the procurement of goods and services, and the award of contracts. The Council will set inclusion goals on construction contracts and on contracts for consultant, professional, or technical services that feature subcontract opportunities. Where feasible, the Council will encourage its grant recipients to engage in efforts to solicit and include small disadvantaged businesses and to report to the Council the results of these efforts. The Council will set benchmarks to track and measure its efforts to include small disadvantaged businesses across its divisions. ~~The Council will operate a Metropolitan Council Underutilized Business (MCUB) Program which will promote the use of MCUBs in Council procurements and set aspirational goals on select Council design and construction contracts. Contracts eligible for MCUB goals must; not have any federal funding, must have an anticipated total value exceeding \$100,000, must have subcontracting opportunities, and must have work scopes that can be performed by Council MCUBs.~~

II. Procedure

Definitions

Disadvantaged Business Enterprise (DBE): A for-profit, small business concern that is at least 51 percent owned and controlled on a daily basis by one or more individuals who are both socially and economically disadvantaged.

Metropolitan Council Underutilized Businesses (MCUBs) - Businesses certified by the Minnesota Department of Administration as a Targeted Group Business (TGB); or DBE certified businesses based in Minnesota;



or Minnesota Veteran-owned businesses certified by the Department of Veteran Affairs, or by the Minnesota Department of Administration.

Targeted Group Business (TGB): A for-profit small business concern that is at least 51 percent owned and controlled on a daily basis by a woman, racial minority, or person with a substantial physical disability. TGBs are certified by the State of Minnesota Department of Administration.

Background and reasons for procedure clarification

The purpose of this procedure is to ~~provide clarification on~~clarify the Council's policy of including minority-owned, women-owned, and other small disadvantaged businesses in ~~all of its~~ procurement ~~and contracting~~ opportunities.

On June 6th, 2011 the Council received a mandate from Governor Mark Dayton requesting Minnesota agencies to expand procurement opportunities for minority-owned and other small businesses. This mandate followed a 2009 disparity study which identified disparities in Council procurement activities.

The Council's Office of ~~Diversity and~~ Equal Opportunity (ODEO) developed ~~a the~~ Metropolitan Council Underutilized Business (MCUB) program that builds upon the success of the federal ~~Disadvantaged Business Enterprise (DBE)~~ program and designed with Council procurement activities in mind.

Metropolitan Council Underutilized Business (MCUB) Program

~~The Council's MCUB program is tailored for Council activities and existing ODEO procedures. The Council MCUB program was approved by Council's Executive Team in December 2011. A response letter to Governor Dayton's office was sent by Chair Susan Haigh outlining the Council's MCUB program.~~

To further the Council's efforts of eliminating the effects of illegal discrimination, the Council has updated its policy and this procedure to encourage the inclusion of small disadvantaged businesses in additional Council procurement activities, and in activities supported by grants from Council funds.

MCUB Program Components

The Council's ~~Targeted Group Business~~MCUB program is a multi-phased initiative intended to reduce barriers for ~~targeted group businesses~~small disadvantaged businesses doing business with the Council. ~~The first phase of the MCUB Program will begin in 2012 and evaluated/ updated on an annual basis.~~

1. Outreach / Education

ODEO will develop a series of outreach and educational events in order to increase awareness of the MCUB program and MCUB firms. ODEO planned outreach events include MCUB vendor fairs held at the Council, presentations at government fairs and events, and a marketing campaign. Educational events will include seminars for MCUB firms on how to do business with the Council. Council staff will receive training and resources designed to raise awareness and provide information on MCUB firms and the goods and services they provide.

2. Efforts to include MCUB Firms in Council Procurements

OEO will use a variety of strategies to include MCUBs in Council procurements. These strategies include placing numeric MCUB goals on procurements for construction services, consultant, and professional and technical services that meet the criteria described below and requiring that prime contractors and consultants engage in good faith efforts to meet those goals. The Council will also require its staff to make efforts to solicit and include MCUB firms in procurements where numeric MCUB goals and good faith efforts to meet those goals are not applied.

MCUB Goals on Contracts

OEO will place aspirational MCUB goals on contracts that meet the prescribed criteria. Contracts eligible for MCUB goals must; not have any federal funding, must have an anticipated total value exceeding \$100,000, must have subcontracting opportunities, and must have work scopes that can be performed by Council MCUBs.

