IMFR

MEMORANDUM Agenda Item No. 2(J) Substitute

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 12, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution rescinding Administrative Order 3-22 and authorizing Implementing Order 3-22: Community Small Business Enterprise ("CSBE") Program for the purchase of construction services

This substitute item differs from the original version as stated on the County Manager's memo.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: May 3, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Subject: Resolution Rescinding Administrative Order 3-22 and Authorizing Implementing Order 3-22: Community Small Business Enterprise Program for the Purchase of Construction Services

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This substitute differs from the original in that it includes language allowing for adjustments to size standards based on the local Consumer Price Index for All Urban Consumers (CPI-U) or other appropriate inflation measures as may be applied across all industries. In addition, the Appeals section has been changed to provide for a Hearing Officer to make findings and recommendations, and the Mayor to make a final decision, which is appealable to Circuit Court. This change makes the appellate remedy the same, irrespective of the party appealing the final decision. Finally, this substitute modifies the Administrative Penalties Section to include all penalties for violations of or noncompliance with this section and its implementing order, proposals(s), and/or competitive selection documents, which had been improperly included in the Appeals Section.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution rescinding Administrative Order 3-22 and authorizing Implementing Order 3-22: Community Small Business Enterprise (CSBE) Program for the Purchase of Construction Services.

Scope

The impact of this agenda item is countywide in nature.

Fiscal Impact/Funding Source

The accompanying resolution will have an estimated fiscal impact of $2,000 annually attributed to the cost of appeal hearings of certification denial, decertification and determinations of non-compliance with program requirements. This fiscal impact may be off-set by recovery of administrative cost from unsuccessful appellants. Upon appeal, firms are required to submit a non-refundable filing fee of $250 and if unsuccessful, will also incur the costs of appeal. Prior Board legislation established the utilization of Hearing Officers for appeal of certification denial, decertification and determinations of non-compliance with the Community Small Business Enterprise (CSBE) program.

Track Record/Monitor

The Department of Small Business Development (SBD) is responsible for administering this program.

Background

In December 2009, certification functions for the County's Small and Disadvantaged Business Programs were transferred from the Department of Small Business Development (SBD) to the Department of Procurement Management (DPM). These include the Small Business Enterprise, Community Small Business Enterprise, Community Business Enterprise, Disadvantaged Business Enterprise, and Local Developing Business programs. Increases in the volume of both new applications and recertifications have created a backlog. DPM and SBD have conducted extensive reviews of each of these programs, in consultation with stakeholders and certified firms, resulting in legislative amendments to improve the certification process and customer service; streamline operational processes; enhance opportunities to local small businesses; and allow for overall effectiveness with reduced resources. Subsequently, in October 2010 the certification functions transferred back to SBD.

The proposed amendments have been reviewed with members of the Board of County Commissioners and/or their staffs, Small Business Advisory Boards, and other small business programs stakeholders. Specific amendments recommended in the proposed ordinance are as follows:

Certification Amendments

1. Provides for a three (3) year certification renewal period. Currently, certifications are valid for one (1) year with annual expiration dates which potentially negatively impact firms' small business status due to issues beyond their control. Based on this potential impact, a significant backlog in applications and staff reductions, it is recommended that firms' certification expire every three years. Within that three-year period, firms would be required to annually submit an "Affidavit for Continuing Eligibility" and minimal documentation. This will result in a more customer friendly, streamlined process that eliminates the negative impact of administrative backlogs.

2. Clarifies the Program's application to only construction services and not goods and services.

3. Authorizes the Mayor or designee to adjust the CSBE size limits every five (5) years based on the local Consumer Price Index for All Urban Consumers (CPI-U) calculated by the U.S. Department of Commerce or other appropriate tool of inflation measures as applied to Miami-Dade County for the preceding five (5) years.

4. Amends the period of eligibility for graduated firms

   Allows firms that graduated from the program to remain eligible to be awarded contracts as prime or subcontractors for bids submitted prior to notice of graduation. CSBEs who graduate will not be eligible to receive any new contracts under the CSBE program.

5. Amends the timeframe allowed for application of certification

Firms denied certification may reapply for certification 12 months from the time of denial of certification; Graduated firms may reapply for certification after filing and submitting their most recent corporate tax returns subsequent to the notice of graduation.

Program Amendments

1. Changes the name of the Department of Business Development to the Department of Small Business Development.

2. Streamlines the Review Committee Process

   It is proposed that the existing Review Committee process be amended to model the Expedited Review Committee process established to review projects under the Economic Stimulus Plan (ESP). Currently, the Review Committee meets bi-weekly to review all projects that have been analyzed by SBD for the application of contract measures. The proposed process will establish a standing Review Committee that will only meet to review contracts where disagreements exist regarding the appropriate contract measure between SBD and the contracting departments and when public input requires deliberation regarding the measure/goal recommendations.

3. Clarifies the net worth of each of the firm's owners to be no greater than $1.5 million. This was an amendment approved by the Board in 2007, which is now being formally included in the Code.

4. Includes a definition of a Miscellaneous Construction Contract.

5. Trade Set-Asides

   Trade set-aside means that an entire specialty trade component(s) of a County miscellaneous construction contract is reserved for first tier subcontracting among certified CSBEs (for example, the entire plumbing or roofing or electrical component of a specific contract is reserved for limited competition among certified CSBEs). It is proposed that the definition of trade set-aside be revised to also include open contracts that are work order based where no specific item quantities have been determined prior to bid (unit price contracts).

6. First Tier CSBE Goals

   The CSBE Ordinance currently provides that in the case of Construction Manager-at-Risk contracts, if a Construction Manager-at-Risk exceeds the first tier subcontractor goal, the amount by which the first tier CSBE subcontractor goal is exceeded shall count toward fulfillment of the second, third and fourth tier subcontractor goal on the contract. This requirement applies solely to Construction Manager-at-Risk contracts. It is proposed that the amount by which the first tier goal is exceeded by a prime contractor count toward fulfillment of the second, third and fourth tier subcontractor goal on any contract with a CSBE subcontractor goal.

7. CSBE Goal Deficit and Make-Up Penalties After Final Contract Payment

   The CSBE ordinance is silent as it relates to issuing findings of non-compliance to contractors after the County has made final payment to the contractor. It is proposed that

after completion or final payment on a contract, SBD review the final Monthly Utilization Report and other project documents and make a determination of whether the bidder met the CSBE measure. If it is determined that the bidder did not meet the CSBE measure, SBD will notify the bidder in writing of the deficit and corresponding make-up penalty. This amendment will allow the County to address goal deficits and issue corresponding make-up penalties after final payment is issued when necessary.

8. On June 2, 2009, amendments to the CSBE Program were approved by the Board which provided for enforcement and penalties for failure to satisfy an approved CSBE make-up plan. We are adding this language to the I.O to reflect the action.

9. On February 6, 2007, amendments to the CSBE Program were approved by the Board which revised the CSBE definition increasing the maximum aggregate net worth of CSBE owners and increasing the CSBE size standards and contracting participation levels. The maximum net worth of CSBE owners increased from $750,000 in the aggregate to $1,500,000 for each individual owner. The CSBE size standards increased as follows: SIC 15 – from $5,000,000 to $10,000,000; SIC 16 – from $3,000,000 to $6,000,000; and SIC 17 – from $2,500,000 to $5,000,000. The CSBE contracting participation levels increased as follows: Level I – from $750,000 to $2,000,000; Level II – from $2,000,000 to $5,000,000, and Level III – from $5,000,000 to $10,000,000. We are amending the Code to reflect the Board's intent.

