

HOUSE COMMITTEE OF REFERENCE REPORT

March 31, 2021

Chair of Committee

Date

Committee on Transportation & Local Government.

After consideration on the merits, the Committee recommends the following:

HB21-1168 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** part 15 to
4 article 1 of title 29 as follows:

5 PART 15

6 IDENTIFYING BARRIERS TO
7 HISTORICALLY UNDERUTILIZED BUSINESSES IN
8 LOCAL GOVERNMENT PROCUREMENT

9 **29-1-1501. Legislative declaration.** (1) THE GENERAL ASSEMBLY
10 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

11 (a) IT IS IMPERATIVE THAT THE LOCAL GOVERNMENT
12 PROCUREMENT PROCESS BE FREE FROM BIAS SO THAT ALL QUALIFIED
13 PERSONS AND ENTITIES MAY COMPETE FOR LOCAL GOVERNMENT BUSINESS;

14 (b) A FAIR PROCUREMENT PROCESS NOT ONLY ENSURES JUSTICE
15 AND FAIRNESS IN LOCAL GOVERNMENT CONTRACTING BUT BROADENS THE
16 PROCUREMENT CONTRACTOR POOL, WHICH RESULTS IN EFFICIENCIES AND,
17 AS WARRANTED, PROMOTES THE GROWTH OF HISTORICALLY
18 UNDERUTILIZED BUSINESSES, THEREBY CREATING JOBS AND STIMULATING
19 THE LOCAL GOVERNMENT'S ECONOMY; AND

20 (c) ESTABLISHING A PILOT PROJECT TO IDENTIFY THE PERCEPTUAL
21 AND SUBSTANTIAL BARRIERS TO ENTRY FOR HISTORICALLY
22 UNDERUTILIZED BUSINESSES IN LOCAL GOVERNMENT PROCUREMENT IS THE
23 APPROPRIATE WAY TO START THIS CONVERSATION AT THE STATE
24 GOVERNMENT LEVEL.

25 **29-1-1502. Definitions.** AS USED IN THIS PART 15, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:
2 (1) "HISTORICALLY UNDERUTILIZED BUSINESS" MEANS A BUSINESS
3 THAT IS AT LEAST FIFTY-ONE PERCENT OWNED AND CONTROLLED, IN BOTH
4 THE MANAGEMENT AND DAY-TO-DAY BUSINESS DECISIONS, BY ONE OR
5 MORE INDIVIDUALS WHO ARE:
6 (a) UNITED STATES CITIZENS OR PERMANENT RESIDENTS; AND
7 (b) ONE OR MORE OF THE FOLLOWING:
8 (I) MEMBERS OF A RACIAL OR ETHNIC MINORITY GROUP;
9 (II) NON-HISPANIC CAUCASIAN WOMEN;
10 (III) PERSONS WITH PHYSICAL OR MENTAL DISABILITIES;
11 (IV) MEMBERS OF THE LESBIAN, GAY, BISEXUAL, AND
12 TRANSGENDER COMMUNITY; OR
13 (V) VETERANS.
14 (2) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY AND
15 COUNTY, CITY, TOWN, OR SPECIAL DISTRICT, INCLUDING ANY COUNTY,
16 CITY AND COUNTY, CITY, OR TOWN THAT HAS ADOPTED A HOME RULE
17 CHARTER, AND ANY SCHOOL DISTRICT ORGANIZED AND EXISTING
18 PURSUANT TO ARTICLE 20 OF TITLE 22, BUT NOT INCLUDING A LOCAL
19 COLLEGE DISTRICT.
20 (3) "PERSONS WITH PHYSICAL OR MENTAL DISABILITIES" MEANS
21 PERSONS WHO:
22 (a) HAVE IMPAIRMENTS THAT SUBSTANTIALLY LIMIT ONE OR MORE
23 MAJOR LIFE ACTIVITIES;
24 (b) ARE REGARDED GENERALLY BY THE COMMUNITY AS HAVING
25 A DISABILITY; AND
26 (c) WHOSE DISABILITIES SUBSTANTIALLY LIMIT THEIR ABILITY TO
27 ENGAGE IN COMPETITIVE BUSINESS.
28 (4) "PROCUREMENT" MEANS ALL TYPES OF LOCAL GOVERNMENT
29 PURCHASING BY CONTRACT FOR CONSTRUCTION, PROFESSIONAL SERVICES,
30 GOODS, OR OTHER SERVICES.
31 (5) "PROGRAM" MEANS A HISTORICALLY UNDERUTILIZED BUSINESS
32 PREFERENCE PROGRAM FOR LOCAL GOVERNMENT PROCUREMENT.
33 (6) "RACIAL OR ETHNIC MINORITY GROUP" MEANS:
34 (a) AFRICAN AMERICAN PERSONS, MEANING INDIVIDUALS HAVING
35 ORIGINS IN ANY OF THE BLACK RACIAL GROUPS;
36 (b) HISPANIC AMERICAN PERSONS, INCLUDING PERSONS OF
37 MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN, OR
38 OTHER SPANISH OR PORTUGUESE CULTURE OR ORIGIN, REGARDLESS OF
39 RACE;
40 (c) ASIAN AMERICAN PERSONS, INCLUDING PERSONS WHOSE
41 ORIGINS ARE FROM JAPAN, CHINA, TAIWAN, KOREA, VIETNAM, LAOS,



