



Legislation Details (With Text)

File #: 201296 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 1/19/2021 **In control:** COMMON COUNCIL

On agenda: **Final action:** 2/9/2021

Effective date:

Title: A substitute ordinance creating the office of equity and inclusion.

Sponsors: ALD. COGGS, ALD. RAINEY, ALD. LEWIS, ALD. DODD, ALD. ZAMARRIPA, ALD. STAMPER, ALD. HAMILTON, ALD. JOHNSON

Indexes: OFFICE OF EQUITY AND INCLUSION

Attachments: 1. Signed by the City Attorney

Date	Ver.	Action By	Action	Result	Tally
1/19/2021	0	COMMON COUNCIL	ASSIGNED TO		
1/26/2021	1	CITY CLERK	DRAFT SUBMITTED		
1/27/2021	0	COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
2/9/2021	1	COMMON COUNCIL	PASSED	Pass	15:0
2/18/2021	1	MAYOR	SIGNED		
2/26/2021	1	CITY CLERK	PUBLISHED		

201296

SUBSTITUTE 1

ALD. COGGS, RAINEY, LEWIS, DODD, ZAMARRIPA, STAMPER, HAMILTON AND JOHNSON

A substitute ordinance creating the office of equity and inclusion.

309-41-5 am
310-2-7 am
310-2-10 cr
355-7-1-c am
355-7-2-0 am
355-7-2-a-0 am
355-7-2-a-2 am
355-7-2-b am
355-7-2-c am
355-7-2.5 am
355-7-3-0 am
355-7-3-e am
355-11-2-a am
355-11-2-b am
355-11-2-c am
355-11-2-d am
355-11-2-e am
355-11-3-0 am

355-11-3-b am
355-11-3-c am
355-11-5 am
355-11-6 am
355-11-7 am
355-13-4-c am
370-1-13 rp
370-1-18 am
370-3-0 rc
370-5-2 am
370-5-4-a am
370-5-4-c-0 am
370-5-4-c-4 am
370-5-4-d am
370-9-0 am
370-25 am
375-1 am
375-3 am
385 cr

This ordinance moves the Office of African American Affairs from the City Clerk to the Department of Administration and establishes a new Office of Equity and Inclusion to replace the Office of Small Business Development in the Department of Administration.

Whereas, It is the public policy of the City of Milwaukee to ensure equal opportunity, equity and inclusion for all of its residents; and

Whereas, To these goals, the City has established a number of offices and bodies, including, among others, the Office of African American Affairs, the Office of Small Business Development and the Equal Rights Commission; and

Whereas, The City has also participated in the Government Alliance on Race and Equity (GARE), a national network of government working to achieve racial equity and advance opportunities for all, and renewed its membership in GARE in 2020; and

Whereas, To elevate the City's commitment to equal opportunity, equity and inclusion for all of its residents, the City now establishes an Office of Equity and Inclusion in the Department of Administration and restructures the Office of African American Affairs; and

Whereas, The Office of Equity and Inclusion will be administered by a Chief Equity Officer, who will work in partnership with the Office of African American Affairs, along with City departments, elected officials and other community stakeholders, to identify and address opportunities to create and sustain a more equitable community, and to support four equity and inclusion goals:

1. Improving the racial equity practices of existing and new City services.
2. Ending disparities in City government.
3. Strengthening outreach and community engagement with people of color.
4. Strengthening outreach with community stakeholders.

; and

Whereas, The Office of Equity and Inclusion will focus on government compliance, accountability and equal rights, while the Office of African American Affairs will focus on service delivery and community engagement and partnerships; and

Whereas, The Director of Administration will provide strategic direction to both the Office of Equity and Inclusion and the Office of African American Affairs while continuing to lead public-private initiatives designed to close educational achievement gaps and put low-income children on a path to higher education, including Fund My Future Milwaukee and I Have A Dream Milwaukee; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 309-41-5 of the code is amended to read:

309-41. Participation of City Residents in Public Works Contracts.