10. Amends the make-up of the CSBE Advisory Board

    The CSBE Ordinance established a 15 member Advisory Board which includes membership appointments by 12 specific industry organizations. Two (2) of the 12 organizations that recommend appointees no longer have active corporations in the State of Florida; specifically, the Association of Women Architects and Engineers and the Black Business Association. Two (2) of the appointing organizations – the Air Conditioning and Refrigeration Association, Inc., and the Association of Black Architects and Engineers, do not exist in State of Florida corporate records. As such, the CSBE Advisory Board has recommended amendments to replace the Association of Women Architects and Engineers, the Black Business Association and the Association of Black Architects and Engineers with the BAC Funding Corporation, the Miami-Dade Chamber of Commerce and the National Association of Women in Construction; and remove the Air Conditioning and Refrigeration Association, Inc., which does not exist as a corporation.

    This proposed amendment establishes a 14 member CSBE Advisory Board and ensures continued effectiveness and expediency by authorizing the County Mayor or designee to replace delineated organizations for failure to comply, upon recommendations from the current CSBE Advisory Board.

11. Modifies the Appeal Process for Certification Denial, Decertification and Noncompliance Determinations

    Prior Board action replaced the Review Committee with certified Administrative Hearing Officers as the responsible body for hearing appeals of certification denials, decertification and non-compliance with the CSBE program. This amendment reflects the Board's action. The amendment required that any firm that is denied certification, decertified or issued a determination of non-compliance with the requirements of the CSBE Ordinance or its Implementing Order appeal such action to the County Mayor or designee by submitting a written request to the County Mayor or designee along with a nonrefundable filing fee of $250 within 30 days of issuance of the notice. All appeals of certification denial, decertification or non-compliance determinations shall be heard by administrative hearing officers that include retired judges who are licensed and admitted to practice law in the State of Florida, or arbitrators or mediators certified by the Eleventh Judicial Circuit or State Bar Association. Appointees will be acquainted with Implementing Order 3-22 and the provisions of Section 10-33.02, Miami-Dade County Code, as amended, applicable to the particular violations to be heard.

12. Allows for Penalties/Sanctions for Measure Non-compliance

    It is proposed that language be added that allows penalties and sanctions to be imposed by the County Mayor or designee upon contractors that fail to comply with approved small business measures. In the case of a goal deficit, the County Mayor or designee may order a penalty amount to be withheld from the contractor for such noncompliance as follows: for the first deficit, a penalty in an amount equal to 10% of the amount thereof; for the second deficit, a penalty in an amount equal to 20% thereof; for the third and successive deficits, a penalty in an amount equal to 30% thereof. A fourth violation and finding of noncompliance, shall constitute a default of the subject contract and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized solely to defray SBD's costs of administering the program.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE:

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

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Approved _____ Mayor

Veto _____

Override _____

Agenda Item No.

5-3-11

RESOLUTION NO. _____

RESOLUTION RESCINDING ADMINISTRATIVE ORDER 3-22 AND AUTHORIZING IMPLEMENTING ORDER 3-22: COMMUNITY SMALL BUSINESS ENTERPRISE ("CSBE") PROGRAM FOR THE PURCHASE OF CONSTRUCTION SERVICES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA that this Board rescind Administrative Order 3-22 and authorizes Implementing Order 3-22, Community Small Business Enterprise ("CSBE") Program for the Purchase of Construction Services.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto

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The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David Stephen Hope

~~A~~I.O. No.: 3-22[1]
Ordered:
Effective:

MIAMI-DADE COUNTY
IMPLEMENTING ~~ADMINISTRATIVE~~ ORDER

COMMUNITY SMALL BUSINESS ENTERPRISE PROGRAM FOR THE PURCHASE OF CONSTRUCTION SERVICES

AUTHORITY:
Section ~~4.02~~ 1.01, 2.02 and 5.02 of the Miami-Dade County Home Rule Amendment and Charter; and Sections ~~2-8.1, 2-8.5, 2-11(c), 2-11(d)~~, 10-33.02 and 10-38 of the Code of Miami-Dade County~~and Ordinances 97-52, 97-158, 99-31, 00-17, 01-65, 01-116, 01-158, 02-29 and 03-121.~~

SUPERSEDES:

This Implementing ~~Administrative~~ Order supersedes previous Administrative Order 3-22, ordered ~~July 21, 2001~~November 30, 2004, and effective ~~August 3, 2001~~December 10, 2004.

POLICY:

A. Except where Federal or State laws or regulations mandate to the contrary, this Implementing ~~Administrative~~ Order governs construction services (including design build, alteration, installation, painting, maintaining or repairing a public improvement), funded in whole or in part by County funds for all Miami-Dade County departments and agencies.

B. This Implementing ~~Administrative~~ Order applies to all construction projects regardless of project or contract size.

C. APPLICABILITY TO THE PUBLIC HEALTH TRUST:
The application of contract measures to construction services purchased by the Public Health Trust shall be governed by this Implementing ~~Administrative~~ Order.

I. DEFINITIONS:

[1] Words stricken through shall be deleted. Words underscored constitute the amendment proposed. The differences between the substitute and the original item are indicated as follows: words double stricken through shall be deleted, words doubled underlined constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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This Implementing ~~Administrative~~ Order incorporates completely the definitions listed in the CSBE Ordinance._,~~Ordinances 97-52, 97-158, 99-31, 00-17, 01-65, 01-116, 01-158, 02-29, and 03-121~~ as amended. Those definitions, as well as additional terms necessary for the understanding of this Implementing ~~Administrative~~ Order, are listed below:

1. *Advisory Board* means the CSBE Board created for the purpose of reviewing program activities and results, and for making recommendations to the Department of Small Business Development (~~D~~SBD) and the Board of County Commissioners on matters pertaining to the program.

2. *Aggregate Set-Aside* means an aggregated value of small construction contracts, no one contract of which exceeds five million dollars, which are to be bid during a fixed period of time on a contract-by-contract basis with bidding reserved solely among qualified CSBEs classified in the applicable Contracting Participation Level and SIC or NAICS Code for the contract.

3. *Approval ~~l~~Letter* means a document issued by ~~D~~SBD at the request of a CSBE or a bidder that, based on the written representations of the CSBE or bidder, finds a specified activity or scope of work consistent with normal industry practice.

4. *Available or ~~a~~Availability* means to have, prior to bid submission, the ability to provide construction services under a prime contract that is being considered for a set-aside or under a first or second, third or fourth tier subcontract on a contract being considered for a first or lower tier subcontractor goal by having:

   a. reasonably estimated, uncommitted capacity and expertise;
   b. all licenses, permits, registrations and certifications;
   c. the ability to obtain bonding that is reasonably required to perform the contract or subcontract consistent with normal industry practice; and
   d. the ability to otherwise meet bid specifications.

5. *Bid* means a quotation, proposal, letter of interest or offer by any bidder in response to any kind of invitation, request or public announcement to submit such quotation, proposal, letter of interest or offer to perform the contract.

6. *Bid ~~p~~Preference* means an amount deducted (for bid evaluation purposes only) from the total bid price in order to calculate the bid price to be used to evaluate the bid on a competitively bid prime County construction contract, which is not set aside for bidding solely by CSBEs. Firms may claim a bid preference for Program Incentives such as Worker Training

and Mentor-Protégé as outlined in Section 10-33.02 of the Code of Miami-Dade County ~~Ordinance 97-52, as amended~~.

7. *Bidder* means any person, partnership, corporation or other business entity that submits a bid.

8. *Board* means the Board of County Commissioners of Miami-Dade County, Florida.

9. *Bonding ~~a~~Assistance* may include providing assistance in preparing and completing bond packages as well as providing funding to be used for bonding purposes.

