

**TO:** Mayor Richard C. Irvin

**FROM:** Alex Voigt, Deputy Chief of Staff  
Jolene Coulter, Director of Purchasing

**DATE:** January 3, 2020

**SUBJECT:**

A Resolution approving the release of a Request for Proposals (RFP) for an "Availability and Disparity Study" on behalf of the City of Aurora.

**PURPOSE:**

The purpose of this item is to receive City Council approval for the release of an RFP that will allow the City of Aurora to receive proposals to conduct an Availability and Disparity Study on our behalf.

**BACKGROUND:**

In 2010, the City Council approved R10-111, "A Resolution Expressing the Commitment of the City Council to expand opportunities to do Business with Minorities, Women and Disabled Persons" (Exhibit A), which included a sixteen step "Action Plan". In 2011, a "Procurement Development Program" was created based off of R10-111 (Exhibit B). Elements of both documents are still utilized, but a majority remain outstanding.

In 2018, the State of Illinois introduced legislation proposing to amend the Motor Fuel Tax Law (MFT), restricting distributions to municipalities, counties and road districts receiving \$1M or more that do not have a Business Enterprise Program (BEP) with specific goals for minority, Veteran and female-owned businesses. Aurora, as a municipality that receives more than \$1M in funds from the MFT fund annually, would be impacted by this change and began looking at options to create and implement a program.

Working with our lobbyist, the city began exploring the possibility of creating a partnership with the other units of government impacted by the change to create a "model ordinance" and share costs. Aurora convened a meeting, inviting representatives from municipalities and counties who would be impacted by the \$1M in annual funding threshold to learn more about the process. The meeting, while well attended, showed an overall lack of interest in a program unless required by the State.

The Corporation Counsel engaged attorneys Kate Tragesser and Rita McNeil Danish of Taft Stettinius & Hollister to continue the process (biographies attached). Both were familiar with the legislation and have backgrounds in women, minority and veteran owned businesses as well as procurement processes. Rita also composed an article on SB2610 (Exhibit C). After a conference call with Rita and Kate, the offer was made again to partner with other units of government to create a model ordinance, but there was no interest.

In the spirit of ensuring all of our bases were covered, city staff reviewed the Disparity Study conducted by the Illinois Department of Transportation (IDOT) conducted in 2015 to see if it was feasible to use that data, but concluded that it would not provide the information we need to truly create and implement a program for our city that would hold up in court. Staff also explored the possibility of working to expand our current program, but again, not having Aurora-centric data will not hold up in court, not to mention the lack of staff to appropriately monitor. Taft was engaged to draft an RFP and guide staff through selecting a firm and the process that follows.

Though the legislation has yet to pass, SB2610 passed in the Senate and nearly passed in the House, and is anticipated to return in 2020.

### **DISCUSSION:**

The RFP and Availability/Disparity is only the first step in what will most likely require significant changes to the city's procurement process, but is the step that will create the foundation for those next steps. The 2010 Action Plan laid out a number of steps that determine what needs to be done to create a program, but lacked the "how".

For example:

3. Designate a staff member to serve as the Program Manager/Diversity Procurement Officer
  - This is a step that will likely come later, pending the outcome of the Disparity Study but is not something that should happen without the data and a plan to address.
5. Participate in local business diversity fairs sponsored by organizations that market to local, small businesses, particularly those owned by minorities, women or persons with disabilities.
  - This is also covered in the Disparity Study process itself, there is a requirement to interact with our existing organizations that support the business community.
7. Implement a process by which the city can identify minorities, women and persons with disabilities which do business with the city in order to establish the baseline data to determine if a disparity study is needed.
  - The lack of information collected over the years indicates a disparity study is in fact needed to truly determine where improvements may be made.
15. Seek a firm experienced in expanding opportunities for minorities, women and persons with disabilities to guide the city through the implementation process.
  - Part of the overall process, some of which is occurring now.

In addition to the reasons outlined above, there is also the legal aspect to consider. The courts have mandated that a Disparity Study is required before any such program may be implemented. Aurora could attempt to revive the 2010 efforts, but it would not stand up in court, nor would it likely be successful at identifying and addressing any issues that exist.

While the Disparity Study itself is not a "fix", it is a necessary and court mandated step in the right direction when it comes to adjusting our procurement processes to meet the needs of our business community. This proposed process, beginning with the RFP, honors the intention of the 2010 Resolution, but provides the specifics needed to get the job done and done well.

If the RFP is approved, the results of the process will come back before the City Council for further approval. This process will require a budget amendment once the total cost has been established, funds will come from both the 2020 and 2021 budget.

**IMPACT STATEMENT:**

Approving the release of the RFP will result in a positive outcome for the City of Aurora and its procurement processes.

**RECOMMENDATIONS:**

It is respectfully requested that this Resolution be forwarded to Committee of the Whole and City Council for full Council discussion and a vote.

cc: Finance Committee



CITY OF AURORA, ILLINOIS

RESOLUTION NO. \_\_\_\_\_  
DATE OF PASSAGE \_\_\_\_\_

A Resolution Approving the Release of a Request for Proposals (RFP) for an Availability and Disparity Study on behalf of the City of Aurora.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, it is the City's desire to release the attached RFP to advertise the need for a disparity study; and

WHEREAS, the results of the RFP will determine the next steps for Aurora in implementing a MWDBE program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, as follows: that the release of the attached RFP (Exhibit D) shall be and hereby is authorized.