
Allegheny County MBE Advisory Committee Meeting Minutes
Liberty Room, One Smithfield Street Building
Wednesday, July 6, 2011
5:00 p.m.

Advisory Committee Members in Attendance:

James Johnston – Senior Business Development Specialist, Allegheny County Department of Economic Development (for Dennis Davin)
Glenn Loper – Senior Purchasing Agent, Allegheny County Purchasing Division (for Timothy Johnson)
M. Gayle Moss – Chair/President, MBE Advisory Committee/NAACP Pittsburgh Branch
Joseph Olczak – Director, Allegheny County Department of Public Works
Toni Silva – Supplier Relations Director, UPMC

Advisory Committee Members Absent:

Dennis Davin – Director, Allegheny County Department of Economic Development
Victor Diaz – CEO, Pittsburgh Metropolitan Area Hispanic Chamber of Commerce
Mark Patrick Flaherty – Controller, Office of the Allegheny County Controller
Amy Griser – Director, Allegheny County Department of Budget and Finance
Kenneth Huston – President/CEO, Huston Trust, Inc.
Timothy Johnson – Allegheny County Department of Administrative Services
Abass Kamara – Director of Government Affairs, Pittsburgh Penguins
Marc Little – CEO/President, Minority and Women Educational Labor Agency (MWELA)
Iftikhar Malik – President, Shawn Malik, Inc.
Im Sook Reinhart – President, Controls Link, Inc.
Tim Stevens – Chairman, Black Political Empowerment Project (B-PEP)

Also Present:

Ruth Byrd-Smith – Director, Allegheny County Department of M/W/DBE
Lisa Edmonds – Deputy Director, Allegheny County Department of M/W/DBE

Agenda:

- I. **Open Meeting**
- II. **Approval of Previous Meeting Minutes**
- III. **Discuss Revisions to Chapter 435**
- IV. **Miscellaneous**
- V. **Adjournment**

- I. **Open Meeting**

- II. **Approval of Previous Meeting Minutes**

The minutes from the May 19, 2011 meeting were reviewed and approved.

- III. **Discuss Revisions to Chapter 435**

Gayle Moss noted that Chapter 435 is outdated, and feels that this is a good time to take on revising it since a new County Executive will be coming in. Toni Silva asked if the changes that the Advisory Committee proposes will in actuality be recommendations and Ms. Moss answered affirmatively. Ms. Moss suggested that the Committee review the legislation page by page, and Ruth Byrd-Smith offered to lead everyone through the Administrative Code.

The first thing Ms. Byrd-Smith suggested was to remove reference to the Human Relations Commission in the General References section, which has nothing to do with the M/W/DBE Department. Under Section §435-1, "Definitions," MBE should be changed to M/W/DBE to also encompass women and disadvantaged businesses, including businesses owned by white males who are severely disabled. A discussion ensued on what constitutes "severely disabled" and disabled veteran owned. The information under the Agency heading should be modified to be Advisory Committee. Agency Representative should be the M/W/DBE Department Director. Jim Johnston made reference to a definition of director later in the legislation but was unable to locate it. Ms. Byrd-Smith does not understand the Assisted Contract portion, and Glenn Loper suggested that anything within the legislation that is not clear should be removed. The Letter of Intent section should be removed. The Liaison Officer essentially refers to the M/W/DBE Department Director, which is repetitive. A short discussion ensued on whether it should be changed or removed, and Mr. Loper suggested that they concentrate on getting the terminology right first even if it is repetitive. Ms. Byrd-Smith proposed that some of these changes be run past Allegheny County Assistant Solicitor Ted Trbovich, and this can be an issue that he can be asked to look at.

Ms. Byrd-Smith was concerned with how "female" is represented in the legislation and would like to see it broken out with its own separate definition. Mr. Johnston wondered if "disadvantaged" should have its own definition and Ms. Byrd-Smith agreed. The Minority Business Enterprise (MBE) portion should be revised to include Women Business Enterprise and Disadvantaged Business Enterprise. Under Minority Business Enterprise Directory, the outdated information should be removed and information on the PA UCP database incorporated.