10. *Broker* means an individual or business that acts as a conduit for the purchase of goods or services from a supplier and transfers funds to a non-CSBE in a manner that does not add economic value to the purchase of goods or services, except where such conduct is normal industry practice.

11. *Business ~~d~~Day* means a regular week day (Monday through Friday) normally starting at 8:00 a.m. and finishing at 5:00 p.m., excluding Saturdays and Sundays and excluding all legal holidays recognized by the Federal, State or Miami-Dade County governments.

12. *Calendar ~~d~~Day* means a twenty-four (24) hour period covering all days of the week (Monday through Sunday including all holidays), starting at 12:00 a.m. and finishing at 11:59 p.m.

13. *Certification ~~l~~List* means a list maintained by ~~D~~SBD that contains the names and addresses of currently certified CSBEs, sorted by trade, service, Standard Industrial Classification (SIC) code or North American Industry Classification System (NAICS) code and Contracting Participation Level.

14. *Commercially ~~u~~Useful ~~f~~Function* means contractual responsibility for the execution of a distinct element of the work of a contract by a business enterprise and the carrying out of the contractual responsibilities by actually performing, managing, and supervising the work involved. Acting as a broker is not considered a commercially useful function. The determination of whether an activity is a commercially useful function shall include: (1) the evaluation of the amount of work subcontracted; (2) normal industry practices; (3) the skills, qualifications, or expertise of the enterprise to perform the work; (4) whether the firm's personnel performs, manages, and/or supervises the work involved; and (5) other relevant factors.

15. *Community Small Business Enterprise or CSBE* means a construction related enterprise including a design-build firm, and any firm providing trades and/or services for the completion of a construction project, as defined in Chapter 10 of the Code of Miami-Dade County, which has an actual place of business in Miami-Dade County and whose average annual gross revenues for the last three (3) years do not exceed: ~~$5,000,000~~ $10,000,000 for SIC 15 - Building Construction, General Contractors and Operative Builders ~~$3,000,000~~ $6,000,000 for SIC 16 – Heavy Construction, other than Building Construction; or ~~$2,500,000~~ $5,000,000 for SIC 17 - Specialty Trade Contractors. A CSBE shall be categorized by the type of construction it performs in accordance with the ~~two digit~~ SIC code, or ~~the six digit~~ NAICS code, of the Census applicable to such type of construction. A CSBE will graduate out of the program upon notification by SBD that ~~once~~ it has exceeded these size limits based on its three-year average annual gross revenues. A certified CSBE that graduates out of the program shall continue to submit financial information as to cumulative gross revenue and bonding capacity to SBD annually for 3 years thereafter in order to further the County's ability to assess the effectiveness of the program.

~~A CSBE must be certified by the SIC or NAICS code, and classified into one of the three Contracting Participation Levels. The lack of bonding capacity shall not preclude an applicant from being certified as a CSBE.~~ A CSBE must go through a certification process which will be used to determine which of the three Contracting Participation Levels the CSBE will be placed in based on the firm's average annual gross revenues for the last three (3) years. The Contracting Participation Levels are as follows:

1. Level I – 3 year average annual gross revenues of $0-~~$750,000~~ $2,000,000;

2. Level II – 3 year average annual gross revenues above ~~$750,000~~ $2,000,000 but not exceeding ~~$2,000,000~~ $5,000,000 or

3. Level III – 3 year average annual gross revenues above ~~$2,000,000~~ $5,000,000 but not exceeding ~~$5,000,000~~ $10,000,000.

A firm's eligibility to participate in the CSBE program and the Contracting Participation Level at which it will participate shall be determined based on the three year average gross revenues of the applicant firm in combination with that of all of the firm's affiliates. No firm shall be certified as a CSBE where the ~~aggregate~~ individual net worth of ~~all~~ any of its owners is more than ~~seven hundred fifty thousand dollars ($750,000)~~ one million five hundred thousand dollars ($1,500,000). Representations as to gross revenues and net worth of owners shall be subject to audit.

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The County Mayor or designee shall be authorized to adjust the CSBE size limits every five (5) years at his/her discretion based on the Consumer Price Index for All Urban Consumers (CPI-U) calculated by the U.S. Department of Commerce or other appropriate tool of inflation measures as applied to Miami-Dade County for the preceding five (5) years. The first indexing adjustment shall occur for the 2013-2014 calendar year using figures provided for the calendar year ended December 31, 2012, and every five (5) years thereafter. The County Mayor or designee shall advise the Board of any such adjustment.

16. *Commitment ~~l~~Letter* means a letter signed by an officer or other authorized representative of a bidder or proposer for a County construction contract containing a second, third, or fourth tier subcontractor goal, which specifically commits the bidder or proposer to meet such subcontractor goal.

17. *Compliance Monitor* means the Director of ~~D~~SBD or ~~his or her~~ designee assigned to review and enforce compliance with Ordinance 97-52, as amended, and this Implementing ~~Administrative~~ Order.

18. *Construction means* the building, renovating, retrofitting, rehabbing, restoration, painting, installing, altering or repairing of a public improvement.

19. *Construction Manager-at-Risk* ("CM-at-R~~r~~isk") replaces the general contractor and works for a fee with the County and the Architect through the design phase to contain the budget and schedule. The CM-at-R~~r~~isk provides a guaranteed maximum price ("GMP"), and bids the work out to local trade contractors. The CM-at-R~~r~~isk mobilizes to the site and manages the trade contractors for quality and schedule.

20. *Contract* means an agreement covered by this Implementing ~~Administrative~~ Order proposed by the County or Public Health Trust staff, or approved by the County Commission or Public Health Trust for construction.

21. *Contract ~~m~~Measure* means a contract set-aside, or a Trade Set-aside, or a subcontract goal, or a bid preference, or a selection factor, singly or in any combination.

22. *Contracting Officer* means the person assigned under a contract, usually a department director or his or her designee, who has primary responsibility to manage the contract and enforce contract requirements.

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23. *Contracting Participation Level* refers to the level in which a CSBE firm is classified based on the average annual gross revenues of the firm over the last three (3) years. In addition, construction contracts of ~~$5,000,000~~ $10,000,000 or less (which may be set-aside ~~reserved~~ for limited competition among CSBEs) ~~will be classified into one of the three Contracting Participation Levels based on estimated project cost.~~ The three Contracting Participation Levels are:

Level I – up to $2,000,000.00 ~~3 year average annual gross revenues of $0-$750,000~~

Level II – above $2,000,000.00 but not greater than $5,000,000 ~~3 year average annual gross revenues above $750,000 but not exceeding $2,000,000~~

Level III – above $5,000,000.00 but not greater than $10,000,000.00 ~~3 year average annual gross revenues above $2,000,000 but not exceeding $5,000,000~~

Prime contracts with estimated project construction costs in excess of ~~$5,000,000~~ $10,000,000 shall be "open market" contracts available for bidding by all firms.

CSBEs certified in one contracting participation level e.g., those certified in Level III may not bid on a lower level prime County contract set-aside for CSBEs (e.g., a $500,000 project which falls into Level I). However, lower level CSBEs may bid on higher-level contracts (e.g., a Level I CSBE may bid on a Level II or a Level III project).

24. *County* means Miami-Dade County, Florida, a political subdivision of the State of Florida.

