

MEMORANDUM

TO: City Council

**FROM: David J. Deutsch
City Manager**

SUBJECT: Diversity Committee Report on City Contracting Practices

DATE: August 28, 2008

When the Diversity Committee was created in 2003, it was directed to advise and make recommendations to the City Council regarding diversity issues, celebrating diversity, and improving inclusiveness. One of the topics that the Committee decided it wanted to explore in terms of improving inclusiveness was the process of how contracts were awarded by the City government.

While the topic was discussed some time ago, due to changes in committee membership, and other focuses of the committee, the examination was not completed until recently. The results of their efforts are contained in the attached report and will be presented by Committee Chairperson Elveeda Dixon at the Council meeting on September 2, 2008. In addition there will be a brief overview by staff on the contracting process.

DD:UC

City of Bowie
Diversity Committee
Report on Findings from Review of Contracting Data/Policies

On April 16, 2008 the Diversity Committee (Committee) began reviewing data on contracting policies and statistics for the City of Bowie (City) Maryland. This review was done in accordance with Committee goals and pursuant to a request by members of City Council (Council). An in-depth review and evaluation of contracting data was completed on May 21, 2008. This review included a power point presentation prepared by Una Cooper, Staff Liaison, which also contained research on best practices from similar jurisdictions and entities. The following report highlights our findings.

Overview of the Contracting Process

- The City contracts pursuant to Sections 61 and 62 of the City Charter which defines the competitive bidding requirements and authorizes cooperative bidding.
- City Council has input into and may influence the contracting process by providing “by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all City purchases and contracts.”
- Contracts over \$10,000 are generally awarded pursuant to advertised, sealed bids in a competitive process.
- Contracts are awarded to the most responsive bidder using objective point/evaluation criteria.
- Contracts under \$10,000 are generally selected from among three or more quotes that meet the contract requirements.
- There are a few exceptions to the general process concerning how bids may be awarded:
 - 1) Using City employees in lieu of awarding contracts;
 - 2) By a two-thirds vote by Council to waive for good cause, e.g. emergencies;
 - 3) Professional services, provided that an “Intent to Negotiate” is advertised prior to making any contracts in excess of \$10,000; and
 - 4) Cooperative bidding (piggy-back on state or county contracts).

Overview of Contracting Policies

- Currently, the City has no specific written policy pertaining to minority businesses.
- The City does not set any percentages of contracts that must be awarded to women, minority, or small disadvantaged businesses.

Overview of Contract Statistics

- A majority of purchases made by the City of Bowie are under \$10,000.
- For the first six months of 2007, the total amount of the 27 contracts awarded totaled \$3,788,810.
- During the same timeframe, approximately one third of the contracts were awarded to certified Minority Business Enterprises (MBEs) or minority-owned but non-certified MBEs. An MBE is defined as a business that is at least 51% owned by African American, Hispanic, Asian, Native American, Women or Disabled persons.
- For the same time period, two-thirds of the contracts were awarded to businesses not classified as minority-owned or MBE.
- Contracts awarded to minority-owned businesses have increased at an average of 7 % per year over the last three years and are up by 24 % from 2004.
- MBEs make up 27.72% of subcontractors working on the City Hall project.
- The City frequently awards its Community Development Block Grants to minority- owned businesses.
- Between 2004 and 2007, the average annual number of competitively bid contracts and cooperative purchases exceeding \$10,000 was 50.

Overview of Best Practices

- County and State governments have centralized contracting and procurement.
- Competitive bidding process is used for contracts over \$15,000 for County contracts and \$25,000 for State contracts.
- Reporting on MBE participation is required and is reviewed prior to the awarding of contracts.
- Both the State of Maryland and Prince George's County have explicit policies pertaining to MBE or minority-owned business participation.
- The State mandates that maximum contracting opportunities be extended to certified MBEs.
- State has an MBE liaison for each agency and participation goals of 25% for MBEs, with sub-goals of 10% for women-owned businesses; and 7% for African American-owned businesses.
- Large cities around the country, such as Boston and Baltimore, have participation goals. Most small cities do not have participation goals.
- Common best practices included MBE vendor lists and outreach to make information on available opportunities more accessible.

Conclusions and Recommendations

After review, the City's policies and practices seem to be appropriate for the current amount and volume of contracts. Compared to large municipalities, the dollar amount and the number of contracts are too small to recommend a centralized approach to contracting. The number of contracts awarded to women and minority-owned businesses is proportionately consistent to those awarded in state and local government, and the number of City contracts awarded to women and minority-owned businesses has steadily increased over the past four years. Therefore, participation goals are not recommended at this time. Even though some contracts fall under the umbrella of state and county policies pertaining to MBEs because of "piggybacking" on contracts, the City could improve its outreach to certified and non-certified MBEs by developing a policy to encourage participation from women and minority owned-businesses and posting such on its website. To insure more minority participation, a vendor list or database of minority and women-owned businesses could be developed and maintained to announce contracting opportunities or minority businesses could be identified in the City's potential bidders database. Further review of the ABA Model Ordinance for Municipalities on Contracting and Procurement is also recommended.