5. ANNUAL PROGRAM REPORT. The department, in coordination with the office of ~~[[small-business-development]]~~ >>equity and inclusion<<, the department of city development and the residents preference program review commission, shall prepare, on or before October 1 of each year, a residents preference program report on the city's success in achieving the goals of the program. The performance report shall include the following:

Part 2. Section 310-2-7 of the code is amended to read:

310-2. Department established.

7. Office of ~~[[small-business-development]]~~ >>equity and inclusion<<.

Part 3. Section 310-2-10 of the code is created to read:

10. Office of African American affairs.

Part 4. Section 355-7-1-c of the code is amended to read:

355-7. Participation of City Residents. 1. REQUIREMENTS.

c. Require that contractors and subcontractors maintain personnel records listing the name, address, race and gender of all employees utilized for each construction contract, and any records demonstrating that the employees utilized by the contractors and subcontractors in meeting the requirements of this section are residents of the city. These records shall be maintained for 7 years after the contractor or subcontractor has received final payment under its construction contract, and shall be made available to the office of ~~[[small-business-development]]~~ >>equity and inclusion<< for inspection upon reasonable notice.

Part 5. Section 355-7-2-0 of the code is amended to read:

2. ADMINISTRATION. The department of city development and office of ~~[[small-business-development]]~~ >>equity and inclusion<< shall be responsible for the planning, implementation and enforcement of this section.

Part 6. Section 355-7-2-a-0 of the code is amended to read:

a. Prior to submitting a proposed term sheet for a project, the commissioner of city development, in consultation with the office of ~~[[small-business-development]]~~ >>equity and inclusion<< or such other entity as may be designated by the city from time to time, shall determine the appropriate level of participation of unemployed and underemployed residents of the city for the project to reflect the job or trade categories required for the project and the pool of available certified and qualified workers within each job or trade category. The total appropriate level of participation shall be presumed to be 40%, unless the commissioner determines there is sufficient reason to impose a lesser requirement. The recipient of direct financial assistance shall submit a city resident utilization plan and gap analysis detailing how

the level of required participation will be achieved. Up to one-third of required worker hours may be achieved by documenting the use of unemployed or underemployed residents on projects undertaken by the developer where such compliance is not required, or by hiring unemployed or underemployed residents on a full-time permanent basis for non-construction job categories connected to the project. Such adjustments must be proposed in an affidavit on a form provided by the department setting forth the facts upon which the request for adjustment is based.

Part 7. Section 355-7-2-a-2 of the code is amended to read:

a-2. If a developer cannot meet the participation requirements of par. a, the appropriate level of participation may, at the discretion of the office of ~~[[small business development]]~~ >>equity and inclusion<<, be met by utilizing unemployed or underemployed residents to work on concurrent projects in any Wisconsin county, provided those residents began their employment on projects in the city.

Part 8. Section 355-7-2-b of the code is amended to read:

b. Prior to the release of funds, the office of ~~[[small business development]]~~ >>equity and inclusion<< shall confirm that all contractors and subcontractors, prior to commencement of their work, have submitted an affidavit in the form supplied by the office of ~~[[small business development]]~~ >>equity and inclusion<< from employees utilized to meet the requirements of this section, stating that the employee is unemployed or underemployed and is a resident of the city.

Part 9. Section 355-7-2-c of the code is amended to read:

c. During the construction of any project covered by this section, the office of ~~[[small business development]]~~ >>equity and inclusion<< shall:

Part 10. Section 355-7-2.5 of the code is amended to read:

2.5. RECORDKEEPING. The department of city development and office of ~~[[small business development]]~~ >>equity and inclusion<< shall ensure that all data required for reporting under this section are maintained in a centralized labor or contract compliance software system, as provided in s. 370-3-5.

Part 11. Section 355-7-3-0 of the code is amended to read:

3. REPORTING. The office of ~~[[small business development]]~~ >>equity and inclusion<<, in coordination with the department of city development, the department of public works and the residents preference program review commission, shall prepare, on or before October 1 of each year, a residents preference program report on the efforts of recipients of direct financial assistance in achieving the goals of the program for development agreements. The performance report shall include the following:

Part 12. Section 355-7-3-e of the code is amended to read:

e. Full disclosure of the office of ~~[[small business development's]]~~ >>equity and inclusion's<< reasons for adjusting the participation percentage goal for individual categories of work.

