

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 231017

Amending Chapter 3, Code of Ordinances, by deleting Section 3-457, "Procedures for all other contracts," and inserting in lieu thereof a new Section 3-457 of like title, for the purpose of giving the Director of the Civil Rights and Enforcement Opportunity ("CREO") Department discretion to allow certain documents to be submitted after contract execution but before payment is made pursuant to the contract.

WHEREAS, Section 3-457 sets out MBE/WBE document procedures required for certain City contracts to be executed, including when a notarized contractor utilization plan ("CUP"), letter of intent to subcontract ("LOI") and request for waiver of contract goals must be submitted; and

WHEREAS, Section 3-457 requires CUPs, LOIs and request for waiver of contract goals be submitted; and

WHEREAS, the economic development objectives of some grant and real estate contracts, such as Housing Trust Fund contracts, necessitate discretion by the Director of CREO to allow for submission of some documents at a later time; and

WHEREAS, requiring these documents prior to contract award of these contracts has caused several issues:

1. many projects have multiple capital stacking applications in the pipeline, and some incentive funds can be used for predevelopment costs, which would need to be available sooner, rather than later;
2. the current requirement can prevent or hold up closings due to financial contract requirements from lenders; and
3. many projects have federal funds included in their capital stack and include prohibitions of bidding until after final closing since bid shopping is prohibited; and

WHEREAS, a later timeline for these documents will help facilitate movement of projects in areas with much need for economic development; and

WHEREAS, such flexibility may prove beneficial to grant programs and real estate transactions across several City departments; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 3, Code of Ordinances, is hereby amended by deleting Section 3-457, "Procedures for all other contracts," and inserting in lieu thereof a new Section 3-457 of like title and subject matter, said section to read as follows:

Sec. 3-457. Procedures for all other contracts.


The following procedures shall apply to all contracts not covered by Section 3-455 and 3-456, and for which goals have been established:

- (1) For contracts awarded pursuant to competitive bidding, bidders shall submit an affidavit of intended utilization with their bid. Within 48 hours after bid opening, they shall submit the following additional documentation:
 - a. A notarized contractor utilization plan in conformance with section 3-433 hereof; and
 - b. Letters of intent to subcontract; and
 - c. A request for waiver of contract goals pursuant to subsection 3-437(a) if the bidder failed to meet or exceed the goals.
- (2) For contracts awarded pursuant to requests for proposals, proposers shall submit an affidavit of intended utilization with their proposal. Prior to the award of any contract, they shall submit the following additional documentation:
 - a. A notarized contractor utilization plan in conformance with section 3-433 hereof; and
 - b. Letters of intent to subcontract; and
 - c. A request for waiver of the contract goals pursuant to subsection 3-437(a) if the proposer fails to meet or exceed the goals.
- (3) Timely submission of the contractor utilization plan is a material element of the bid or proposal submission. The director is authorized to extend the 48-hour deadline for the letters of intent to subcontract but not the deadline for submission of the contractor utilization plan. However, for contracts for the award of grant funds or contracts for the sale of real property, the Director may waive the requirements of subsection (1) or (2), provided that the contract requires that all documentation be submitted and approved prior to the City reimbursing or paying any funds under the contract.
- (4) Documentation of good faith efforts shall be submitted when requested by the city or an incentive agency.

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- (5) Any increase in the amount of MBE/WBE participation after submission of the contractor utilization plan shall not count toward meeting the contract goals, unless otherwise permitted under section 3-443 hereof.

Approved as to form:



Joseph A. Guarino
Senior Associate City Attorney



Authenticated as Passed



Quinton Lucas, Mayor



Marilyn Sanders, City Clerk

MAR 28 2024

Date Passed