Since it was used in Section §435-2, "Purpose: participation goal," Ms. Byrd-Smith noted that every reference to Allegheny County Commissioners should be changed to Allegheny County Executive. Mr. Johnston asked if County Council should be incorporated into that terminology as well, and Ms. Byrd-Smith stated that Mr. Trbovich could make a determination on that. Mr. Loper asked if the "remove any impediments to minority or female involvement in

County contracts” language is realistic. Ms. Byrd-Smith replied that that supports the good faith effort that is required of all vendors. Joe Olczak referenced the good faith effort required for Public Works bids, which is similar.

Section §435-4, “Staff,” is outdated. Ms. Byrd-Smith would like Mr. Trbovich’s input on the rewording of this section. In Section §435-5, “Eligibility certification procedures,” she wondered what Exhibit A referred to. She mentioned the fact that Public Works uses a form called Schedule A, but it would have no relation to the Exhibit A mentioned here. The joint venture verbiage should be removed as it is no longer accurate. PA UCP information should be inserted into this portion instead. The mediation language should be modified to include information on the PA UCP appeals process. Ms. Byrd-Smith noted that Executive Order 11625 that is referenced was the original executive order that President Richard Nixon signed that created affirmative action programming.

In Section §435-7, “Equitable opportunities to obtain contracts,” portion B3 includes services that the M/W/DBE Department does not provide, like bid preparation and bonding. Mr. Loper stated that Purchasing does provide some assistance to bidders but was not sure that this was the most appropriate place to include that. Mr. Olczak and Mr. Johnston referenced the fact that their departments still have pre-bid meetings. Ms. Byrd-Smith will compose a statement encompassing all of this information. Portion B8 regarding set-asides should be removed as Supreme Court decisions delivered since this legislation was established have changed this. These are now called sheltered market programs, which cannot be implemented without a disparity study having been performed. Otherwise a race neutral program might be able to be used, but even that is debatable in court. Mr. Loper noted that that can be done if there are three minorities. He asked if the Supreme Court decisions have rendered set-asides illegal, and Ms. Byrd-Smith answered yes except for the Small Business Administration’s 8(a) program, and that is occasionally contested. A discussion on this issue ensued.

Under Section §435-8, “General goals,” Ms. Byrd-Smith wanted to point out that the County does encourage municipalities to develop M/W/DBE programs as noted in portion A3. It was proposed that MBE be changed to M/W/DBE everywhere it appears. In Section §435-9, “Contract goals,” this language should be revised to include the County’s goals of 13% MBE and 2% WBE. The last sentence in that section should be removed. In Section §435-11, “Prime contractor MBE commitment,” Ms. Byrd-Smith questioned the reference to Executive Order 11625, though it is historical. She distributed copies of Executive Order 11625 to the Committee for their reference and review.

Ms. Moss asked for any other proposed revisions but no one raised any. Ms. Byrd-Smith would like to make the revisions and get the Committee’s approval before forwarding them to Mr. Trbovich, and everyone agreed with that plan of action.

IV. Miscellaneous

Ms. Moss mentioned the fact that she as a community leader has been invited to the White House. She will go there in August. Also, Ms. Byrd-Smith noted that through State Representative Jake Wheatley’s involvement with the Marcellus Shale Coalition, she has been invited to tour a Marcellus Shale drilling site. Ms. Moss asked if the training program for the Marcellus Shale workforce is still taking place and Ms. Byrd-Smith was not sure. Mark Patrick Flaherty volunteered to draft a letter regarding minority participation in the Marcellus Shale drilling in Allegheny County. That letter has not been drafted to date and Ms. Moss asked Ruth Byrd-Smith to contact Mr. Flaherty regarding such.

V. Adjournment

The Advisory Committee will meet next at 4:30 p.m. on September 14, 2011 in the Liberty Room before the M/W/DBE Department's Open House.