



# City of San Antonio

## Agenda Memorandum

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**Agenda Item Number:** 2

**Agenda Date:** August 4, 2021

**In Control:** City Council B Session

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**DEPARTMENT:** Economic Development Department

**DEPARTMENT HEAD:** Alex Lopez, Assistant City Manager

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Post-Solicitation Briefing Regarding the Small Business Economic Development Advocacy (SBEDA) Disparity Study: Request for Proposal.

**SUMMARY:**

The City of San Antonio Economic Development Department advertised a request for proposals (RFP) for an updated Small Business Economic Development Advocacy (SBEDA) Disparity and Causation Analysis Study (Disparity Study) to identify potential racial and gender contracting disparities in the San Antonio marketplace and to provide legal support to potentially continue the City's affirmative action contracting program. This post-solicitation briefing will provide an overview of the scope of work, summary of the solicitation process, expense, evaluation committee, scoring matrix, and timeline in which the study will be completed.

**BACKGROUND INFORMATION:**

Following a City Council "B" Session select high profile pre-solicitation briefing on January 13, 2021, and as directed in the City Council adopted SBEDA Ordinance (2016-05-19-0367), the Economic Development Department released a RFP on January 15, 2021 for an updated SBEDA Disparity Study to identify potential racial and gender contracting disparities in the San Antonio marketplace and to provide legal support to potentially continue the City's affirmative action contracting program.

As determined in Supreme Court case of *Richmond v. Croson* (1989), government contracting policies using race and/or gender as a classification or as a consideration must withstand “strict scrutiny” under federal law and must show a “compelling governmental interest” to establish and to maintain race and gender-specific programs. Essentially, the governmental entity must find statistical evidence of disparities in the market area, anecdotal evidence of barriers to full and fair inclusion must support the statistical evidence, and remedies must be “narrowly tailored” to address that evidence.

Industry best practice is to update disparity studies every five to seven years. To date, the City of San Antonio has conducted three disparity studies in 1992, 2010, and 2015 respectively. The 2010 Disparity Study led to a significant overhaul of the SBEDA Ordinance, which called for the creation of a central vendor registry, compliance module, goal setting committee, and contract specific race neutral and race conscious tools such as subcontracting goals, segmented subcontracting goals, and prime evaluation preference points. While the 2015 Disparity Study found a continuing disparity between the availability and utilization of minority and women-owned businesses (M/WBEs) on City contracts, as well as market based disparities impacting M/WBEs regarding business formation rates and earnings, it also affirmed the City was making progress in the utilization of M/WBEs. As a result, that study called for minor programmatic adjustments, such as the expansion of effective SBEDA tools to all industries (i.e. the M/WBE prime evaluation preference point tool was not available in the construction industry, but was expanded to this industry post the 2015 Disparity Study) and the ability for certified vendors to self-perform SBEDA subcontracting goals.

The proposed new Disparity Study would update the City’s 2015 study. Findings of this Disparity Study will guide any potential modifications or amendments to the current SBEDA Ordinance, which will be competed through a separate public engagement process once the study and its findings have been adopted by City Council.

Responses to the RFP were due on March 19, 2021. In total, three responses were received; however, one response was deemed non-responsive, as the proposal failed to demonstrate how the 20% M/WBE SBEDA subcontracting goal would be achieved.

The evaluation committee scored the remaining two responses on May 21, 2021. The evaluation committee included representatives from the City Manager’s Office (1), Economic Development Department (2), Finance Department (1), and SBEDA Committee Chair. The evaluation of each proposal was based on a total of 100 points and included the following criteria:

- Experience, Background, and Qualifications – 25 Points
- Proposed Plan – 30 Points
- Pricing – 20 Points
- SBEDA Program – 10 Points
- Local Preference Program – 10 Points
- Veteran Owned Small Business Preference Program – 5 Points

The committee recommends the top-ranked vendor that has vast experience in completing legally defensible disparity studies, which includes the use of appropriate and legally acceptable

methodologies needed to obtain data to determine if disparity exists in alignment with the Supreme Court case of Richmond v. Croson (1989).

Tentatively, this item is scheduled for the August 19, 2021 City Council “A” Session.

**ISSUE:**

This solicitation was designated as high profile, based on the anticipated community interest in the deliverables associated with this contract. It was further identified as a select high profile solicitation, given the significance of this contract to the continuation or amendment of the SBEDA Program.

**ALTERNATIVES:**

This item is for briefing purposes only.

**FISCAL IMPACT:**

The solicitation has an approved FY 2021 budget of \$800,000.

**RECOMMENDATION:**

This item is for briefing purposes only.