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HCD
Supplement to
Agenda Item No. 1(F)1
June 9, 2010

May 26, 2010

Commissioner Audrey Edmonson
Stephen P. Clark Center
111 N.W. 1st Street
Suite 220
Miami, Florida 33128

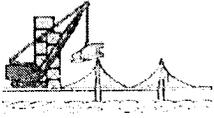
Dear Commissioner Edmonson:

Midwest Steel, Inc. would like to request a citizen's presentation to review the Department of Procurement Management's Small Business Enterprise (SBE) program eligibility process. We firmly believe that there are opportunities for increased clarity with regard to eligibility. We would like to review some of our observations with you and your committee. The following is a chronology of the protracted process (11 months) that has recently occurred during Midwest Steel's (MWS) SBE application process.

- May 31, 2009 Midwest Steel (MWS) establishes a formal office on Brickell Avenue. Previously MWS has been collocated at various customer sites.
- July 9, 2009 MWS secures Certificate of Use.
- July 21, 2009 MWS submits application and fee for Miami Dade County Business Tax as a manufacturer.
- July 27, 2009 MWS submits completed SBE package to the Department.
- September 21, 2009 MWS receives a letter from the Department indicating that the "application was found to be incomplete because of documents not submitted" by MWS including UCT-6, local business tax receipts for 2010 for Miami-Dade County and the City of Miami and vendor number. *It should be noted that the 2010 BTR's were not available until after October 1st, 2010 per the tax collector's office.*
- October 2, 2009 MWS responds to the Department's letter dated September 21st indicating that MWS's application was found to be "incomplete". All of the items requested in the letter were provided to the Department.
- October 22, 2009 MWS recognizes that "someone", outside of Midwest Steel, changed the 2010 Miami-Dade County Business Tax Receipt (BTR) and thus MWS was incorrectly classified as a "services" business.
- October 27, 2009 After MWS's inquiry, the County provides a corrected business tax receipt for 2010.

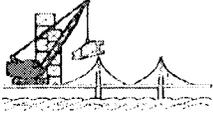


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- December 10, 2009 MWS receives a denial letter from the Department citing two determinations: 1) Principal place of business requirement; and 2) Must be in business for more than one year. MWS maintains several offices around the country and according to the IRS standards (please see attachment); MWS meets the requirement of a principal place of business in Miami-Dade County. Moreover, the issue of principal place of business was **NEVER** raised again as an issue until the May 13th, 2010 denial letter. Additionally, MWS has been in business in Miami Dade County for several years, and stated such in the formal request for an eligibility review meeting.
- December 17, 2009 MWS responds to the letter stating their disagreement with the Department's determination via email and request a review hearing.
- January 5, 2010 The Department sends a letter granting an eligibility review meeting scheduled for January 27th at 9:30 a.m.
- January 27, 2010 MWS's President, Gary Broad, attends the eligibility review meeting with Department management. Mr. Broad produces all requested documentation. The Department indicates that they would like to conduct a second site visit at MWS's operations site (FPL) to ensure that MWS has plant operations within Miami Dade County. No other objections were raised by any of the Departmental management present at this time nor did they indicate, when asked directly, if there were any issues that would preclude MWS from receiving their SBE Certification at this point (i.e. principal place of business).
- March 2, 2010 The Department contacts MWS indicating that a site visit at the Turkey Point facility will be conducted on March 18th, 2010.
- March 6, 2010 The Department issues an email requesting several items that will required at the site visit.
- March 15, 2010 MWS coordinates with their client, FPL, to allow the Department's representatives to gain access to the nuclear power plant facility at Turkey Point.
- March 18, 2010 A representative from the Department conducts the site visit with MWS's President, Gary Broad. The SBE application review supervisor, who attended the eligibility review meeting was scheduled to attend but fails to show for the site visit. The Department gives preliminary indication that MWS has indeed met all requirements.
- March 23, 2010 The Department request several additional documents from MWS and requires that they all documents be notarized.
- March 26, 2010 MWS provides all documentation requested by the Department.
- April 5, 2010 The Department request tax returns for an unrelated real estate investment company that Gary Broad has interest in, in Marco Island, Florida.
- April 5, 2010 The Department request signatures for tax returns for the real estate entity and then "decides" not to require the signatures.





