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Minority-owned firms face uncertain future after ruling threatens millions in contracts

Janet Miranda

Local minority-owned small businesses with millions in government contracts could lose city and county contracting opportunities after a federal judge's ruling struck down Houston's minority contracting program .

The ruling this week halted Houston's Minority, Women and Small Business Enterprise program, which is designed to consider race in awarding city contracts. The program has been part of city contracting guidelines since at least the 1980s and is intended to help level the playing field for women- and minority-owned businesses that are certified into the program.

In fiscal year 2025, Houston awarded \$579 million to MWBE-certified firms out of \$2.5 billion awarded, less than a quarter of its total awards, according to the Office of Business Opportunity .

The judge's decision stemmed from a 2023 lawsuit filed by two Spring-based companies, Landscape Consultants of Texas Inc. and Metropolitan Landscape Management Inc. The businesses are owned by a white couple, Gerald and Theresa Thompson, and said in their initial complaint to the U.S. District Court for the Southern District of Texas that government landscaping contracts make up approximately 80%-90% of their revenue.

The plaintiffs challenged the city's MWBE program, arguing that they were forced to give up revenue from contracts with the city of Houston to fulfill goals under the program. As an example, Landscape Consultants pointed to a \$1.3 million, five-year contract with the city, alleging that the company had to pay a competitor for \$143,000 worth of work because it is not a certified minority- or woman-owned business.

The plaintiffs also alleged in their 2023 complaint that they lost out on a contract from the Midtown Management District because they did not earn any points under the district's scoring rubric for minority, women and disadvantaged business enterprises.

"What our clients basically wanted with this lawsuit, what they've wanted all along, was just to be able to compete equally," Laura D'Agostino, an attorney with the Pacific Legal Foundation representing the plaintiffs, told KHOU 11.

In his order, Judge David Hittner acknowledged the city's argument that both minority-owned businesses and non-minority-owned businesses can demonstrate good-faith efforts to meet the city's MWBE goals for contracts.

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"On balance though, Houston's Good Faith Efforts Policy does not level the playing field for non-minority-owned businesses," Hittner wrote. "As Houston Office of Business Opportunity Director Cylenthia Hoyrd testified, whether a firm made sufficient good-faith efforts to waive a contract's minority-owned business goal is within the complete discretion of the office's staff."

The judge also cited two recent Supreme Court decisions in cases involving Harvard College in 2023 and the state of Louisiana in 2026 to establish a framework for deciding the plaintiff's cases. Hittner said neither the city of Houston nor the Midtown Management District had identified "specific, identified instances of past discrimination" that required the MWBE program to remediate those harms.

Seth Chandler, a law professor at the University of Houston Law Center, said that even without the recent SCOTUS decisions, Houston's program would have had difficulties standing up to legal scrutiny.

"(The city is) sort of relying on ambient discrimination in the world or the fact there might be a shortfall in minority-owned businesses as a basis for having these programs, but those theories don't cut it, at least in the modern Supreme Court's 'colorblind theory' of the Equal Protection Clause," Chandler said.

Chandler added that for similar reasons, the city might struggle if it appeals Hittner's decision to the 5th Circuit.

"The City is evaluating a potential appeal to the court's ruling striking down that portion of the City's program," City Attorney Arturo Michel said in a statement to KHOU 11 and other media outlets. "The City recognizes that the court relied on recent United States Supreme Court decisions. The decision does not affect other programs, such as the City's Small Business Enterprise Program. The City will abide by the court's decision regarding existing contracts and recently awarded contracts pending any further court order."

In 2025, the Thompsons also filed a complaint in federal court against Harris County, which operates its own MWBE program. That lawsuit is currently ongoing, and the timing is significant - Harris County issued a contract to law firm Collette Holt & Associates in January to perform a disparity study and provide "enhanced program recommendations" for the MWBE program, as required by county policy.

The Houston Business Journal reached out to the Harris County district attorney's office, which declined to comment for this story citing the pending litigation.