Part 13. Section 355-11-2-a to e of the code is amended to read:

355-11. First-Source Employment Utilization.

2. RECIPIENT OF DIRECT FINANCIAL ASSISTANCE.

a. Prior to announcing or advertising a position for work which shall be performed as a result of a construction contract, construction subcontract or of a new employment position, a contractor or subcontractor shall notify the office of ~~[[small business development]]~~ >>equity and inclusion<<, or its designee, about the position, including a general description and the minimum requirements for qualified applicants.

b. The contractor or subcontractor shall not make any public announcement or advertisement for a period of 10 business days after notification to the office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee, of the availability of the position.

- c. The office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee shall maintain a database of job opportunities subject to this section and shall provide information on these job opportunities to all city residents.
- d. The advance notice period required by par. b shall be waived if there are no qualified candidates to refer to the contractor or subcontractor. The office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee, shall notify the contractor of this waiver within 5 business days of being informed of the job availability.
- e. The office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee shall institute a tracking system and record which applicants were interviewed, which applicants were not interviewed and which applicants were hired for positions subject to this subsection.

Part 14. Section 355-11-3-0 of the code is amended to read:

3. >>FIRST SOURCE RECRUITMENT AGREEMENT.<< The office of ~~[[small business development]]~~ >>equity and inclusion<< shall confirm that each construction contract for a project entered into by a recipient of direct financial assistance requires contractors and subcontractors to enter into a first-source >>recruitment<< agreement with the city or its designee which shall apply for the duration of the contract. A first-source recruitment agreement shall require:

Part 15. Section 355-11-3-b and c of the code is amended to read:

- b. Allowing the city's first-source employment program a minimum of 10 business days to refer applicants to contractors. Contractors may apply for a waiver of the 10-day requirement in emergency situations. Waivers may only be granted by the office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee.
- c. The contractor or subcontractor to interview and consider qualified applicants referred by the office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee before interviewing others.

Part 16. Section 355-11-5 to 7 of the code is amended to read:

- 5. ~~[[AGREEMENTS.]]~~>>COMPLIANCE NOT REQUIRED.<<** First-source recruitment agreements shall not require contractors or subcontractors to comply with this section if job vacancies or newly-created positions are filled by transfer or promotion from existing staff or from a file of qualified applicants previously referred by the office of ~~[[small business development]]~~ >>equity and inclusion<< or its designee.
- 6. DISTRIBUTION OF INFORMATION.** The department and the office of ~~[[small business development]]~~ >>equity and inclusion<< shall distribute information about the first-source employment program to all developers of commercial, industrial and mixed-use projects in the city, including all developers not receiving direct financial assistance.
- 7. ENFORCEMENT.** The office of ~~[[small business development]]~~ >>equity and inclusion<< shall monitor compliance with this section.

Part 17. Section 355-13-4-c of the code is amended to read:

355-13. Other Requirements.

4. SMALL BUSINESS ENTERPRISES.

- c. A business that is certified with Milwaukee County, the state of Wisconsin or the U.S. federal government as a disadvantaged, emerging or small business enterprise, or some other program that in the discretion of the ~~[[manager]]~~ >>chief equity officer<< of the office of ~~[[small business development]]~~ >>equity and inclusion<< is comparable to the city's small business enterprise program, shall qualify as a small business enterprise for the purposes of this chapter, and shall be included when determining compliance with the subsection.

Part 18. Section 370-1-13 of the code is repealed.

Part 19. Section 370-1-18 of the code is amended to read:

370-1. Definitions.

18. SMALL BUSINESS ENTERPRISE means a business that has been certified by the office of ~~[[small business development]]~~ >>equity and inclusion<< based on the requirements specified in s. 370-25.

Part 20. Section 370-3-0 of the code is repealed and recreated to read:

370-3. Administration. The office of equity and inclusion in the department of administration shall be responsible for the administration, coordination and implementation of the city's small business enterprise program. The office of equity and inclusion shall:

Part 21. Section 370-5-2 of the code is amended to read:

370-5. Goals of Contracting Departments.