- April 7, 2010 MWS was informed that our "certification process is going well" and that final approval will forth coming. The only modification is that some NGIP codes which are used to classify goods and/or services would have to be removed.
- April 13, 2010 MWS renews lease in anticipation of the pending SBE approval.
- May 4, 2010 MWS is called by the property appraiser's office for Miami-Dade County but no formal written request is ever received.
- May 17, 2010 MWS receives a letter indicating that MWS has been denied SBE certification again, due to "principal place of business determination"

As evidenced, there is opportunity for more clarity and application of eligibility rules and standards. These gaps allow for ambiguity of interpretation and application for certification criteria and as a result diminish the integrity of the entire business development program. Throughout this process, MWS has been more than forthcoming and transparent with any and all documentation request. Many of these requests have been above "historical standard practice" for certification. Midwest Steel has detrimentally relied on comments made by department personnel, that all issues pertaining to certification have been resolved. As a result, MWS made heavy investments to include lease renewal and other capital investment in anticipation of our SBE certification. MWS is very interested in developing business and jobs in Miami-Dade County. We have been excellent corporate citizens in every community we have chosen to do business in. We fully expect to continue our commitment to the communities where we operate and look forward to supporting Miami-Dade County's economy in every way we can.

Thank you in advance for your consideration and we look forward to your positive response.

Best regards,

A handwritten signature in black ink, appearing to read "Gary R. Broad". The signature is fluid and cursive, written over a light blue horizontal line.

Gary R. Broad
President

cc: Dennis C. Moss, Commission Chairman
David S. Hope, Assistant County Attorney





Small Business Development
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miamidade.gov

Carlos Alvarez, Mayor

December 7, 2009

Gary Broad, President
Midwest Steel, Inc.
2525 E. Grand Boulevard
Detroit, Michigan 48211-0000

Re: Micro/SBE Denial

Dear Mr. Broad:

Your application for certification as a Small Business Enterprise (SBE) with the Department of Small Business Development (SBD) has been reviewed. This letter is to inform you that your firm, Midwest Steel, Inc., does not meet the eligibility requirements for SBE certification, based on the following determinations:

Although we acknowledge the fact that your firm has met the requirements of an "actual" place of business, Administrative Order 3-41 Section IV (A)5 a and c, which governs the Micro/SBE Program, states in part: "a. If a principle place of business is not located in Miami-Dade County, then the 51% majority owner(s) must reside in Miami-Dade County." Principle place of business, as considered by this office is: "The location of a firm's head office/headquarters is where the books and records are kept, and the center of control in the organization." The Internal Revenue Service's definition provides that when there is more than one business location, the principal place of business is determined by the following factor(s): a) relative importance of the activities performed at each location and/or b) the time spent at each location. "c. Offices, premises related to business, or other facilities within Miami-Dade County at which the goods or services to be provided are produced or performed."

N/A

In addition, §2-8.5 (1)c of the Code of Miami-Dade County states in part: (c) Local business means the vendor has a valid occupational license issued by Miami-Dade County at least one year prior to bid or proposal submission to do business with Miami-Dade County that authorizes the business to provide the goods, services or construction to be purchased, and a physical business address located within the limits of Miami-Dade County from which the vendor operates or performs business. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to the retention and expansion of employment opportunities and the support and increase to the County's tax base."

In consideration of the above factors, Midwest Steel's status as a local Miami-Dade County small business entity does not comply with the eligibility requirements of the Small Business Enterprise Program. Please note that certification in one or more of the County's small business programs is not a criteria for doing business with Miami-Dade County and taking advantage of contracting opportunities in your service area with or without program measures.

If you disagree with this decision, you may submit a written appeal to the Director of SBD, within fifteen (15) business days of the receipt of this letter and SBD will schedule a hearing date before a hearing officer.

Sincerely,

Penelope Townsley,
Director