25. *CSBE ~~o~~Objective* means the objective of assuring that not less than 10% of the County's total annual expenditures for construction are expended with CSBEs. The foregoing CSBE objective may be increased by subsequent resolution of the Board of County Commissioners, adopted after recommendation for an increase by the CSBE Advisory Board. Forty percent (40%) of the foregoing objective may be accomplished through set-aside of smaller prime contracts and use of subcontractor goals on larger prime contracts falling within SIC 15; forty percent (40%) of the foregoing objective may be accomplished through set-aside of smaller prime contracts and use of subcontractor goals on larger prime contracts falling within SIC 16; and twenty percent (20%) of the foregoing objective may be accomplished in prime contracts falling within SIC 17. The percentage of the overall CSBE objective allocated to each SIC category

may be adjusted by resolution of the Board of County Commissioners in direct correlation to CSBE availability.

26. *Construction Services* means construction, maintenance, painting, alteration, installation, or repair of a public improvement or any performance of work offered for public consumption that does not consist primarily of goods.

~~26~~27. *Debar* means to exclude a contractor, its individual officers, its shareholders with significant interests, its qualifying agent, or its affiliated businesses from County contracting and subcontracting for a specified period of time, not to exceed five (5) years.

~~27~~28. *Draw* means a request for payment submitted by the prime contractor to the County or County's designee. A scheduled draw occurs, according to the contract's payment schedule, when the prime contractor is allowed to submit its request for payment. The date(s) of a scheduled draw may be stated with specificity in the contract in the form of a payment schedule or may be stated as a reoccurring event taking place, for example, on the 30th of each month.

~~28. *DBD* means the Miami-Dade County Department of Business Development.~~

29. *DPM* means the Department of Procurement Management.

30. *Disbursement ~~a~~Agent* means an escrow agent who receives and disburses County funds as an agent of the County and provides assurance that the contract funds for a given project are used for labor, materials, and overhead on that specific project.

31. *Eligible CSBEs* means those community small business enterprises that have completed the prescribed management and technical assistance requirements.

32. *Eligible ~~e~~Expenses* mean those funds expended for project materials, or items that are directly incorporated into the Project Work or are exclusively and directly expenses attributed to the Work without markup for the initial draw. Eligible Expenses include project payroll, project equipment rental, project materials, project bond, project insurance, and project permits.

33. *Graduation* means the CSBE has exceeded the specific size limits stated for the program, based on the firm's three-year average annual gross revenues, and ~~will~~ may no longer be eligible for participation in the Program.

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34. *Guaranteed ~~m~~Maximum ~~p~~Price* ("GMP") is the cost of the project that the CM-at-R~~r~~isk guaranteed will not be exceeded.

35. *Joint ~~v~~Venture* means an association of two or more CSBEs. Joint ventures shall be subject to the size limitations set forth in this implementing ~~administrative~~ order; such size limitations include affiliates as set forth in Appendix A of Ordinance 97-52, as amended.

36. *Joint ~~v~~Venture ~~a~~Agreement* means a document submitted to SBD by a joint venture that provides information regarding the nature of the joint venture.

37. *Management & Technical Assistance (MTA)* means a program designed to provide direct and indirect assistance for small business enterprise development. Specific details of the program are shown in Section XXI of this Implementing ~~Administrative~~ Order

38. *Mentor-Protégé Program* is a program whose purpose is to build effective working relationships between leaders of mature established companies and emerging small business enterprises in order for the latter to benefit from the knowledge and experience of the established mentor firms. Specific details of the Mentor-Protégé Program are shown in Section XIX of this Implementing ~~Administrative~~ Order.

39. *Miscellaneous Construction ~~c~~Contracts* are open contracts designed to consolidate an indeterminate number of individual small construction, repair or alteration activities which may be needed over a fixed period of time, or open contracts that are work order based where no specific item quantities have been determined prior to bid (unit price contracts) ~~means an agreement with general contractors who are awarded work on single or multi-trade construction projects for a contract with diverse scope of work in which work location has not been specified~~.

40. *Monthly Utilization Report* (MUR) means a report completed by the Successful Bidder on a contract that is set-aside, or on a contract with Trade Set-asides or subcontractor goals, and submitted monthly, listing all work performed in the past month by the CSBE identified on the Schedule of Intent Affidavit and all expenditures paid to date to the identified CSBE.

41. *Net ~~w~~Worth* for the purposes of the size limits established in this Implementing ~~Administrative~~ Order is defined as total assets minus total liabilities.

42. *North American Industry Classification System* (NAICS) code is a code that was developed by the Federal Office of Management and Budget for

use in the classification of establishments by type of activity in which they are engaged. The NAICS code replaces the SIC code.

43. *PM/Owner* means agent of MDC user Department.

44. *Pre-~~q~~Qualification* is defined under the definition of CSBE above.

~~45~~46. *Primary Trade Contractor* means those contractors who directly contract with the CM-at-R~~r~~isk. This definition only applies to contracts for a C~~c~~onstruction M~~m~~anager-at-R~~r~~isk with a guaranteed maximum price.

~~46~~47. *Program ~~i~~Incentive* is an incentive that a firm can choose to use in a bid or proposal based on the firm's participation in certain programs. The incentive consists of either a bid preference or selection factor that will be used in evaluating the firm's bid or proposal on a specific project. The Program incentives available are as follows:

a. For participation in the Mentor-Protégé Program - up to 2% of bid price or up to 10% of the total evaluation points; and

b. For participation in the Worker Training Program - up to 2% of bid price or up to 10% of the total evaluation points.

Specific details of the program incentive are shown in Section XII of this Implementing ~~Administrative~~ Order.

~~47~~48. *Qualifier* means the individual who has qualified a contractor for its current, valid certificate of competency or eligibility as required by Subsection (a) of Section 10-3 of the Code of Miami-Dade County.

~~48~~49. *Registered CSBE* means a business that has registered with the relevant County agencies to compete for County construction contracts and has declared, by registration for statistical purposes, to be a CSBE. If no registration system showing such declaration exists, this term means a business that has bid on a County construction contract and has declared to County staff or in a public document that it is a CSBE.

~~49~~50. *Review Committee (RC)* means the committee established by the County Mayor or designee to review proposed projects for the application of contract measures where SBD and contracting department have not established consensus.~~-- the County Manager shall establish an administrative procedure for the review of each proposed County contract to which this ordinance applies, including the establishment of a committee to recommend whether CSB contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals provided in the ordinance should be applied.~~

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51. *SBD* means the Miami-Dade County Department of Small Business Development.

~~50~~52. *Schedule of Intent Affidavit (SOI)* means a form contained in the bid documents of a CSBE contract set-aside or a contract with Trade Set-asides or subcontractor goals in which bidders list at the time of bid submission all CSBEs to be used to meet the set-aside or the goal, and the scope of work each will perform, including the goods or services to be provided, and the percentage value of such work.

~~51~~53. *Selection ~~f~~Factor* means a percentage of total evaluation points added to the points scored by a proposer responding to a Request for Proposals (RFP) or a Request for Qualifications (RFQ) for a prime County construction contract which is not set-aside for competition solely among CSBEs.

~~52. *Services* means construction, maintenance, painting, alteration, or repair of a public improvement or any performance of work offered for public consumption that does not consist primarily of goods.~~

~~53~~54. *Set-~~a~~Aside* means reservation for competition solely among CSBEs of a given prime County contract whose estimated cost is ~~$5,000,000~~ $10,000,000.00 or less.

~~54~~55. *Standard Industrial Classification (SIC)* or the equivalent NAICS code is a code that was developed by the Federal Office of Management and Budget for use in the classification of establishments by type of activity in which they are engaged. The NAICS code replaces the SIC code.

~~55~~56. *Subcontract* for the purposes of Section 10-33.02 of the Code of Miami-Dade County ~~Ordinance 97-52~~, as amended, means an agreement between a prime construction contractor and a Primary Trade Contractor, or a first, second, third, or fourth tier subcontractor.

