

## Administrative Rule 3 – Designation of High-Risk Contractors

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### 1.0 AUTHORITY

For the purposes of this Administrative Rule, the Director of Civil Rights has been delegated the authority to adopt, amend, and repeal rules and regulations by the Minneapolis Code of Ordinances § 423.70 (small and underutilized businesses).

### 2.0 PURPOSE

To establish the operational definition of a high-risk contractor as identified in Title 16, Ch. 423.120 (d) and to establish any associated policies, processes, and/or procedures.

### 3.0 EFFECTIVE DATE

These rules shall take effect September 24, 2018.

### 4.0 DEFINITION OF A HIGH-RISK CONTRACTOR

**4.1 Definition.** The Department of Civil Rights defines a high-risk contractor as one that has consistently failed to meet the requirements outlined in Minneapolis Code of Ordinances § 423 despite reasonable requests and instructions from the Department. A contractor may be designated as high-risk if it has a history and record of repeated non-compliance during more than one contract with the City.

**4.2 Applicability.** The Department shall apply this designation, at its discretion, to organizations under applicable contracts with the City or organizations proposing or bidding on applicable contracts with the City.

**4.3 Duration.** The Department may designate a contractor as high-risk for a period of up to three (3) years from the date of notification.

### 5.0 CRITERIA FOR HIGH-RISK DESIGNATION

The Minneapolis Code of Ordinances § 423.120 establishes penalties for non-compliance. These penalties include the designation of the developer, contractor, subcontractor, supplier, vendor, or sub-recipient as high-risk for future contracts and require the developer, contractor, subcontractor, supplier, vendor, or sub-recipient increased reporting requirements, mandatory audits, and similar measures. The Department shall designate contractors as high-risk for violations of Minneapolis Code of Ordinances § 423, including:

- a) Failure by the contractor in its bid submission to follow the required Small and Underutilized Business Program (SUBP) bidding procedures in the bid documents, including the disclosure of women and minority business enterprises (M/WBE) when required to show its committed SUBP participation, pursuant to Minneapolis Code of Ordinances §§ 423.80 or 423.90.
- b) Failure by the contractor to meet its SUBP commitments in its bid submission or to obtain Department approval for a reduction or substitution of an SUBP firm commitment after a contract has been awarded, pursuant to Minneapolis Code of Ordinances § 423.100.
- c) Failure to engage in ongoing good faith efforts during the performance of a contract.

- d) Failure to operate in good faith with the Department, an SUBP firm, or another City Department or to materially violate the requirements of Minneapolis Code of Ordinances § Ch. 423.

## **6.0 PENALTIES**

In addition to the penalties listed in Minneapolis Code of Ordinances § 423.120, high-risk contractors may also may be subject to increased scrutiny during bidding for City contracts and all other remedies and penalties identified in Minneapolis Code of Ordinances §§ Ch. 423 and Ch. 139.50.

## **7.0 APPEAL PROCESS**

A contractor may appeal a high-risk designation by submitting a written request to the Department within seven (7) business days of receiving a notification.

## **8.0 RECORDKEEPING**

The Department shall create and maintain a list of contractors that have been designated as high-risk under this Rule. The Department will post this list on its website.