The Council has not collected bidder information on non-federally funded construction and design contracts. The absence of this data does not allow the Council MCUB program to set blanket goals as is currently done for DBE contracts. Until data is collected, contracts which meet the MCUB criteria will be assigned contract specific goals. MCUB goals will be calculated based on the relative availability of MCUBs and work scopes present on each contract. This contract specific goal calculation methodology is an approved method by USDOT and is currently used by the Metropolitan Airports Commission for their MCUB program.

2.3. Administration of MCUB Contracts Procurements

The Office of Equal Opportunity will The administration of the various aspects of MCUB contracts program implementation including; pre-bid and pre-proposal guidance, evaluation of bids/proposals, and contract monitoring and contract close-out, will be administered by OEO staff. The mechanics of the contract administration will mirror be based on the following DBE program regulations: 26.39 (fostering small business participation, excluding the DOT approval requirement), 26.53 (a – j) (good faith efforts procedures), 26.55 (counting participation towards inclusion goals), and Appendix A – GFE (good faith efforts guidance). MCUB projects will also follow the procedures and work instructions established by the Office of Equal Opportunity, the procedures and work instructions established by the Council's DBE program.

3. Definition of a Metropolitan Council MCUB

Firms eligible to participate in the Council MCUB program include businesses certified by the Minnesota Department of Administration as a women or minority owned Targeted Group Business (TGB), DBE certified businesses based in Minnesota, and Minnesota Veteran owned businesses certified by the Department of Veteran Affairs.

MCUB Inclusion Strategies & Applicability

1. Procurements for Construction, Consultant, Professional, and Technical Services

- a. Strategy for Inclusion: When feasible, OEO will set project specific MCUB goals for construction, consultant, professional, and technical services, and will require good faith efforts to meet these goals.
- b. Eligibility: MCUB goals and good faith efforts requirements apply to prime contractors and consultants on procurements that:
 - i. Are non-federally funded;
 - ii. Have an anticipated total value exceeding \$100,000;

- iii. Include reasonable subcontracting opportunities; and
 - iv. Involve work scopes that can be performed by MCUBs
 - c. Roles: OEO will oversee good faith efforts to comply with the MCUB program during the bid or proposal review phase, will monitor compliance during the life of these projects, and will report on MCUB achievements.
- 2. Goods and Services (\$25,001 and above)
 - a. Strategy for Inclusion: Council staff will make efforts to solicit and include MCUB firms in procurement process.
 - b. Eligibility: Procurement of goods or services that:
 - i. Are non-federally funded;
 - ii. Have an anticipated total value above \$25,001; and
 - iii. Involves scopes of work that can be performed by Council MCUBs
 - c. Roles: Staff from the Contracts and Procurement Office will make efforts to solicit and include MCUB firms in procurement process. OEO will oversee and track these business inclusion efforts.
- 3. Grant Awards
 - a. Strategy for Inclusion: The Council will encourage grantees to solicit and include MCUB firms in activities supported by grants from Council funds.
 - b. Eligibility: Activities supported by Council grants that:
 - i. Are non-federally funded; and
 - ii. Involve work scopes that can be performed by Council MCUBs
 - c. Roles: OEO will encourage grantees to include MCUB firms in their procurement processes and to identify appropriate subcontracting opportunities for MCUB firms. OEO will request annual reports from grantees identifying their progress in including MCUB firms in grant-funded activities.

Links:

Revision/Review Tracking

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PROCEDURE – Metropolitan Council Underutilized Business (MCUB) Program

Section/Number: 3-4-6c	Total Pages: 3
Dept. Responsible: Office of Equal Opportunity	Effective Date: 1/21/2016
Special Note:	Last Revision Date:
	Last Review Date:
	Revision No. 2

I. Policy

The Metropolitan Council recognizes its role as public policy makers in enacting policy that serve to eliminate the effects of illegal discrimination. The Council has previously approved several policies that clearly state its commitment to the prohibition of discrimination in employment and the provision of public services. This policy conveys the Council's commitment to create and support programs that result in the inclusion of women-owned, minority-owned and other small disadvantaged businesses in its procurement and contracting activities.

