

8-O-01

**AN ORDINANCE**

**Amending Section 1-17-1(B) of the "Purchase, Sale And  
Lease of Real and Personal City Property Ordinance"  
to Revise The Definition of "Evanston Business Enterprise"**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF EVANSTON, COOK COUNTY, ILLINOIS:

**SECTION 1:** That Section 1-17-1(B) of the Evanston City Code of 1979, as amended, be and it hereby is further amended, by revising the definition of "Evanston Business Enterprises", to read as follows:

**Section 1-17-1 (B):** All contracts for the purchase of goods or services with entirely City funds shall be awarded to the lowest quote/bid price or lowest evaluated quote/bid price from a responsive and responsible Evanston Business Enterprise ("EBE") provided the EBE's quote/bid price does not surpass the lowest quote/bid price or lowest evaluated quote/bid price from a responsive and responsible nonlocal business by more than five percent (5%).

**Section 1-17-1 (B)(1):** An EBE shall mean an entity which is located in or has one or more offices located in the City for a minimum of one year and which performs a "commercially useful function".

- (a) An EBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the EBE must also be responsible, with respect to materials and supplies used

on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an EBE is performing a commercial useful function, the City will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the EBE credit claimed for its performance of the work and other relevant factors.

- (b) An EBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of EBE participation. In determining whether an EBE is such an extra participant, the City will examine similar transactions, particularly those in which EBEs do not participate.
- (c) If an EBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the EBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, then it is not performing a commercially useful function.
- (d) When an EBE is presumed not to be performing a commercially useful function as provided in Subparagraph 1-17-1 (B) (1) (C), the EBE may present

evidence to rebut this presumption. The City may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

**Section 1-17-1 (B)(2):** In determining whether a business has been located in Evanston for one year, the MWEBE Committee will consider the following:

- (a) Whether the vendor pays property and/or sales taxes in Evanston; and
- (b) Whether the business entity's address or the address given on the Federal and/or State income tax return is within Evanston.
- (c) The date of issuance of an Evanston Business License.

The City may waive the one-year requirement if the entity provides evidence of a substantial commitment to Evanston.

**Section 1-17-1 (B)(3):** Businesses that maintain a distribution warehouse or which manufacture in Evanston will receive EBE credit of sixty percent (60%) and one hundred percent (100%), respectively. Those that do not maintain a distribution warehouse or manufacturing operation but have an office in Evanston will be considered a broker and receive a five percent (5%) credit.

**Section 1-17-1 (B)(4):** Eligibility as an EBE will be periodically reviewed and may be revoked at any time if the entity no longer meets the above requirements.

**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3:** That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: February 12, 2001

Adopted: February 26, 2001

Approved:

March 2, 2001  
Lorraine H. Norton  
Mayor

ATTEST:

Mary P. Morris  
City Clerk

Approved as to form:

[Signature]  
Corporation Counsel