

# County Council of Cuyahoga County, Ohio

## Ordinance No. O2014-00\_\_

Sponsored by: <b>County Executive FitzGerald</b>	<b>An Ordinance</b> amending and replacing Chapter 503 of the County Code to enact the Cuyahoga County Equal Business Opportunity Programs; amending Chapter 501 of the County Code to revise the County’s contracting laws; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, the Charter of Cuyahoga County makes economic growth a fundamental government purpose, articulates a desire for an improved focus on equity for all our citizens, and envisions long-term regional and global competitiveness for the County;

WHEREAS, Section 7.01 of the Charter of Cuyahoga County declares the County shall have as a primary responsibility the promotion and enhancement of the economic well-being and prosperity of the County and all its residents;

WHEREAS, Section 3.09(4) of the County Charter provides that the Council may establish the “procedures governing the making of County contracts and the purchasing of County supplies and equipment pursuant to competitive bidding;”

WHEREAS, the County Executive and the Council of Cuyahoga County have determined that ensuring maximum community benefits from the expenditure of County taxpayer dollars furthers the economic well-being and prosperity of the County and all its residents;

WHEREAS, Section 509.01 of the County Code requires the County to conduct a Disparity Study every five years;

WHEREAS, the County conducted a Disparity Study, a copy of which is attached as Exhibit A hereto;

WHEREAS, the County Council wishes to accept the findings and recommendations of the Disparity Study;

WHEREAS, the County Executive and the Council of Cuyahoga County have also determined that the adoption of a community benefits policy will help

maximize value to the community of County taxpayer dollars and promote efficient administration of government;

WHEREAS, the County Executive and the Council of Cuyahoga County have determined that the adoption of a community benefits policy for County-funded public works, service contracts, and subsidized development projects encourages the use of well-trained workers earning decent wages and benefits, reflecting the diversity of the community, and producing quality work that enhances the environment and contributes to the economic well-being and prosperity of the County;

WHEREAS, Cuyahoga County government wishes to create a national model for a comprehensive community benefits policy, creating good jobs for residents and career pathways for low-income people, people of color, women, veterans, and other historically underrepresented groups, while also saving energy, reducing emissions, improving public health and contributing positively to the environment;

WHEREAS, the County retained local and national experts to assist a diverse group of local labor, community and environmental stakeholders to meet and develop the set of standards set forth in the attached Cuyahoga County Community Benefit and Opportunity Initiative;

WHEREAS, the County received the recommendations of Policy Matters Ohio for a Community Benefits and Opportunity Initiative program, attached hereto as Exhibit B;

WHEREAS, the County Council wishes to accept and adopt the recommendations for the Community Benefits and Opportunity Initiatives program;

WHEREAS, the adoption of the attached Cuyahoga County Community Benefit and Opportunity Initiative will make Cuyahoga County a national leader in maximizing local impact of economic and community development dollars through the contracting and procurement process;

WHEREAS, it is necessary to make other changes to the County's contracting laws to bring them up-to-date and meet the County's needs; and

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 usual, daily operation of the County departments.

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

**SECTION 1.** County Council hereby accepts and adopts all the findings and recommendations contained in the County's 2014 Disparity Study attached hereto as Exhibit A, which is incorporated herein by reference.

**SECTION 2.** County Council hereby accepts and adopts the Community Benefit and Opportunity Initiative Report attached hereto as Exhibit B, which is incorporated herein by reference.

**SECTION 3.** Chapter 503 of the Cuyahoga County Code is hereby amended and replaced in its entirety to read as follows:

## **CHAPTER 503: Equal Business Opportunity Programs**

### **Section 503.01 Economic Inclusion Program**

#### **A. Program Established**

There is hereby established the Cuyahoga County Economic Inclusion Program, which shall include the following components:

1. Minority and women business aspirational goals based on the availability tables established in the County's most recent disparity study; and
2. Race and gender-neutral small business enterprise set asides.

#### **B. Implementation**

The County Executive and the Office of Procurement and Diversity are hereby directed to promulgate the regulations for the implementation of the Economic Inclusion program and to implement it. The regulations shall be adopted in accordance with Chapter 113 of the Cuyahoga County Code and shall include the rules for the certification of small, minority, and women businesses. The County's small business enterprise program in effect on December 1, 2014, shall continue in place until the regulations promulgated pursuant to this section are approved by the Administrative Rules Approval Board.

### **Section 503.02 Community Benefit and Opportunity Program**

#### **A. Program Established**

There is hereby established the Cuyahoga County Community Benefit and Opportunity Program. The program, which shall be based on the 2014 Community Benefit and Opportunity Initiative recommendations received by the County from Policy Matters Ohio, shall have the following components:

1. Health Impact Assessment, Mitigation, and Design Requirements;

2. Construction careers program;
3. Responsible contracting requirements;
4. Non-construction employer requirements;
5. Developer requirements;
6. Buy-local program;
7. Contracting equity;
8. Community benefits fund; and
9. Continuing public input and oversight.

## **B. Implementation**

The County Executive, Public Works Department, and the Office of Procurement and Diversity are hereby directed to promulgate the regulations for the implementation of this Community Benefit and Opportunity Program and to implement it. The regulations shall be adopted in accordance with Chapter 113 of the Cuyahoga County Code.