~~56~~57. *Subcontractor ~~g~~Goal* means a proportion of a prime contract value stated as a percentage to be subcontracted at the first tier level, and another additional percentage to be subcontracted at the second, third, and/or fourth tier level, as outlined in this Implementing ~~Administrative~~ Order, to CSBEs to perform a commercially useful function. For County construction projects whose total estimated value is less than $25,000,000 only expenditures to CSBEs made under written first tier subcontracts executed by both the prime contractor and the CSBE shall be counted towards meeting the CSBE subcontractor goal. For County construction projects whose total estimated value is equal to, or greater than, $25,000,000 the Review Committee shall recommend that a specific

percentage of the expenditures be made to CSBEs under written first tier subcontracts, and that another additional percentage of the expenditures be made to CSBEs under second, third and/or fourth tier subcontracts.

~~57~~58. *Successful Bidder* means the bidder to which the contract is awarded.

~~58~~59. *Trade Set-aAside* means that an entire Specialty Trade component(s) of a County contract or a miscellaneous construction contract is reserved for first tier subcontracting among certified CSBEs (for example, the entire plumbing, roofing or electrical component of a specific contract is reserved for limited competition among certified CSBEs). ~~Miscellaneous construction contract shall mean a construction contract managed by a construction manager selected on the basis of a management fee that will be added to the cost of specialty trade work for various projects bid by the construction manager as a trade set-aside for CSBEs or open contracts that are work order based where no specific item quantities have been determined prior to bid (unit price contracts). No CSBE may be awarded more than one Trade Set-aside on any one specific miscellaneous construction contract.~~

~~59~~60. *Unavailability Certificate* means a document signed by a CSBE stating that the CSBE is not available to participate on a specific project at a specific time.

~~60~~61. *Work* means the provision of goods or services for construction projects.

~~61~~62. *Worker Training Program* is a qualified training program or technical school or other such construction industry related training program, as approved by the CSBE Advisory Board.

II. CERTIFICATION:

A. SDBD RESPONSIBILITIES

1. SDBD is the County agency responsible for certifying applicants, decertifying CSBEs and recertifying CSBEs.~~, and maintaining the Certification List~~. SDBD shall maintain and publish at least every other week an updated list of CSBEs, identifying each listed CSBE based on each SIC/NAICS category, and each Specialty Trade certification and noting the Contracting Participation Level classification.

2. SDBD shall collect, assemble and verify all information needed to establish the eligibility of an applicant and continued eligibility of a CSBE, including the information required on the American Institute

of Architects (AIA) Document A305 Contractor's Qualification Statement or its equivalent.

3. S~~D~~BD shall attempt to make a certification decision within twenty one (21) business days of receipt of a complete application. An application is complete when it includes all required supporting documents.

4. Where S~~D~~BD knows or has reason to know, S~~D~~BD shall not certify an applicant, shall not recertify a CSBE, and shall decertify a CSBE that fails to comply with the criteria or procedures of Section 10-33.02 of the Code of Miami-Dade County ~~Ordinances 97-52, 97-158, 99-31, 00-17, 01-65, 01-116, 01-158, 02-29 and 03-121, 05-119, and 07-16~~, as amended, this ~~Administrative~~ Implementing Order and/or participation provisions. S~~D~~BD shall have ~~authority~~ discretion to suspend the certification of a CSBE during any appeal of a ~~de~~certification decision.

5. S~~D~~BD shall certify each CSBE by the type of construction they perform in accordance with the two-digit SIC and/or six-digit NAICS code applicable to such type of construction for which the CSBE is licensed. A CSBE can be certified in an unlimited number of SIC/NAICS codes and trade categories. CSBEs certified in SIC 17 (Specialty Trade Contractors) shall also be classified by trade category or categories in which they are licensed. Each CSBE will also be certified in a specific Contracting Participation Level based on the firm's 3 year average gross revenues.

6. S~~D~~BD shall provide written ~~renewal~~ procedures and/or forms for continuing eligibility to certified CSBEs not later than thirty (30) calendar days prior to their certification anniversary ~~expiration~~ date.

7. To decertify a CSBE, S~~D~~BD shall either:

   a. give notice to the CSBE that the decertification decision will be effective at the completion of any appeal under this Implementing ~~Administrative~~ Order; or
   b. suspend the certification of the CSBE during any appeal of the decertification decision.

   S~~D~~BD shall give written notice, including the reasons for its decision, to applicants who are denied certification and to CSBEs who are decertified or denied recertification.

8. S~~D~~BD may require applicants and CSBEs to submit information regarding their business operations including, but not limited to, a

breakdown of the applicant's or CSBE's ownership, and/or work force as to race, national origin, gender, and gross annual sales receipts.

B. TERMS OF CERTIFICATION

1. Certification for a CSBE firm is valid for a ~~one (1)~~ three (3) year period. Certification for CSBE firms is continuous within the three year period with the firm's submission of an Affidavit for Continuing Eligibility. SBD shall require that all CSBE firms, in order to continue eligibility, submit an application for certification renewal on or before the Anniversary Date. The Affidavit for Continuing Eligibility shall include, at a minimum:

   a. Most recent, signed, complete business tax return(s) or extension(s) for the firm and all affiliates.

   b. Current personal financial statement for each owner.

   c. Current business, professional license, Local Business Tax Receipt and certifications issued by the State of Florida and Miami-Dade County.

   d. Current lease agreement or warrantee deed for the firm's actual place of business.

   e. Notarized, sworn affiliation affidavit.

2. Additional supporting documentation may be required by SBD to verify eligibility.

3. SBD will take the following action if a CSBE firm's "Affidavit for Continuing Eligibility" is not received on or before the Anniversary Date:

   a. SBD shall immediately prepare a "Notice of Certification Removal".

   b. SBD shall mail the Notice to the CSBE firm.

   c. SBD shall allow the CSBE firm fifteen (15) days from the date of the notice to provide the "Affidavit for Continuing Eligibility" and supporting documentation.

   d. If the CSBE firm does not provide the "Affidavit for Continuing Eligibility" and supporting documentation within

the timeframe stipulated above, SBD shall decertify the firm and notify the firm in writing of the decertification.

e. The "Notice of Certification Removal" will be dated the day following the deadline established pursuant to "c." above.

4~~2~~. A CSBE contractor, its individual officers, its shareholders with significant interests, its qualifying agent or its affiliated businesses that has been denied certification ~~recertification ,or~~ or continuing eligibility, or that has been decertified is not eligible to apply for certification for ~~up to~~ twelve (12) months from the time of the denial, ~~or~~ decertification. Graduating firms may be eligible to reapply for certification, after filing and submitting their most recent corporate tax return subsequent to graduation, if and only if, said tax return was not previously considered. ~~The re-application waiting period is dependent on the severity of the cause of denial or decertification.~~

5~~3~~. A CSBE must be certified in accordance with Section II A (4~~5~~) above.

6~~4~~. A business owner, alone or as a member of a group, shall own or control only one CSBE firm ~~at a time~~. A business owner, alone or as a member of a group, and any CSBE, may not hold more than a ten (10) percent equity ownership in any other CSBE in the same or similar line of business. If a non-CSBE in the same or similar line of business as a CSBE has an equity ownership of such CSBE that exceeds ten (10) percent, the CSBE shall not be certified or recertified.

~~5. Certified CSBEs shall provide written notice to DBD of any changes that affect their eligibility as CSBEs. CSBEs shall submit a written statement describing the nature and stating the effective date of the change(s) to DBD within thirty (30) calendar days of the effective date of the change(s).~~

7. Certified CSBEs shall provide written notice to SBD of any changes that affect their eligibility as a CSBE. CSBEs shall submit a Change Request Form and supporting documentation describing the nature of the change, the effective date of the change(s) to SBD within thirty (30) calendar days of the effective date of the change(s). Change Request Forms will be available on-line or upon receipt of written notification from the firm. This form must be completed and returned to SBD in order for the change to be processed by SBD.

