



SUBJECT <b>DIRECTIVES FOR IMPROVING ACCESS TO CITY CONTRACTS BY MWBE AND NON-MWBE CONTRACTORS</b>	E. O. No. <b>1-2</b>
	Effective Date <b>July 1, 1995</b>

1. PURPOSE

The purpose of this Executive Order is to augment and enhance the goals and purposes of the City's Minority and Women Business Enterprise Ordinance (Houston City Code, ch. 15, art. V) by supplementing the measures authorized and/or required therein with measures designed to increase access to City contracts by all contractors, including MWBEs and non-MWBEs, and to increase the ability of MWBEs to compete for prime contracts as well as subcontracts. This Executive Order is also intended to authorize commencement of studies to determine the appropriateness of including disabled persons in the City's contract goal program.

2. OBJECTIVE

The objective of this Executive Order is to establish a consistent policy regarding the stated purpose and procedures for administration thereof. This Executive Order is supplemental to state and federal laws and City ordinances and procedures, and no provision of this policy shall be construed to excuse compliance with any law or any procedure authorized by law.

3. SCOPE

This policy applies to all City contracts and all City departments, except where certain contracts or departments are specified.

4. REQUIREMENTS

- a. City Departments shall reduce the size of City contracts where it will be effective and feasible to allow smaller contractors a better opportunity to compete.
- b. Where it will be effective, feasible and without undue interference with contract needs, City departments shall attempt to divide contracts into separate components in each case where there exists sufficient available capacity of qualified MWBEs to compete for the separated contract services.

- c. All City departments shall institute procedures to streamline and accelerate the processing of payments to ensure that companies with smaller capital accounts and cash reserves are better able to compete for City Contracts. To this end, City department heads should refer problems identified with slow payments to appropriate City officials. All City department heads shall make annual reports at the beginning of each fiscal year on progress in improving the timeliness of payments to Contractors.
- d. The Director of the Department of Finance and Administration shall from time to time conduct a survey of surety companies in an attempt to find sureties that are willing to work with the City to make bid bonds, performance bonds and payment bonds more accessible to smaller Contractors and shall inform other department heads of surety companies that are found willing to cooperate in this effort. In Contracts involving performance and payment bonds, all City department heads are directed to limit the amount of the bonds to the minimum amounts needed to reasonably cover the City's anticipated risks. Furthermore, bid, performance and payment bonds may be waived, when approved, in contracting requirements unless required by law or to protect the City from undue risk in the transaction.
- e. The Director of Affirmative Action and Contract Compliance and the Director of Finance and Administration shall from time to time conduct inquiries to identify banks and other lending institutions that are amenable to making construction lending more accessible to qualified smaller Contractors, both MWBE and non-MWBE, and shall provide information regarding any such lending institutions to all City departments. These efforts shall be coordinated with other City officials' as appropriate. The Director shall provide this information to Contractors upon request. The Director shall explore opportunities to leverage City deposits toward this goal and to inquire of banks' Community Reinvestment Act compliance.
- f. The Director of the Affirmative Action and Contract Compliance Division of the Mayor's Office shall designate one or more employees, as needed, to act as ombudsmen or facilitators to assist MWBEs in their dealings with other City departments and to act as information sources for MWBE and non-MWBE Contractors making inquiries about the MWBE program.
- g. All City departments shall take steps to support efforts by organizations such as the Greater Houston Partnership and private sector businesses and organizations in developing mentor programs to assist small businesses, both MWBE and non-MWBE, in building the qualifications and expertise necessary to compete successfully for City Contracts. These steps should include, without limitation:
- (1) Expanded use of City personnel and resources to conduct training seminars on City contracting procedures and contracting needs in cooperation with private sector entities;

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- (2) Establishment of programs to accept non-salaried interns in City departments to develop skills needed to compete for City Contracts;
- (3) Provision of guidance and counsel to craft and trade schools such as those conducted by Texas A & M University and local contractors' associations;
- (4) Making of requests to private sector companies, particularly large, well-financed organizations, to include MWBE mentoring, internship, training and outreach programs in their construction, purchasing and professional work;
- (5) Establishment of aggressive outreach programs aimed at assisting all small businesses; and
- (6) Establishment of staff programs intended to identify and develop MWBE capacity through mentoring and by supporting increased education and job training.

Efforts with respect to these items shall be coordinated with the Affirmative Action and Contract Compliance Division.

- h. The Legal Department is directed to develop, to the extent legally feasible, language in prime Contracts (i) specifying the right of City personnel, including Controller's office personnel, to examine the books and records of all contractors, subcontractors and suppliers of goods or services that relate to performance of a contract or subcontract, and (ii) requiring prime contractors and MWBE subcontractors to submit disputes to binding arbitration.
- i. The Legal Department is directed to develop, to the extent legally feasible, language in prime contracts to give the City recourse where contractors fail to timely make payment of valid obligations to their subcontractors and suppliers.
- j. The Legal Department is directed to develop language in appropriate Contracts restricting the ability of a MWBE Contractor or subcontractor to subcontract more than 50% of the Contract or subcontract work, whether to an MWBE or non-MWBE, without a specific waiver from the Director of the Affirmative Action and Contract Compliance Division.
- k. All City departments are encouraged to contract with persons with disabilities and those organizations that facilitate employment for persons with disabilities. Such contracting, where possible, shall be at competitive market prices; and departments shall keep records of each such contract. The Affirmative Action and Contract Compliance Division shall establish a review group, in cooperation with other City departments, to study the issue of special problems confronting persons with mental or physical disabilities doing business with the City. The study shall specifically

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consider and develop a position on the need for establishment of City Contract goals for business enterprises owned, controlled and managed by persons with disabilities, along with proposed definitions and procedures. The study shall be supervised by the Director of the Affirmative Action and Contract Compliance Division, who shall cause the completed study to be delivered to the Mayor by March 1, 1996.

## 5. PROCEDURES

- a. Departmental directors shall maintain written records of all departmental actions under this policy.
- b. Departmental directors shall prepare periodic reports on departmental efforts to comply with this policy and progress made in achieving the goals of this policy. The first such report shall be due no later than January 15, 1996, following the effective date of this Executive Order, and on an annual basis thereafter beginning on July 15, 1996.
- c. Departmental directors shall be prepared to answer informal inquiries from the Mayor on a more frequent basis than the formal reports referenced in subsection b. regarding the progress of their efforts to comply with this policy.

All City employees, regardless of their assigned duties, shall support and assist in the success of the policy set forth in this Executive Order.

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