**SECTION 4.** Chapter 501 of the Cuyahoga County Code is hereby amended as follows (deletions are stricken; additions are bolded):

1. Section 501.04(A)(1)(a) is amended as follows:

- a. All contracts, purchases, sales, grants provided by the County, or loans provided by the County resulting in the County's expenditure of more than \$500,000.000. **If the transaction does not have an end date, the County shall calculate the anticipated revenue for purposes of determination of the appropriate approval authority based on a five-year term;**

2. Section 501.04(B)(1) is amended as follows:

- b. All contracts, purchases, sales, grants provided by the County, or loans provided by the County resulting in the County's expenditure of more than \$100,000.00 but not more than \$500,000.00, except that the County Executive and/or Director of Economic Development may make loans of not more than \$200,000.00 without approval from the Board of Control for the limited purpose of implementing the Federal Neighborhood Stabilization Program. **If the transaction does not have an end date, the County shall calculate the anticipated revenue for purposes of determination of the appropriate approval authority based on a five-year term;**

3. Section 501.04(C) is hereby amended as follows:

All contracts, revenue generating agreements, purchases, sales, grants provided by the County and loans provided by the County for \$500.00 or more that do not otherwise require County Council or Board of Control approval shall require approval by the Contracts and Purchasing Board. **If the transaction does not have an end date, the County shall calculate the anticipated revenue for purposes of determination of the appropriate approval authority based on a five-year term;**

4. Section 501.13 is hereby amended as follows:

In **addition to the requirements set forth in Chapter 503 of the County Code, in** designing specifications for bids, requests for proposals, and requests for qualifications, the County shall consider dividing requests into smaller components when doing so would create a larger pool of potential bidders without reducing the cost-effectiveness of the project.

5. Section 501.17 is hereby amended as follows:

**Section 501.17 Legal Compliance**

**A.** Legal Review and Approval by the Law Department

All contracts, purchases, sales, leases, grants, or loans must undergo legal review before being executed. Use of a standard form, approved in advance by the Law Department, for a specific type of transaction shall satisfy the requirement of this section.

**B.** **Compliance with Legal Requirements for Issuance of Debt**

**The Director of Budget and Management, either directly or through any of his or her authorized designees, is hereby authorized, designated, and empowered to make any necessary or appropriate declarations in any reasonable form concerning the County's intent to issue obligations to reimburse expenditures, including, but not limited to, issuing declarations pursuant to 26 C.F.R. 1.150-2 or any similar or successor regulations or laws. The County Executive, through the Office of Budget and Management, may promulgate regulations in accordance with Chapter 113 of the County Code governing the County's compliance with legal requirements regarding the issuance of debt.**

6. Section 501.18 is hereby amended as follows:

All expenditures related to any contract, purchase, sale, lease, grant, or loan must be made in accordance with the appropriation and proper warrant provisions of Section 5705.41 of the Ohio Revised Code. Notwithstanding any contrary requirements of the Ohio Revised Code and without regard to the transaction's dollar amount, provided that any prerequisite approvals are obtained pursuant to this Chapter, the County shall be free to utilize any payment methodology approved by the Fiscal Officer, including, but not limited to, the use of credit cards, electronic transfers, p-cards, and vouchers.

**In any case in which a contract is entered upon a per unit basis, the head of the department, board, or commission for the benefit of which the contract is made shall make an estimate of the total amount to become due upon such contract, which estimate shall be certified in writing to the Fiscal Officer. Such contract may be entered into if the appropriation covers such estimate, or so much thereof, as may be due during the current year. In such a case, the certificate**

**of the Fiscal Officer based upon the estimate shall be a sufficient compliance with the law requiring a certificate.**

7. Section 501.22 is hereby amended as follows:

~~A. County's Purchasing Policy and Procedure Manual. Except as otherwise provided in Chapter 501 of the County Code, all contracts, purchases, sales, or leases shall be done in accordance with:~~

~~1. Effective October 1, 2011, all contracts, purchases, sales, and leases shall be approved and done in accordance with the County's Purchasing Policy and Procedure Manual, as adopted and approved by County Council.~~

~~2. Effective January 1, 2012, all contracts, purchases, sales, and leases shall also be approved and done in accordance with the County's Small Business Enterprise (SBE) Program Policies and Procedures, as approved and adopted by County Council. In the interim until January 1, 2012, all contracts, purchases, sales, and leases shall continue to be approved and done in accordance with the County's existent Small Business Enterprise (SBE) Program Policies and Procedures.~~

~~3. Should any conflict exist between the procedures, requirements, or any other terms of the County's Purchasing Policy and Procedure Manual or any other administrative policies and Chapter 501 of the County Code, the procedures, requirements, and terms of Chapter 501 of the County Code shall prevail.~~

~~B. Updates to Purchasing Policy and Procedure Manual. The County Executive, through the Office of Procurement and Diversity, shall continually assess the need for any revisions or updates to the County's Purchasing Policy and Procedure Manual. The County Executive, through the Office of Procurement and Diversity, shall report to County Council on a biennial basis beginning on October 1, 2013, and every two years thereafter, regarding the need for any such updates or revisions.~~

**The County Executive shall promulgate regulations to be implemented by the Office of Procurement and Diversity governing purchasing and contracting policies and procedures. The regulations shall be adopted in accordance with Chapter 113 of the County Code.**

**SECTION 5.** It is necessary that this Ordinance become immediately effective for the usual daily operation of the County and the 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 6.** It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were 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 \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

\_\_\_\_\_  
County Council President

\_\_\_\_\_  
Date

\_\_\_\_\_  
County Executive

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Date

First Reading/Referred to Committee:  
Committee(s) Assigned:

Journal \_\_\_\_\_  
\_\_\_\_\_, 20\_\_