8~~6~~. A CSBE must have a valid certification in effect at time of bid submittal. ~~For~~ Successful Bidders must be certified~~, certification~~

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~~must be maintained from~~ at the time of bid submittal, bid award, and throughout the duration of the contract. With the exception of graduation provisions described in Section 10-33.02 of the Code of Miami-Dade County ~~Ordinance 97-52, as amended, for graduation from the CSBE program~~, loss of CSBE certification may lead to removal of the firm from continued participation in the CSBE program. CSBEs shall allow site visits by ~~DBD~~ County staff to determine continuing compliance with certification requirements.

~~7. CSBEs are responsible for applying for recertification at least fourteen (14) calendar days prior to expiration of their current certification.~~

~~8. Applicants for CSBE certification shall, as part of their application, disclose the information specified in Subsection (d)(1) and (2) of Section 2-8.1 of the Code of Miami-Dade County.~~

9. Applicants and certified CSBEs must be properly licensed to conduct business in Miami-Dade County, must perform a commercially useful function with an actual place of business in Miami-Dade County, and must continue to perform a commercially useful function in Miami-Dade County to be eligible for certification or to remain certified.

10. The qualifier of the certified CSBE must own at least ten percent (10%) of the certified firm's issued stock.

~~11. Certification shall be renewed annually, and must be in effect at the time of bid submittal. For Successful Bidders, certification must be maintained from the time of bid submittal throughout the duration of the contract. With the exception of provisions described in Ordinances 97-52, 97-158, 99-31, 00-17, 01-65, 01-116, 01-158, 02-29, 97-52, 97-158, 99-31, 00-17, 01-65, 01-116, 01-158, 02-29 and 03-121, as amended, for graduation from the CSBE program, loss of CSBE certification may lead to removal of the firm from continued participation in the CSBE program. CSBEs experiencing changes in ownership shall notify DBD within thirty (30) days of the effective date of such changes.~~

C. CERTIFICATION PROCESS

1. Interested parties may obtain the certification application from S~~D~~BD and are encouraged to request an explanation of the certification process. A copy of the certification application and an explanation of the certification process are also available on

SDBD's Web Page on the Internet. The Web Page address is www.miamidade.gov/sba http://www.co.miami-dade.fl.us/sbd

2. The applicant shall complete the certification application and submit it with all requested documentation to SDBD.

3. The applicant, including CSBEs seeking continuing eligibility recertification, shall attend, if requested by SDBD staff, an Eligibility Review Meeting (ERM) to clarify information that was submitted in the application and accompanying documents or to gain additional information regarding the applicant's eligibility for certification. SDBD shall notify the applicant within ten (10) business days of receipt of a complete application if an eligibility review meeting is required.

4. The applicant, including CSBEs seeking continuing eligibility recertification, shall allow site visits by SDBD staff to gain additional information regarding compliance with eligibility requirements. SBD shall notify the applicant if a site visit is required and shall schedule the site visit at a mutually convenient time. DBD shall notify the applicant within fifteen (15) business days of receipt of a complete application if a site visit is required.

5. Applicants and CSBEs shall provide DSBD with all information that DSBD reasonably requests to determine eligibility for certification and to determine bonding capacity for placement in the Contracting Participation Level.

D. ELIGIBILITY REQUIREMENTS

1. Applicants and CSBEs must be profit-motivated businesses. (Note: not-for-profit or non-profit corporations are not eligible for certification).

2. CSBEs must have an actual place of business in Miami-Dade County and may be registered as a vendor with DPM.

   a. When determining whether the applicant has an actual place of business in Miami-Dade County, SDBD shall consider evidence such as, but not limited to, the following:

      1. The existence of a Miami-Dade telephone number in the CSBE's name or the name with which the CSBE is doing business;

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1~~2~~. Local Business Tax Receipt issued by Miami-Dade County; ~~Logs of telephone activity at the Miami-Dade County telephone number;~~

2~~3~~. Offices, premises related to business, or other facilities within the geographic boundaries of Miami-Dade County at which the goods or services to be provided are produced or performed;

3~~4~~. The existence and location of secretarial or other administrative staff;

~~5. The existence of other offices or premises at which the same business is conducted; and~~

4~~6~~. The possession of professional licenses and/or competency certificates required to conduct the business in Miami-Dade County.

3. To remain eligible for certification, CSBEs must perform a commercially useful function.

4. A firm shall be certified as a CSBE only if a business owner, alone or as a member of a group, owns at least 10% of the firm's stock personally and possesses the licenses necessary to satisfy the qualifying requirements established by a board regulating the industry in which certification is sought.

5. An individual, alone or as a member of a group, shall own or control only one (1) CSBE at a time.

6. A firm's eligibility to participate in the CSBE program and the Contracting Participation Level at which it will participate shall be determined based on the cumulative gross revenues of the applicant firm in combination with that of all of the firm's affiliates.

7. No firm shall be certified as a CSBE where the ~~aggregate~~ individual net worth of ~~all~~ any of its owners is more than ~~seven hundred fifty thousand dollars ($750,000)~~ one million five hundred thousand dollars ($1,500,000). Representations as to gross revenues and net worth of owners shall be subject to audit.

8. Nothing shall prohibit CSBEs from competing for contracts under the Federal Disadvantaged Business Enterprise (DBE) program or any other business assistance program if the CSBE is also certified

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for the programs under this Implementing ~~Administrative~~ Order by S~~D~~BD or certified by any other agency or organization.

9. When investigating the ownership and control of an applicant or a CSBE, S~~D~~BD shall consider, but not be limited to the following:

   a. All securities constituting ownership and/or control of a business for purposes of establishing the business as a CSBE shall be held directly by the owners. No securities held in trust shall be considered.

   b. The contributions of capital and expertise by the qualifying agent to acquire interest in the business shall be real and substantial. Examples of insufficient contributions may include, but are not limited to, a note payable to the business or to those of its part owners, or the mere participation of the qualifier as an employee, rather than as a manager.

10. A CSBE shall not be subject to any formal or informal restrictions that limit the customary discretion of the owner.

11. Where the actual day-to-day management of the business is handled by individuals other than the owner, those persons who have the ultimate power to hire and fire the managers shall be considered as controlling the business.

12. An applicant that has undergone a recent change in ownership, control or reported income level will be carefully scrutinized. Factors such as, but not limited to, the following shall be considered:

    a. The reasons for the timing of the change in ownership of the business relative to the time that the contracts in the applicant's trade, SIC/NAICS, or service area are advertised;

    b. Whether an individual identified as an owner who had a previous or continuing employee-employer relationship with present owners has actual management responsibilities and capabilities;

    c. The participation of one or more of the owners of the applicant firm in another firm in the same trade, SIC/NAICS, or service area;

d. Whether reported income levels indicate a severe decline to possibly attempt to qualify the firm for CSBE certification; and

e. Whether affiliation as described in ~~Ordinance 97-52~~ Section 10-33.02 of the Code of Miami-Dade County, as amended, exists or once existed between the applicant firm and a non-CSBE firm.

13. A CSBE must perform a commercially useful function in the trade category, SIC/NAICS, or service area in which it is certified or seeking to be certified.

E. SIZE LIMITATIONS

The size limitations are described in the definition for CSBE in Section I above. In addition, Appendix A of Ordinance 97-52, as amended, discusses size eligibility, contracting participation levels and affiliation determination.

