

SENATE  
STATE OF MINNESOTA  
NINETY-FOURTH SESSION

S.F. No. 2038

(SENATE AUTHORS: PHA and Dibble)		
DATE	D-PG	OFFICIAL STATUS
03/03/2025	605	Introduction and first reading Referred to Transportation
03/24/2025	952	Comm report: To pass and re-referred to State and Local Government

1.1

A bill for an act

1.2

relating to Metropolitan Council; expanding application of small business programs;

1.3

authorizing direct negotiation of certain contracts; amending Minnesota Statutes

1.4

2024, sections 473.129, by adding a subdivision; 473.142; 473.1425.

1.5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6

Section 1. Minnesota Statutes 2024, section 473.129, is amended by adding a subdivision

1.7

to read:

1.8

Subd. 13. **Direct negotiation.** Notwithstanding section 471.345, if the estimated total

1.9

contractual obligation of the council for a directly negotiated contract or contracts for

1.10

construction work or maintenance work on any single project does not exceed the amount

1.11

in section 161.32, subdivision 2, the council may enter into a contract by direct negotiation

1.12

by obtaining two or more quotations for the work without advertising for bids or otherwise

1.13

complying with the requirements of competitive bidding.

1.14

Sec. 2. Minnesota Statutes 2024, section 473.142, is amended to read:

1.15

**473.142 SMALL BUSINESSES.**

1.16

(a) The Metropolitan Council and agencies specified in section 473.143, subdivision 1,

1.17

may award ~~up to a six percent preference in the amount bid~~ up to the percentage under

1.18

section 16C.16, subdivision 6, paragraph (a), for specified goods or services to small targeted

1.19

group businesses and veteran-owned small businesses designated under section 16C.16.

1.20

The council and each agency specified in section 473.143, subdivision 1, may award a

1.21

preference up to the percentage under section 161.321, subdivision 2, paragraph (a), in the

2.1 amount bid for specified construction work to small targeted group businesses and  
2.2 veteran-owned small businesses designated under section 16C.16.

2.3 (b) The council and each agency specified in section 473.143, subdivision 1, may  
2.4 designate a ~~purchase of~~ contract for construction, goods, or services for award only to small  
2.5 targeted group businesses designated under section 16C.16 if the council or agency  
2.6 determines that at least three small targeted group businesses are likely to ~~bid~~ respond to a  
2.7 solicitation. The council and each agency specified in section 473.143, subdivision 1, may  
2.8 designate a ~~purchase of~~ contract for construction, goods, or services for award only to  
2.9 veteran-owned small businesses designated under section 16C.16 if the council or agency  
2.10 determines that at least three veteran-owned small businesses are likely to ~~bid~~ respond to a  
2.11 solicitation.

2.12 (c) The council and each agency specified in section 473.143, subdivision 1, as a condition  
2.13 of awarding a ~~construction contract~~ or approving a contract for ~~consultant, professional, or~~  
2.14 ~~technical services~~, may set goals that require the prime contractor to subcontract a portion  
2.15 of the contract to small targeted group businesses and veteran-owned small businesses  
2.16 designated under section 16C.16. The council or agency must establish a procedure for  
2.17 granting waivers from the subcontracting requirement when qualified small targeted group  
2.18 businesses and veteran-owned small businesses are not reasonably available. The council  
2.19 or agency may establish financial incentives for prime contractors who exceed the goals  
2.20 for use of subcontractors and financial penalties for prime contractors who fail to meet goals  
2.21 under this paragraph. The subcontracting requirements of this paragraph do not apply to  
2.22 prime contractors who are small targeted group businesses and veteran-owned small  
2.23 businesses. At least 75 percent of the value of the subcontracts awarded to small targeted  
2.24 group businesses under this paragraph must be performed by the business to which the  
2.25 subcontract is awarded or by another small targeted group business. At least 75 percent of  
2.26 the value of the subcontracts awarded to veteran-owned small businesses under this paragraph  
2.27 must be performed by the business to which the subcontract is awarded or another  
2.28 veteran-owned small business.

2.29 (d) The council and each agency listed in section 473.143, subdivision 1, ~~are encouraged~~  
2.30 ~~to purchase from~~ may award a contract for construction, goods, or services directly to small  
2.31 targeted group businesses ~~and or~~ veteran-owned small businesses designated under section  
2.32 16C.16 ~~when making purchases that are not subject to competitive bidding procedures, up~~  
2.33 to a total contract award value, including extension options, of the amount specified in  
2.34 section 16C.16, subdivision 6, paragraph (b), without going through a competitive solicitation  
2.35 process.

(e) The council and each agency may adopt rules to implement this section.

(f) Each council or agency contract must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the council or agency for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney fees, incurred in bringing the action.

(g) This section does not apply to procurement financed in whole or in part with federal funds if the procurement is subject to federal disadvantaged, minority, or women business enterprise regulations. The council and each agency shall report to the commissioner of administration on compliance with this section. The information must be reported at the time and in the manner requested by the commissioner.

Sec. 3. Minnesota Statutes 2024, section 473.1425, is amended to read:

**473.1425 WORKING CAPITAL FUND.**

The Metropolitan Council or a metropolitan agency defined in section 473.121, subdivision 5a, to the extent allowed by other law or contract, may grant available money that has been appropriated for socially or economically disadvantaged business programs to a guaranty fund administered by a nonprofit organization that makes or guarantees working capital loans to businesses owned and operated by a socially or and economically disadvantaged persons individual as defined in Code of Federal Regulations, title 49, section ~~23.5~~ 26.5. 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~~ participate in contracts for goods and services or for construction related services from government agencies.

**Sec. 4. EFFECTIVE DATE; APPLICATION.**

This act is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.