



## AGENCY INITIATIVE: SMALL BUSINESS PROCUREMENT STATUTORY TOOLS ALIGNMENT

H.F. 2097 (Freiberg) / S.F. 2038 (Pha)

This proposal is intended to align statutory tools for the Metropolitan Council to procure goods and services with small businesses with the small and targeted business procurement authority already provided to Minnesota state agencies.

### Background

In 2023, the Legislature enhanced state agencies' small business procurement authority by increasing the threshold for direct negotiation and increasing the percentage preferences that can be offered. This proposal applies those same enhancements to the Met Council's pre-existing Metropolitan Council Underutilized Businesses (MCUB) programs. The MCUB program facilitates participation of traditionally underutilized small businesses in Met Council contracting opportunities that are not federally funded.

### Why the Met Council is pursuing this legislation

- Just as the State of Minnesota has benefited from these tools, these tools would allow the Met Council to promote MCUB participation consistent with state authority.
  - It promotes consistency in contracting and MCUB contracting.
  - It gives the Met Council authority consistent with state agencies, such as MnDOT, and expands the availability of this program to more targeted groups and veteran-owned businesses.
  - It allows the Met Council to expand the number of contracts with targeted-group business goals and increases participation.
- The State of Minnesota has already successfully implemented these procurement policies. Elements of this proposal stem from changes in law to state agency statutes enacted in the 2023 Regular Session.

This proposal aligns Met Council procurement policies with procurement policies currently available for state agencies:

#### Section 1

Authorizing the Met Council to directly negotiate construction or maintenance contracts up to \$250,000 by getting at least two quotes.

- **Minnesota Statutes, section 161.32, subdivision 2** currently gives MnDOT this authority. A direct negotiation statute lowers barriers to participation because the formal bidding process does not apply.

#### Section 2(a)

Authorizing the Met Council to award up to the preference that the Department of Administration has for the amount bid for specific goods and services to small, targeted-group businesses and veteran-owned small businesses.

- **Minnesota Statutes, section 16C.16, subdivision 6(a)** establishes the preference at 12% for the State of Minnesota agencies.

## Section 2(b)

Authorizing the Met Council to award specified construction work to small, targeted-group businesses and veteran-owned small businesses using a preference percentage that is the same as the MnDOT authority.

- MnDOT has the authority to award up to 12% preference amount in **Minnesota Statutes, section 161.321, subdivision 2**. The Council does not currently have authority to apply a preference to construction work.

## Section 2(b & d)

Allowing the Met Council to designate construction contracts and procurements other than bids for award only to targeted group or veteran owned businesses.

- This is consistent with the state's authority under **Minnesota Statutes, section 16C.16**, which is not limited to bids, and MnDOT's authority under **Minnesota Statutes, section 161.321** to apply this program to construction contracts.

## Section 2(c)

Allowing the Met Council to set subcontracting goals for targeted-group businesses on all types of contracts.

- This change is consistent with MnDOT's authority under **Minnesota Statutes, section 161.321, subdivision 2a** to set goals on any contract and the federal disadvantaged business enterprise (DBE) regulations that permit goal setting on goods.

Authorizing the Met Council and each agency listed in **Minnesota Statutes, section 473.143, subdivision 1**, to purchase from small, and targeted-group businesses and veteran-owned small businesses designated under section 16C.16 when making purchases that are not subject to competitive bidding procedures.

- Minnesota statutes do not require "a competitive solicitation process up to a total contract award value, including extension options, of \$100,000" for state agencies

## Section 3

This proposal also includes a technical change. **Minnesota Statutes, section 473.1425** cites the Code of Federal Regulations, title 49, section 23.5. This is incorrect and should be cited as Code of Federal Regulations, title 49, section 26.5. In addition, the language currently states: "The purpose of loans made or guaranteed by the organization must be to provide short-term working capital to enable eligible businesses to be awarded contracts for goods and services or for construction related services from government agencies." This should be expanded to also include eligible businesses to be awarded subcontracts because the majority of MCUB participation is from subcontractors.

## Contact

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