



EXECUTIVE ORDER
OF
MAYOR MARTIN J. WALSH

[An Interim Executive Order Promoting Equity in Public Procurement]

WHEREAS, the City of Boston is working expeditiously towards the launch of a new disparity study to analyze racial, ethnic, and gender bias in City procurement, with the expectation that this new study will launch by the end of this calendar year and will lead to further examination of this Executive Order, an opportunity to review the continued accuracy and vitality of the policies detailed herein, and may lead to further executive action based on its findings;

WHEREAS, the amount of revenue generated by City contracts can greatly strengthen the local economy of the city; and

WHEREAS, there is an existing pool of capable and qualified minority and women-owned business enterprises ready, willing, and able to do business with the City of Boston; and

WHEREAS, minority and women-owned businesses should have fair and equitable access to public contracts in the market they have helped create;

NOW, THEREFORE, pursuant to the authority vested in me as chief executive officer of the City of Boston by St. 1948, c. 452, § 11, and every other power hereto enabling, I hereby order and direct as follows:

1. It is a priority for the City to affirmatively expand its efforts to include M/WBE participation in City contracts and ensure that M/WBEs are afforded fair and equitable opportunities to compete for City contracts and do not face unfair barriers when seeking and performing on City contracts;
2. I hereby order every City department and office to advance equity in City contracting through providing opportunities for and support of M/WBEs to participate in City contracts.

ARTICLE I. Accountability: City department directors shall:

- A. Pursue progressively bold and challenging goals for M/WBE utilization in all its business transactions;
- B. Continue to pursue existing directives on M/WBE contracting, such as the Inclusion Policy, and integrate progress on those directives into the department's annual work program;
- C. Prepare specific goals in Annual M/WBE plans that encourage utilization of M/WBE firms in contracting, purchasing and public works contracts;
- D. Seek to achieve these specific goals, based on demonstrated and significant historical underutilization of M/WBE firms in the following City contracts:
1. 15-20% MBE and 15-20% WBE utilization in architectural and engineering subcontracts;
 2. 10-15% MBE utilization in construction prime contracts under \$500,000;
 3. 20-25% MBE utilization in architectural and engineering prime contracts under \$500,000;
 4. 15-20% WBE utilization in architectural and engineering prime contracts under \$10,000;
 5. 25-30% WBE utilization in professional services prime contracts under \$500,000;
 6. 10-15% MBE utilization in professional services prime contracts under \$25,000.
- E. Affirmatively market all procurements in the prime contract areas listed in Article I, Section D to at least three M/WBE firms.
- F. Make attainment of M/WBE goals part of the performance evaluation for each City department or office director; and
- G. Report to the SLBE Office and the Mayor on performance and attainment of the utilization goals in the Annual M/WBE Plan and other directives set forth in this Executive Order.

ARTICLE II. Definitions.

- A. Minority Business Enterprise or MBE: Firm that is owned, operated, and controlled by one or more individuals who are African American, Hispanic American, Native American, or Asian American who have at least 51% ownership of the firm.

B. Woman Business Enterprise or WBE: Firm that is owned, operated, and controlled by one or more women who has or have at least 51% ownership of the firm.

ARTICLE III. Inclusion and Outreach: Each City department or office shall:

A. Require bidders on City purchasing, consultant or public works contracts to adopt the City's M/WBE Inclusion Plan, when applicable, in order to sustain and improve participation of M/WBEs in City contracts;

B. Attend outreach events for existing and potential M/WBE firms and pursue aggressive outreach strategies to sustain and improve M/WBE participation in City contracts;

C. Provide training and assistance to M/WBE firms so they successfully bid, administer and perform on City contracts;

D. Improve and expand technical assistance, business development, training and mentoring programs for M/WBE firms by greater coordination with organizations, businesses and individuals and public agencies as well as other City departments and offices.

ARTICLE IV. M/WBE Program Administration and Operation: City departments and offices shall:

A. Develop and implement policies, practices and processes that can change the culture of City contracting and provide a more responsive environment for M/WBE firms, businesses and contractors of all tiers working on City contracts;

B. Work closely with other departments and offices to ensure all policies, practices and processes are consistent and complementary and make it easier for M/WBE firms to pursue City contracts;

C. Ensure department payment policies and practices expedite invoice payments for all work performed;

D. Require expeditious Change Order approvals by City departments and contractors, while ensuring the integrity of the City payments being made;

E. Enforce City contract provisions that require prime contractors of any tier to pay and release retainage promptly to small businesses and suppliers of any tier for properly invoiced, authorized and approved work performed by the small businesses and suppliers; and

F. Identify and implement a citywide method to regularly monitor and measure the City M/WBE program, including its satisfaction by contractors, subcontractors, consultants and vendors.

ARTICLE V: Stakeholder Engagement: The Small and Local Business Enterprise Office in the Mayor's Office of Economic Development will create opportunities for members of the contracting community, City departments and other stakeholders to work collaboratively on recommendations for how the City can use the directives in this Executive Order to develop, deliver, monitor and measure a more successful M/WBE program. All questions may be directed to the Office of Economic Development.

ARTICLE VI: Severability: The provisions of this Order are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions that shall remain in full force and effect.

ARTICLE VII: Effective Date: This Executive Order shall take effect immediately. This Executive Order and the provisions herein shall expire on January 1, 2018 unless previously superseded or otherwise changed by Executive Order.

I order and direct that all Department heads take all necessary steps to implement the above directives.

SIGNED THIS ____ DAY OF _____, 2016

Martin J. Walsh
Mayor