III. JOINT VENTURES:

A. APPROVAL OF JOINT VENTURES

Only joint ventures approved by S~~D~~BD in accordance with this Implementing ~~Administrative~~ Order are eligible to participate as joint ventures in the CSBE program. Joint ventures must be lawfully established. All members of the joint venture must be certified as CSBEs before the joint venture can be approved. Joint ventures can participate under the CSBE program on contracts with CSBE Trade Set-asides, subcontractor goals, bid preferences and selection factors.

B. JOINT VENTURE RESPONSIBILITIES

Joint ventures must submit prior to bid submission a Joint Venture Agreement containing the following information:

1. A description of the financial contribution of each member;

2. A list of the personnel and equipment used by each member;

3. A detailed breakdown of the responsibility of each member and the work to be performed by each member;

4. An explanation of how the profits and/or losses will be distributed;

5. The bonding capacity of each member;

6. A description of any management or incentive fees for any of the members;

7. A statement of the percentage of the joint venture that is owned and controlled by the qualifying member(s) and the basis for claiming such percentage; and

8. A copy of any required State certificates or registrations.

C. S~~D~~BD RESPONSIBILITIES

S~~D~~BD shall collect, assemble and verify all information needed to determine if all members of a joint venture are CSBEs. ~~DBD shall attempt to approve joint ventures within five (5) business days of receipt of a complete Joint Venture Agreement.~~ A Joint Venture Agreement is complete when it includes all required supporting information.

IV. DEPARTMENT/AGENCY RESPONSIBILITIES:

A. ANNUAL NOTIFICATION OF ANTICIPATED PURCHASES

Each County department and agency, in conjunction with the annual budget process, shall compile a list of its proposed capital projects, renovations, and major repairs for the fiscal year. Each department and agency shall forward the list by August 1 of each year to ~~D~~SBD for use in the formulation of the CSBE objectives.

B. STATISTICAL REPORTING

Each County department and agency, in conjunction with its contracting and purchasing activities, shall compile and maintain a list of its contractors', subcontractors' and vendors' ownership demographics. These lists shall be updated at least quarterly and forwarded to ~~D~~SBD. Bid documents shall require disclosure of the bidder's race, gender and ethnicity. Contract documents shall require that all requests for payment by the prime contractors include a list of all subcontractors who have performed work by race, gender and ethnicity, and shall contain the prompt payment provisions outlined in the CSBE ordinance.

V. PROCEDURE FOR RECOMMENDATION OF CONTRACT SET-ASIDES, TRADE SET-ASIDES, AGGREGATE SET-ASIDES OR SUBCONTRACTOR GOALS:

A. Each individual construction contract, purchase or blanket purchase of services shall be reviewed for application of contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals. The procedure for applying these contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals on such purchases is as follows:

1. Each department or DPM, as applicable, shall review anticipated contracts for application of contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals. Departments that make purchases through DPM shall not be responsible for reviewing anticipated purchases; DPM shall be responsible for reviewing those purchases. To facilitate identification of contracting opportunities, contracts shall be reviewed after approximately seventy-five (75) percent of the contract documents, plans, and specifications have been completed.

2. Departments or DPM shall work in conjunction with ~~D~~SBD in recommending whether contracts should be set-asides, or whether contracts should have Trade Set-asides, aggregate set-asides or subcontractor goals that shall be applied. The department or DPM shall submit the appropriate items from the following to the Director of ~~D~~SBD:

   a. For each recommendation of a contract to be set-aside, or a contract to have a Trade Set-aside, aggregate set-aside or subcontractor goal applied, a memorandum should be included providing an appropriate brief description as follows:

      1. Project title and number;

      2. The identification of specialty trade opportunities;

      3. Estimated dollar amounts for each subcontracting area or trade component;

      4. A history of previous purchases to include the sizes of the previously successful contractors as appropriate for the previous three (3) years; and

      5. The recommendation as to whether to set-aside the contract or to place a Trade Set-aside, aggregate set-aside or a subcontractor goal on the contract.

   b. A memorandum identifying and briefly describing all contracts or proposals, including justification for sole source,

for which a recommendation is being made to not set aside the contract or to not place a Trade Set-aside, aggregate set-aside or subcontractor goal on the contract, and information to support the recommendation of not setting aside the contract, or placing a Trade Set-aside, aggregate set-aside or subcontractor goal on the contract.

3. S~~D~~BD shall review the proposed contracts and the departmental recommendations. S~~D~~BD shall review all submissions received ~~prior to the published RC agenda deadline~~, and develop a ~~DBD~~ recommendation for the County Mayor's or designee's approval. ~~and shall place the submissions on the agenda of the appropriate RC meeting.~~

VI. APPLICATION OF CONTRACT SET-ASIDES, TRADE SET-ASIDES, AGGREGATE SET-ASIDES OR SUBCONTRACTOR GOALS:

Contract set-asides, Trade Set-asides, aggregate set-aside or subcontractor goals are appropriate to apply to a given contract when there is a CSBE objective set for the SIC/NAICS category in which the contract is classified and the forecast of future expenditures by program area indicates that a contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal will be appropriate for the contract.

A. GENERAL GUIDANCE

1. The selection of a contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal shall include consideration of the following:

   a. The impact of the project as it relates to the CSBE objective;

   b. The previous contracts used in the particular SIC/NAICS category;

   c. The relative impact of economic incentives;

   d. The effects of other contract set-asides, Trade Set-asides, aggregate set-aside or subcontractor goals taken or reasonably expected to be taken in the SIC/NAICS category and their expected effects during the life expectancy of the contract;

   e. The impact of the contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal on potential competitors; and

f. Consideration of selection among various programs as set forth in Section IX below.

B. CONTRACT SET-ASIDES

1. A recommendation of a set-aside is appropriate when:

   a. the estimated project cost is ~~$5,000,000~~ $10,000,000 or less;

   b. The quality, quantity and type of opportunities provided by the contract are appropriate for applying a set-aside;

   c. Prior to bid advertisement three (3) or more CSBEs are available to provide the quality, quantity and type of opportunities afforded by the proposed contract; and

   d. A contract that is set-aside must be categorized into one of the three Contracting Participation Levels based on the estimated project cost.

2. Set-asides should be used to provide large economic incentives. Set-asides are most effectively applied to relatively small contracts. When possible, consideration should be given for splitting large contracts into smaller contracts to allow for greater program participation.

C. SUBCONTRACTOR GOAL

A recommendation to apply a subcontractor goal to a particular contract is appropriate when:

1. The contract has identifiable opportunities, which, according to normal industry practice, are appropriate for subcontracting in a specialty trade area within SIC 17;

2. The quality, quantity and types of opportunities provided are appropriate for applying a subcontractor goal; and

3. Effective competition exists for setting a particular subcontractor goal in that three (3) or more CSBEs certified within the applicable specialty trade area within SIC 17 are available.

A first tier subcontract goal may be imposed where there is CSBE availability at such tier level. A second, third and fourth tier subcontract goal may be imposed on those contracts whose estimated cost exceeds $25 million where there is CSBE availability at such lower tier levels.

D. TRADE SET-ASIDE

A recommendation to apply a Trade Set-aside(s) to a particular work order on a contract or a miscellaneous construction contract is appropriate when:

1. The work order for the contract has identifiable opportunities for Trade Set-asides;

2. The quality, quantity and types of opportunities provided are appropriate for applying a Trade Set-aside; and

3. Effective competition exists for setting a Trade Set-aside in that three (3) or more CSBEs certified in the applicable specialty trade area within SIC 17.

