


TO: Mayor and Members of the City Council
Chair and Members of the Public Utility Board

FROM: T.C. Broadnax, City Manager
William A. Gaines, Director of Utilities/CEO 

SUBJECT: Proposed Amendments to Chapter 1.07 – Small Business Enterprise

DATE: October 16, 2014

General Overview of Tacoma Municipal Code SBE Revisions

November 1998, Initiative 200 was adopted.

On November 7, 2000, the City enacted Ordinance 26726 to establish a Historically Underutilized Business (HUB) program for public works and improvements contracts.

On June 21, 2005, the City enacted Ordinance 27369 to revise Chapter 10.26, TMC as needed to, among other things, improve efficiency and fairness in the HUB program, continue the equality of opportunity in public contracting, encourage small business development, simplify City bidding procedures, and continue use of provisions in City contracts prohibiting discrimination.

On December 15, 2009, by enactment of Ordinance 27867, the HUB program was re-codified under Chapter 1.07, TMC. That Ordinance expanded the scope of the program beyond public works and improvements to include supplies and services contracts and clarify application of program requirements to all contracts valued at \$25,000 or more.

On May 7, 2013 the Ordinance was amended to rename HUB Program to Small Business Enterprise Program (SBE) and changes to Section 1.07.070 (Evaluation of Submittals).

Overview of Proposed Tacoma Municipal Code Revisions

This request proposes the following changes:

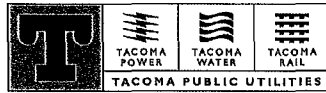
1. Insert a definition of "Affidavit of Small Business Enterprise certification: *The new definition more clearly defines the intent of the certification and supports our efforts to eliminate the need for submittal of tax returns.*
2. Increase in Personal Net Worth ceiling found in in 1.07.050 A.1. from \$375,000.00 to \$1,320,000.00. The need to increase the amount serves many purposes:
 - a) It equals the federal SBA standard, as well as a number of local municipalities;
 - b) It will allow the City to recruit larger more experienced firms with greater capacity (particularly "bonding") which will be a great benefit to the City; and
 - c) Larger firms can assist the SBE program in its desire to encourage greater



mentorship and joint venturing opportunities;

3. Increase "Total Gross Receipts" ceiling found in in 1.07.050 A.2. from \$8m to \$36.5m (construction/Public Works) and \$4m to \$15m (Non-construction/Public Works): It equals the federal SBA standard, as well as a number of local municipalities;
4. Amend terminology in 1.07.050., A.3. to reflect additional information found in new affidavit process: The new affidavit will replace the "Declaration of SBE Status" form and provide additional qualifying declarations, business status, and program requirements to more than satisfy the removal of SBE applicant tax return submittals. The document will also require the applicant to agree to submit to government audit, examination and review of the Company and its affiliates, inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. In addition, it states 'Such examination and review may include, but shall specifically not be limited to, tax returns for the Company and/or the individual(s) for the past six (6) years'. Although we will not require the six years of tax returns, the City can request them if proven necessary.
5. Amend language found in 1.07.050 B.2. addressing "Declaration of SBE Status Affidavit": This amendment provides affirmation and compliance with the requirements.
6. Remove language found in 1.07.050 B.3. to eliminate requirement of submitting six (6) years of tax returns with SBE application: Requesting six (6) years of company tax returns from every applicant is an unnecessary burden on the applicant, as well as a potential financial burden. No other municipal agency requires six years of returns. It is also very labor intensive and time consuming. Staff believes we can achieve the same expected outcome of verification through a signed and notarized affidavit process.
7. Extend SBE program and City Council review through and until December 31, 2019: Based on knowledge of current economic conditions in the communities and marketplace served by the SBE Program and information taken from the most recent Washington State Department of Transportation statewide disparity study, staff believes the requirements of Chapter 1.07 remain relevant and necessary. It is also our opinion that there remains substantial underutilization of small business located in those communities and a lack of opportunities for SBEs to participate in public contracting within those communities. Thus, the substantial effects and lack of contracting opportunities for SBEs located in these economically disadvantaged locations that is stated in the policy and purpose section of Chapter 1.07 (TMC 1.07.010) are continuing.

Staff believes the policy goals and requirements set forth in Chapter 1.07 are reasonably tailored to address these on-going effects and lack of opportunities. We also believe the administrative means and methods established in Chapter 1.07, especially as further refined by the proposed Code amendments to TMC 1.07.050, are reasonably tailored to achieve those policy goals. For all of these reasons, we recommend the requirements of Chapter 1.07 should remain in full force and effect at least until December 31, 2019 AND that the Code amendments proposed to this Chapter be adopted by Ordinance.



Summary and Conclusion

The amendments to Chapters 1.07.020, A., 1.07.050 A.1., A.2., A.3., B.2., B.3., and 1.07.140 will:

- Enhance program delivery;
- Provide greater flexibility;
- Allow consistency with other jurisdictions;
- Remove the submission of unnecessary supporting documentation;
- Address sunset and review of SBE program



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