1 CAMBODIA, THE PHILIPPINES, SAMOA, THE UNITED STATES TERRITORIES
2 OF THE PACIFIC, OR THE NORTHERN MARIANA ISLANDS; OR PERSONS
3 WHOSE ORIGINS ARE FROM SUBCONTINENT ASIA, INCLUDING PERSONS
4 WHOSE ORIGINS ARE FROM INDIA, PAKISTAN, BANGLADESH, SRI LANKA,
5 BHUTAN, OR NEPAL; OR

6 (d) NATIVE AMERICAN PERSONS, INCLUDING PERSONS WHO ARE
7 AMERICAN INDIANS, ESKIMOS, ALEUTS, OR HAWAIIANS OF POLYNESIAN
8 DESCENT.

9 (7) "VETERANS" MEANS PERSONS WHO ACTIVELY SERVED IN THE
10 UNITED STATES ARMED FORCES AND WHO WERE DISCHARGED OR
11 RELEASED UNDER CONDITIONS OTHER THAN BAD CONDUCT OR
12 DISHONORABLE, IN ACCORDANCE WITH U.S.C. TITLE 38, AS AMENDED.
13 "VETERANS" INCLUDES PERSONS SERVING OR WHO SERVED IN THE
14 NATIONAL GUARD OR AS RESERVISTS.

15 **29-1-1503. Identifying barriers to entry for historically**
16 **underutilized businesses in local government procurement - pilot**
17 **program.** (1) NO LATER THAN AUGUST 13, 2021, THE DEPARTMENT OF
18 LOCAL AFFAIRS SHALL ESTABLISH A PILOT PROGRAM TO HELP LOCAL
19 GOVERNMENTS IDENTIFY PERCEPTUAL AND SUBSTANTIAL BARRIERS TO
20 ENTRY FOR HISTORICALLY UNDERUTILIZED BUSINESSES IN LOCAL
21 GOVERNMENT PROCUREMENT. THE DEPARTMENT OF LOCAL AFFAIRS SHALL
22 ENSURE THAT THE LOCAL GOVERNMENTS THAT OPT IN TO THE PILOT
23 PROGRAM ARE REPRESENTATIVE OF THE LOCAL GOVERNMENTS THAT
24 INTERSECT THE RURAL, URBAN, AND SUBURBAN GEOGRAPHIES OF THE
25 STATE AND ARE REPRESENTATIVE OF THE VARYING TYPES OF LOCAL
26 GOVERNMENTS. THE PILOT PROGRAM MUST INCLUDE AT LEAST FIVE
27 DIVERSE LOCAL GOVERNMENTS.