Organizations representing minority-owned businesses that had benefited from the program were quick to respond after Hittner's ruling.

Asheli S. Atkins, president and CEO of the Greater Houston Black Chamber of Commerce, said in an email the ruling puts at risk the procurement opportunities of its members, directly impacting their bottom line.

"Our members have been playing a game with the deck stacked against them, and this decision complicates their journey even more. The decision directly threatens the economic livelihood of our community," Atkins said in an emailed statement. "For some it's the difference between making payroll or missing it, purchasing equipment or investing in their growth. We need to be clear: the loss of these mechanisms directly impacts the stability and long-term viability of our local businesses."

In the aftermath of the ruling, GHBC is working to help its members ensure they have "operational discipline to perform as competitive subcontractors."

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Tammi Wallace, president and CEO of the Greater Houston LGBTQ+ Chamber of Commerce, lamented the ruling as another "erosion" of fundamental rights.

"I think we've seen the erosion of protections, whether it's our community, the small-business community, (and it) impacts even large companies. There's just been this calculated erosion of rights and fearmongering and attacks," Wallace said. "These programs have been around for decades, and this has never been about preferential treatment of one race over another; it's about giving access to businesses that have not been equitably treated in terms of opportunity."

The current ruling bans only those contracts awarded based on race, not on sexual orientation.

Other chambers that provided comments include the Indo-American Chamber of Commerce of Greater Houston, which said it is aware of the ruling.

"We respect the judicial process and are still reviewing the decision's implications, but our priority hasn't changed: ensuring small and diverse businesses have fair, meaningful access to contracting and procurement opportunities," the chamber said in an emailed statement to the HBJ.

"Many of our members have benefited from supplier diversity initiatives - not through preferential treatment but through greater visibility into opportunities, outreach, networking and a genuine chance to compete. Regardless of the legal framework going forward, we hope the City and other public entities continue to encourage broad participation from qualified small businesses in the procurement process."

Meanwhile, the ruling leaves many small businesses with current city and county contracts with a deluge of unanswered questions. Rachel Bickham, owner of Bickham Services Unlimited LLC, a workforce solutions company for construction, IT and administration, said the new ruling could potentially affect over 50% of her business.

Bickham Services has a combined \$10 million in contracts with the city and Harris County that are now in jeopardy. A lot of this value comes from subcontracts that have been made possible only through the MWBE targets that dictate prime contractors must subcontract portions of the work to MWBE businesses or prove they made an active good-faith effort to find certified partners.

Bickham said the new ruling could harm her business because the city would no longer set specific percentage targets for MWBE participation on construction, professional services and goods contracts.

"I know for a fact programs like this help us because it helps us get in the door. We're not asking for them to just issue us the contract because of the color of our skin or because of our gender or anything like that," Bickham said. "We're asking them to level the playing field by at least giving us an opportunity to bid on projects we wouldn't have access to before."

Bickham added that MWBE programs help small businesses use public contracting as a way to scale their businesses, teaching them to bid for projects and work with government agencies.

"We're asking for programs like this to exist because it allows us to get in the room with these prime contractors and these corporations that we wouldn't typically have access to," Bickham said. "If they remove all of the minority certifications, that means these diversity programs go away."

To protect her business from the possible loss of contracts, Bickham Services is shoring up its relationship with current clients and moving away from government contracts. The company is seeking new opportunities in providing direct-hire placements for small to medium-sized companies. Over 60% of Bickham's business relies on providing staffing services.

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"We're rebranding as far as shifting our industry focus to where it's not heavily dependent on corporate and government contracts," Bickham said.

Other small-business owners, such as Tiffany Williams, founder of Twice Media Productions, have seen no specific impacts but are bracing themselves for the possible changes in contracting.

"We haven't seen any direct impact to us just yet. We do hold some government contracts, though - as a prime and a subcontractor - so the ruling could impact us," Williams said. "I've never relied solely on (government) contracts just because, as a business owner, it's not smart to rely on one source of income."

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