2. REVIEW OF GOALS. To assure the appropriate percentage goals for small business enterprise participation, the ~~[[manager]]~~ >>office of equity and inclusion<< shall annually review and adjust the percentage goal, with the approval of the common council.

Part 22. Section 370-5-4-a of the code is amended to read:

4. DUTIES OF CONTRACTING AGENCIES.

a. Cooperate with the office of ~~[[small business development]]~~ >>equity and inclusion<< in the implementation of the small business enterprise program.

Part 23. Section 370-5-4-c-0 of the code is amended to read:

c. Provide monthly reports to the ~~[[manager]]~~ >>office of equity and inclusion<< not later than 30 calendar days after the end of the previous month specifying with respect to contracts and subcontracts for the following:

Part 24. Section 370-5-4-c-4 of the code is amended to read:

c-4. Any other information requested by the ~~[[manager]]~~ >>office of equity and inclusion<<.

Part 25. Section 370-5-4-d of the code is amended to read:

d. Appoint a member of the contracting agency or division to serve as a liaison between the contracting agency and the office of ~~[[small business development]]~~ >>equity and inclusion<<.

Part 26. Section 370-9-0 of the code is amended to read:

370-9. Sanctions. Every contract awarded under this chapter shall contain language indicating that if any document submitted to the office of ~~[[small business development]]~~ >>equity and inclusion<< by a contractor, subcontractor, bidder or individual to be certified as a small business enterprise for participating in any city contract contains false, misleading or fraudulent information, the office of ~~[[small business development]]~~ >>equity and inclusion<< may direct the imposition of any of the following sanctions on the offending contractor, subcontractor, bidder or individual:

Part 27. Section 370-25 of the code is amended to read:

370-25. Certification Requirements for a Small Business Enterprise. A business shall be certified by the office of ~~[[small business development]]~~ >>equity and inclusion<< as a small business enterprise for participation in the program, and shall meet the following requirements:

Part 28. Section 375-1 of the code is amended to read:

375-1. Creation. There is created an office of African American affairs in the ~~[[office of the common council—city clerk]]~~ >>department of administration<< which shall be responsible for the administration, coordination and implementation of the city's policies relating to the special needs of the city's African American residents.

Part 29. Section 375-3 of the code is amended to read:

375-3. Administration. Under the direction of the ~~[[city clerk]]~~ >>director of administration<<, the office of African American affairs shall be administered by a manager.

Part 30. Chapter 385 of the code is created to read:

CHAPTER 385

OFFICE OF EQUITY AND INCLUSION

385-1. Creation. There is created an office of equity and inclusion in the department of administration which shall be responsible for advancing equity in city government and in the communities it serves and for the administration, coordination and implementation of the city's policies relating to equity and inclusion. The goals of the office of equity and inclusion shall be to improve existing and new city services using a racial equity framework, end disparities in city government, strengthen outreach and community engagement with people of color and strengthen partnerships with community stakeholders.

385-3. Administration. Under the direction of the director of administration, the office of equity and inclusion shall be administered by a chief equity officer. The chief equity officer shall be appointed by the mayor, confirmed by the common council, and serve concurrently with the term of the mayor.

385-5. Duties. The chief equity officer shall:

1. Advance city equity and inclusion policies.
2. Lead and administer the city's initiatives under the government alliance on race and equity.
3. Develop and implement city strategies for racial equity analysis and reporting.
4. Oversee the small business enterprise program.
5. Address institutional and other forms of racism that impact the health and well-being of city residents.
6. Provide support to the equal rights commission.

385-7. Cooperation. The chief equity officer shall coordinate the activities of the office of equity and inclusion under this section with the office of African American affairs and any other city departments, boards, commissions and councils that have been tasked with improving racial equity, inclusion or equal opportunities.

385-9. Annual Report. The chief equity officer shall submit an annual written report of the activities of the office of equity and inclusion to the common council and the mayor.

APPROVED AS TO FORM

Legislative Reference Bureau

Date:

IT IS OUR OPINION THAT THE ORDINANCE IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date:

Department of Administration
Dana J. Zelazny

LRB176501-2
1/26/2021