The Council will, in accordance with authority granted by federal regulations, and state statute, act affirmatively to create a "level playing field" for woman-owned, minority-owned and other small disadvantaged business enterprises to achieve the goal of equal opportunity.

To help ensure equal opportunity, the Council will utilize small disadvantaged businesses in the procurement of goods and services, and the award of contracts. The Council will set inclusion goals on construction contracts and on contracts for consultant, professional, or technical services that feature subcontract opportunities. Where feasible, the Council will encourage its grant recipients to engage in efforts to solicit and include small disadvantaged businesses and to report to the Council the results of these efforts. The Council will set benchmarks to track and measure its efforts to include small disadvantaged businesses across its divisions.

II. Procedure

Definitions

Disadvantaged Business Enterprise (DBE): A for-profit, small business concern that is at least 51 percent owned and controlled on a daily basis by one or more individuals who are both socially and economically disadvantaged.

Metropolitan Council Underutilized Businesses (MCUBs) - Businesses certified by the Minnesota Department of Administration as a Targeted Group Business (TGB); or DBE certified businesses based in Minnesota; or Minnesota Veteran-owned businesses certified by the Department of Veteran Affairs, or by the Minnesota Department of Administration.

Targeted Group Business (TGB): A for-profit small business concern that is at least 51 percent owned and controlled on a daily basis by a woman, racial minority, or person with a substantial physical disability. TGBs are certified by the State of Minnesota Department of Administration.

Background

The purpose of this procedure is to clarify the Council's policy of including minority-owned, women-owned, and other small disadvantaged businesses in its procurement opportunities.

On June 6th, 2011 the Council received a mandate from Governor Mark Dayton requesting Minnesota agencies to expand procurement opportunities for minority-owned and other small businesses. This mandate followed a 2009 disparity study which identified disparities in Council procurement activities.

The Council's Office of Equal Opportunity (OEO) developed the Metropolitan Council Underutilized Business (MCUB) program that builds upon the success of the federal Disadvantaged Business Enterprise (DBE) program and designed with Council procurement activities in mind. The Council MCUB program was approved by Council's Executive Team in December 2011.

To further the Council's efforts of eliminating the effects of illegal discrimination, the Council has updated its policy and this procedure to encourage the inclusion of small disadvantaged businesses in additional Council procurement activities, and in activities supported by grants from Council funds.

MCUB Program Components

The Council's MCUB program is a multi-phased initiative intended to reduce barriers for small disadvantaged businesses doing business with the Council.

1. Outreach / Education

OEO will develop a series of outreach and educational events in order to increase awareness of the MCUB program and MCUB firms. OEO planned outreach events include MCUB vendor fairs held at the Council, presentations at government fairs and events, and a marketing campaign. Educational events will include seminars for MCUB firms on how to do business with the Council. Council staff will receive training and resources designed to raise awareness and provide information on MCUB firms and the goods and services they provide.

2. Efforts to include MCUB Firms in Council Procurements

OEO will use a variety of strategies to include MCUBs in Council procurements. These strategies include placing numeric MCUB goals on procurements for construction services, consultant, and professional and technical services that meet the criteria described below and requiring that prime contractors and consultants engage in good faith efforts to meet those goals. The Council will also require its staff to make efforts to solicit and include MCUB firms in procurements where numeric MCUB goals and good faith efforts to meet those goals are not applied.

3. Administration of MCUB Procurements

The Office of Equal Opportunity will administer the various aspects of MCUB program implementation including pre-bid and pre-proposal guidance, evaluation of bids/proposals, and contract monitoring and close-out. The mechanics of contract administration will be based on the following DBE program regulations: 26.39 (fostering small business participation, excluding the DOT approval requirement), 26.53 (a – j) (good faith efforts procedures), 26.55 (counting participation towards inclusion goals), and Appendix A – GFE

(good faith efforts guidance). MCUB projects will also follow the procedures and work instructions established by the Office of Equal Opportunity.