28 (2) THE LOCAL GOVERNMENTS PARTICIPATING IN THE PILOT
29 PROGRAM SHALL:

30 (a) IDENTIFY PROGRAM IMPLEMENTATION NEEDS, SUCH AS LABOR
31 AND TECHNOLOGY;

32 (b) DETERMINE THE APPROPRIATE SIZE CONTRACTS THAT WOULD
33 BENEFIT FROM A PROGRAM;

34 (c) DETERMINE THE APPROPRIATE TYPE OF CONTRACTS THAT
35 WOULD BENEFIT FROM A PROGRAM, SUCH AS, CONSTRUCTION OR SERVICE
36 CONTRACTS, OR SHORT-TERM OR LONG-TERM CONTRACTS;

37 (d) ESTABLISH A REASONABLE THRESHOLD FOR THE AMOUNT OF A
38 LOCAL GOVERNMENT'S OPERATING BUDGET THAT SHOULD BE ALLOCATED
39 TO THE ESTABLISHMENT AND MAINTENANCE OF A PROGRAM;

40 (e) UNDERSTAND THE AVAILABLE PROGRAM SOFTWARE AND
41 COSTS;

1 (f) DETERMINE HOW CAN WE STANDARDIZE THE DATA ACROSS
2 LOCAL GOVERNMENTS TO BEING SUBMITTED TO THE STATE;

3 (g) DETERMINE THE REQUIRED MINIMUM PARTICIPATION GOALS OR
4 PARTICIPATION BENCHMARKS OF HISTORICALLY UNDERUTILIZED
5 BUSINESSES TO DETERMINE IF THE LOCAL GOVERNMENT'S PROGRAM IS
6 FAIR;

7 (h) DETERMINE WHICH TYPES OF HISTORICALLY UNDERUTILIZED
8 BUSINESSES, AS SPECIFIED IN SECTION 29-1-1502 (1)(b), APPEAR TO BE
9 MORE OR LESS IMPACTED;

10 (i) CREATE A SAMPLE PROGRAM THAT ALL LOCAL GOVERNMENTS
11 MAY USE AND ARTICULATE THE NECESSARY STEPS TO BUILD A PROGRAM;
12 AND

13 (j) HELP ARTICULATE PROGRAM GOALS AND TARGETS, SUCH AS
14 DETERMINING WHY A PROGRAM IS IMPORTANT FOR THE LOCAL
15 GOVERNMENT AND WHAT OUTCOMES THE LOCAL GOVERNMENTS WISH TO
16 SEE FROM PROGRAM IMPLEMENTATION.

17 (2) A PILOT PROGRAM PARTICIPANT MAY COLLABORATE WITH THE
18 DEPARTMENT OF LOCAL AFFAIRS AND THE GENERAL ASSEMBLY ON FUTURE
19 LEGISLATION REQUIRING LOCAL GOVERNMENTS TO ESTABLISH PROGRAMS.

20 (3) (a) IN JANUARY 2022, THE DEPARTMENT OF LOCAL AFFAIRS
21 SHALL REPORT ON THE PROGRESS OF THE PILOT PROJECT AS PART OF THE
22 DEPARTMENT'S PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A
23 HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE
24 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
25 (SMART) GOVERNMENT ACT".

26 (b) IN JANUARY 2023, THE DEPARTMENT OF LOCAL AFFAIRS SHALL
27 INCLUDE THE FINDINGS OF THE PILOT PROJECT AS PART OF THE
28 DEPARTMENT'S PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A
29 HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE
30 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
31 (SMART) GOVERNMENT ACT".

32 **SECTION 2. Act subject to petition - effective date.** This act
33 takes effect at 12:01 a.m. on the day following the expiration of the
34 ninety-day period after final adjournment of the general assembly; except
35 that, if a referendum petition is filed pursuant to section 1 (3) of article V
36 of the state constitution against this act or an item, section, or part of this
37 act within such period, then the act, item, section, or part will not take
38 effect unless approved by the people at the general election to be held in
39 November 2022 and, in such case, will take effect on the date of the
40 official declaration of the vote thereon by the governor."

