



City of San Antonio

Agenda Memorandum

File Number:15-5903

Agenda Item Number: 21.

Agenda Date: 12/3/2015

In Control: City Council A Session

DEPARTMENT: Economic Development

DEPARTMENT HEAD: Rene Dominguez

COUNCIL DISTRICTS IMPACTED: City-wide

SUBJECT:

Disparity Study Briefing

SUMMARY:

The Small Business Economic Development Advocacy (SBEDA) Ordinance adopted by City Council in 2010 requires the completion of a Disparity Causation Analysis Study (Disparity Study) to evaluate whether barriers that may prevent minority- and women-owned businesses from participating in City of San Antonio and private sector contracting opportunities still exist in our marketplace.

In October 2015, National Economic Research Associates, Inc. (NERA) completed the Disparity Study which found a continuing disparity between available minority- and women-owned businesses in the market area and the participation of such firms on City contracts, as well as market-based disparities impacting minority and women business formation and earnings. This statistical evidence supports the legal basis for continuing the SBEDA Ordinance.

BACKGROUND INFORMATION:

On June 16, 2010, City Council adopted Ordinance No. 2010-06-17-0531, which significantly revised the City's SBEDA Program. The Ordinance was adopted as a result of a 2010 Disparity Study conducted by MGT of America that found disparity in City and private sector contracting with minority and women-owned business.

According to the U.S. Supreme Court case *Richmond v. J.A. Croson Co. (1989)*, a government program that

uses race as a consideration in contracting must pass “strict scrutiny”. This standard requires that public entities show a compelling governmental interest in establishing race-specific programs, thus requiring firm evidence to conclude that the under-representation of minorities and/or women is a product of past discrimination. Further, those programs that establish a compelling governmental interest must also be “narrowly tailored” to achieve that interest. Disparity studies are undertaken to comply with this legal mandate.

On April 17, 2014, City Council adopted Ordinance No. 2014-04-17-0244, which authorized a contract with NERA to conduct a new Disparity Study, the conclusions from which will serve as evidence for the continuation or modification of the SBEDA Ordinance. NERA completed the Disparity Study on October 26, 2015.

The Disparity Study was released to the public on October 29, 2015. City staff held individual meetings with numerous stakeholder groups, including professional and trade organizations, and chambers of commerce, to review the Disparity Study findings. In addition, a public hearing was held on November 10, 2015 to gather public comment. On November 13, 2015, the Small Business Advocacy Committee, a group of citizens appointed by the Mayor and City Council to advise on business issues, goals and related policies concerning small, minority, and women-owned businesses, voted to recommend that the City Council adopt the Disparity Study.

ISSUE:

The Disparity Study indicates the City paid more than \$343 million to minority- and women-owned businesses during the three-year study period, more than double the amount reported in the previous disparity study in 2010. As a percentage of overall contracting, utilization of minority- and women-owned businesses increased nearly 50%, from 16% to 23%. However, the Disparity Study indicates availability of minority- and women-owned businesses in San Antonio exceeds this utilization level, suggesting that disparity in City contracting still exists.

The Disparity Study also identified continued disparities in the broader San Antonio marketplace. According to the Disparity Study statistical analysis, minority- and women-owned business owners earn less, are less likely to start businesses, and have greater difficulty accessing capital. The Study also suggests that while the City has made great progress in creating opportunities for minority- and women-owned businesses, barriers related to race and gender remain.

This ordinance will adopt the Disparity Study conducted by NERA to serve as the evidence for continuation, and potential amendment to the SBEDA Ordinance. City Council will be briefed on the proposed amendments to the SBEDA Ordinance in February 2016. Following additional public comment, staff will request City Council approval of revisions to the SBEDA Ordinance in March 2016.

ALTERNATIVES:

City Council could decline to adopt the Disparity Study findings. However, this could significantly impact the legal defensibility of the SBEDA program.

FISCAL IMPACT:

There is no fiscal impact associated with adoption of the Disparity Study.

RECOMMENDATION:

Staff recommends adoption of the Disparity Study with direction to staff to proceed with development and present for future City Council approval potential amendments to the SBEDA ordinance based on the findings and recommendations contained within the Disparity Study.