MCUB Inclusion Strategies & Applicability

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 - a. Strategy for Inclusion: When feasible, OEO will set project specific MCUB goals for construction, consultant, professional, and technical services, and will require good faith efforts to meet these goals.
 - b. Eligibility: MCUB goals and good faith efforts requirements apply to prime contractors and consultants on procurements that:
 - i. Are non-federally funded;
 - ii. Have an anticipated total value exceeding \$100,000;
 - iii. Include reasonable subcontracting opportunities; and
 - iv. Involve work scopes that can be performed by MCUBs
 - c. Roles: OEO will oversee good faith efforts to comply with the MCUB program during the bid or proposal review phase, will monitor compliance during the life of these projects, and will report on MCUB achievements.

2. Goods and Services (\$25,001 and above)
 - a. Strategy for Inclusion: Council staff will make efforts to solicit and include MCUB firms in procurement process.
 - b. Eligibility: Procurement of goods or services that:
 - i. Are non-federally funded;
 - ii. Have an anticipated total value above \$25,001; and
 - iii. Involves scopes of work that can be performed by Council MCUBs
 - c. Roles: Staff from the Contracts and Procurement Office will make efforts to solicit and include MCUB firms in procurement process. OEO will oversee and track these business inclusion efforts.

3. Grant Awards
 - a. Strategy for Inclusion: The Council will encourage grantees to solicit and include MCUB firms in activities supported by grants from Council funds.
 - b. Eligibility: Activities supported by Council grants that:
 - i. Are non-federally funded; and
 - ii. Involve work scopes that can be performed by Council MCUBs
 - c. Roles: OEO will encourage grantees to include MCUB firms in their procurement processes and to identify appropriate subcontracting opportunities for MCUB firms. OEO will request annual reports from grantees identifying their progress in including MCUB firms in grant-funded activities.

Links:

[*Revision/Review Tracking*](#)

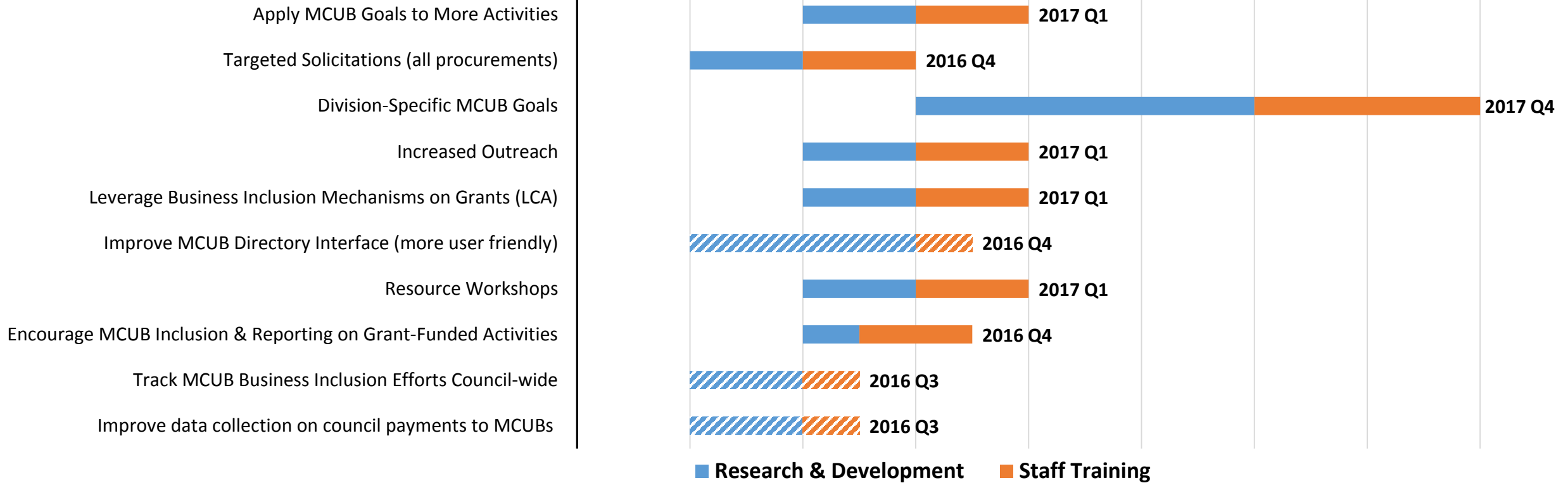
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MCUB Expansion Strategies Timeline

2016

2017

Smallest ----- Biggest Bang



Note: Striped lines indicate technical improvement strategies