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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4444

03/21/2022

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The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to metropolitan government; authorizing the Metropolitan Council and
1.3 metropolitan agencies to expand preferential application process of small business
1.4 programs and authorizing the Metropolitan Council to directly negotiate certain
1.5 contracts; amending Minnesota Statutes 2020, sections 473.129, by adding a
1.6 subdivision; 473.142.

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

1.8 Section 1. Minnesota Statutes 2020, section 473.129, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 13. **Direct negotiation.** Notwithstanding the provisions of section 471.345, the
1.11 council may enter into a contract by direct negotiation by obtaining two or more quotations
1.12 for the work, and without advertising for bids or otherwise complying with the requirements
1.13 of competitive bidding, if the total contractual obligation of the council for the directly
1.14 negotiated contract or contracts on any single project does not exceed \$250,000. The council
1.15 must keep all quotations for at least one year.

1.16 **EFFECTIVE DATE; APPLICATION.** This section is effective the day following
1.17 final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
1.18 Scott, and Washington.

1.19 Sec. 2. Minnesota Statutes 2020, section 473.142, is amended to read:

1.20 **473.142 SMALL BUSINESSES.**

1.21 (a) The Metropolitan Council and agencies specified in section 473.143, subdivision 1,
1.22 may award up to a six percent preference in the amount bid for specified construction work,

2.1 goods, or services to small targeted group businesses and veteran-owned small businesses
2.2 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 work, goods, or services for award only
2.5 to small 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 work, goods, or services for award only
2.9 to 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 small targeted group businesses and veteran-owned small businesses
2.31 designated under section 16C.16 when making purchases that are not subject to competitive
2.32 bidding procedures.

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

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

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

3.16 **EFFECTIVE DATE; APPLICATION.** This section is effective the day following
3.17 final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
3.18 Scott, and Washington.