

8/8/2005

100-O-05

AN ORDINANCE

**Amending Section 1-17-1 of the
City Code Regarding Purchases from Evanston Businesses**

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

SECTION 1: That Section 1-17-1 of the Evanston City Code of 1979,
as amended, is hereby further amended, to read as follows:

Section 1-17-1(A): PURCHASES OF GOODS OR SERVICES:

All contracts for the purchase of goods or services costing in excess of fifteen thousand dollars (\$15,000.00) to be utilized in the conduct of the affairs of the City, shall be let by the City Manager or his/her designee, with the approval of the City Council, to a reliable, responsible, and acceptable bidder, after advertising for the same, and bonds to be approved by the City Council may be taken for the faithful performance thereof. The City Manager, or his/her designee, may reject all bids and shall subsequently advise the City Council of his/her action or, with the approval of the City Council, may award the contract to a bidder other than the lowest bidder if it should be determined that such action would be in the best interest of the City. Any such contract may also be entered into by the proper officers without advertising for bids upon the authorization of the City Council by a vote of two-thirds (2/3) of all Aldermen then holding office. Notwithstanding the above, the City Manager or his/her designee shall have the authority to make purchases in excess of fifteen thousand dollars (\$15,000.00) without prior Council approval when there is an imminent threat to the property of the City or its citizens or the health and welfare of its citizens; or when there is a substantial economic benefit to the City not otherwise obtainable; providing, however, that a report of said purchase shall be promptly made to the City Council. All other contracts for the provision of goods and services to be utilized in the conduct of the affairs of the City shall be let by the City Manager or his/her designee to a reliable, responsible person, firm, or agency without the necessity of advertising for bids, or of obtaining prior City Council approval. Bonds may be taken for faithful performance of such contracts. This provision shall not apply to contracts for work, material, or supplies to be paid in whole or in part by special assessment. (Ord. 106-O-97).

Section 1-17-1(B):

(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%).

All contracts let from Requests for Proposals (RFP's) and Requests for Qualifications (RFQ's) with entirely City funds shall be awarded to the most qualified consultant that is an EBE, provided the EBE price/cost does not surpass the lowest price/cost or lowest evaluated price/cost from a nonlocal business by more than five percent (5%).

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 commercially 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 or 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 subsection (B)1c of this Section, 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.

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.

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.

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: August 15, 2005

Adopted: Sept. 12, 2005

Approved: September 13, 2005

Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:

Mary J. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel