

County Council of Cuyahoga County, Ohio

Ordinance No. O2011-0048

Sponsored by: Councilmembers Jones, Connally, Brady, Conwell, Rogers and Miller and County Executive FitzGerald	An Ordinance enacting Chapter 509 of the Cuyahoga County Code directing the County Executive to conduct a Disparity Study and, if required by law, validate the Disparity Study every five years thereafter; requiring annual updates of said Study; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Cuyahoga County desires to affirm its commitment to economic inclusion and wishes to ensure that its business practices allow equal opportunities to compete for all willing and able businesses eligible to contract and to subcontract with the County for construction, architecture and engineering, and other professional services, and for the procurement of other goods and services; and

WHEREAS, the County conducted a Disparity Study in 2002 that resulted in the County adopting a Small Business Enterprise Policy; and

WHEREAS, the County desires to evaluate whether its business practices are encouraging all willing and able businesses designated as Minority Business Enterprises (MBEs) and/or Female Business Enterprises (FBEs) to contract and subcontract with the County; and

WHEREAS, the County further desires to assess the level of participation in County contracts and subcontracts of those businesses designated as MBEs and/or FBEs in order to determine whether there is a disparity or underutilization in the award of any such contracts to such businesses; and

WHEREAS, the United States Supreme Court established in *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) that the appropriate manner of determining disparity and recommending corrective action is to conduct a Disparity Study, which includes a comprehensive analysis of County contracting data to determine statistically significant disparities or underutilization in the award of contracts to MBEs and/or FBEs, a regression analysis, legal analysis, and collection of anecdotal evidence; and

WHEREAS, the County, in order to monitor the effectiveness of any corrective action recommended by the Disparity Study, desires to update the Disparity Study on an annual basis.

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the efficient and effective operation of the County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Chapter 509 of the Cuyahoga County Code is hereby enacted as follows:

Chapter 509: Disparity and Economic Inclusion

Section 509.01 Disparity Study

The County shall conduct a Disparity Study and, if required by law, shall validate the Disparity Study every five (5) years thereafter. All such studies shall be designed to meet the legal standards established by court rulings with respect to the constitutionality of programs designed to encourage greater participation of women and minorities in our economy.

Section 509.02 Monitoring Corrective Action

The County Executive shall monitor the effectiveness of any corrective action implemented as a result of the Disparity Study and shall annually update the Disparity Study.

Section 509.03 Approval of Contracts and Agreements

All contracts and agreements performed in furtherance of the Disparity Study shall be reviewed and approved by the appropriate approval authority depending on the monetary threshold of each contract or agreement in accordance with Chapter 501 of the County Code.

SECTION 2. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County

Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this Ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Jones, seconded by Ms. Conwell, the foregoing Ordinance was duly enacted.

Yeas: Miller, Brady, Germana, Gallagher, Conwell, Jones, Rogers, Simon, Greenspan and Connally

Nays: None

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: October 11, 2011
Committee(s) Assigned: Public Works, Procurement & Contracting

Additional Sponsorship Requested on the Floor: October 11, 2011

Committee Report/Second Reading: September 24, 2013

Legislation Substituted on the Floor: September 24, 2013

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