E. AGGREGATE SET-ASIDE

A recommendation to apply an Aggregate Set-Aside to a particular contract is appropriate when:

1. The contract includes various work orders;

2. The contract is used for a specified period of time;

3. The contract should be a prequalification pool of various trade construction firms;

4. Prior to bid advertisement three or more CSBE firms are available to provide the quality, quantity and type of opportunities afforded by the proposed contract;

5. A contract that is set-aside may be categorized by more than one of the three Contracting Participation Levels.

F. GUIDANCE ON PRIORITY OF CONTRACT SET-ASIDES, TRADE SET-ASIDES, AGGREGATE SET-ASIDES AND SUBCONTRACTOR GOALS AMONG THE VARIOUS PROGRAMS

In making recommendations for application of contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals, staff shall attempt to consider all of the various programs in addition to taking advantage of the unique opportunities for economic incentives afforded by each contract. Potentially each contract contains a unique set of circumstances offering several possible permutations and combinations of contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals authorized by the various programs. In the Review ~~RC~~ Process, a large number of contracts are considered for the application of contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals at the same meeting. Contract set-asides, Trade Set-asides, aggregate set-asides, and subcontractor goals are applied on an individual contract basis; however, the program and whether a contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal is selected for application to a given contract are a result of analyzing the entire contracting environment in light of the stated CSBE objectives and Participation Goals, progress to date and expected effects of previously adopted and other proposed contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals. The Review Process ~~Each RC session~~ provides an aggregate of individual contract set-asides, Trade Set-asides, aggregate set-asides and subcontractor goals applied to further progress toward the CSBE program objective ~~of the various programs~~. No single contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal recommendation should be viewed in isolation of the other recommendations made and contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals taken as part of the overall programs. The Review Process ~~RC~~ provides an opportunity ~~forum~~ for ~~the~~ public comments on ~~review of~~ contract set-aside, ~~T~~trade ~~S~~set-aside, aggregate set-aside or subcontractor goal recommendations, program progress and future program direction.

VII. APPLICATION TO CONSTRUCTION MANAGER-AT-RISK CONTRACTS

A. *Construction management services portion.* For Construction Manager-at-Risk contracts, the County Commission may establish, where appropriate and upon the recommendation of SBD or the Review Committee, as applicable, first tier CSBE subcontractor goals applicable to the construction management portion thereof. Such goal shall not be applicable to the procurement of trade packages on the actual construction project. Bidders for CM-at-R~~r~~isk contracts to which a first tier CSBE subcontractor goal has been established for construction management services under this paragraph shall submit the Schedule of

Intent Affidavit and follow the procedures and timing therefore applicable to contracts in general under section VI C above.

B. *Actual construction portion of the work.* For CM-at-R~~r~~isk contracts, subcontractor goals for the actual construction portion of the work may be established where appropriate by the County Mayor or ~~designeenager or the Manager's designee~~ for 1st, 2nd, 3rd or 4th tier subcontractors upon the recommendation and consensus between the User Department and SBD or the Review Committee, as applicable, ~~of the Review Committee~~ based on estimates made prior to advertisement of the bid package of the quality, quantity and type of subcontracting opportunities provided by the bid package and of the availability of CSBEs to afford effective subcontracting therefore.

1. *Overall subcontracting goal.* Where an overall CSBE subcontracting goal has been established for the actual construction portion of the work, the CM-at-R~~r~~isk shall submit the Schedule of Intent Affidavit to the County at the time the Final Guaranteed Maximum Price is due identifying all CSBEs utilized to meet the overall goal, and the trade designation of work and percentage of the Final Guaranteed Maximum Price each will perform.

2. *First tier subcontractor goal.* Where a first tier CSBE subcontracting goal has been established, bidders to the CM-at-R~~r~~isk for contracts as Primary Trade Contractors shall submit at the time of bid submission to the CM-at-R~~r~~isk the Schedule of Intent Affidavit identifying all CSBEs to be utilized to meet such goal, the trade designation of the work and the percentage of the bid each identified CSBE will perform. Failure to submit the required Schedule of Intent Affidavit within the required time frame may render the bid non-responsive, or subject to sanctions or penalties as outlined in the contract or this Implementing ~~Administrative~~ Order. The use of CSBEs at the Primary Trade Contractor level and at the level of contractors that directly contract with the Primary Trade Contractors shall count towards meeting the first-tier CSBE subcontractor goal on the contract. In addition, if the CM-at-R~~r~~isk exceeds the first-tier CSBE subcontractor goal, the amount by which the first-tier CSBE subcontractor goal is exceeded shall count towards fulfillment of the second, third and fourth tier subcontractor goal on that contract. However, if the CM-at-R~~r~~isk exceeds the second, third and fourth tier subcontractor goal, the amount that the second, third and fourth tier subcontractor goal is exceeded shall not count towards fulfillment of the first-tier subcontractor goal.

3. *Second, third and fourth tier subcontractor goals.* Where a second, third or fourth tier subcontractor goal has been established for the actual construction portion of the work under a CM-at-R~~r~~isk contract, the C~~c~~onstruction M~~m~~anager-at-R~~r~~isk awarded the contract shall notify ~~D~~SBD in writing, prior to initiating the process to select lower tier CSBEs whose participation will be utilized to meet such goal, of the name, address and tier level of the subcontractor who will award the lower tier subcontract to a CSBE, the scope of work for such lower tier subcontract and the bid submission date therefore. The C~~c~~onstruction M~~m~~anager-at-R~~r~~isk awarded the contract shall obtain ~~D~~SBD's approval prior to the award of any lower tier subcontract that will be utilized to meet a lower tier subcontract goal.

C. *Reduction in established subcontractor goal and periodic reporting to the Commission.* After bid advertisement, or other formal public notice, the established subcontractor goal on a CM-at-R~~r~~isk contract for construction management services may be reduced only with the approval of the County Commission or Public Health Trust. After bid advertisement or other formal notice, the established subcontractor goal applicable to the actual construction portion of the work may be reduced only with the approval of the County Mayor or designee~~.nager~~. The County Mayor or designee~~nager~~ shall periodically report to the Board of County Commissioners on all goals on C~~c~~onstruction M~~m~~anager-at-R~~r~~isk contracts.

D. *Compliance responsibilities.* The C~~c~~onstruction M~~m~~anager-at-R~~r~~isk shall comply with the requirements of this subsection regarding any CSBE subcontractor goal that has been applied to any portion of the work of the CM-at-R~~r~~isk contract.

VIII. APPLICATION TO CONTRACTS FOR ENVIRONMENTAL SERVICES

Application to contracts for environmental services where construction tasks are involved. For contracts for environmental services where construction tasks are involved, CSBE subcontractor goals may be established by the County Mayor or designee~~nager~~ upon the recommendation of the Review Committee based on estimates made prior to awarding such tasks and of the availability of CSBEs to afford effective subcontracting therefore.

IX. DOCUMENTATION TO ESTABLISH SET-ASIDES OR SUBCONTRACTOR GOALS ~~REVIEW COMMITTEE~~:

A. SBD shall consider the following when recommending a set-aside or subcontractor goal:~~DBD shall present the following to the RC~~:

For each recommendation of a contract set-aside, subcontractor goal, Trade Set-aside or aggregate set-asides, a copy of the department's recommendation; a memorandum briefly describing the analysis of the contract and basis for providing a recommendation; verification of ability to bid for set-aside contracts and a recommendation report that includes a listing of all trade areas on which availability was established and subcontractor goals, Trade Set-asides or aggregate set-asides were based.

B. A brief memorandum identifying all purchases for which a recommendation of no contract set-aside, or no Trade Set-aside, or no aggregate set-aside or no subcontractor goal is being made and providing information to support the recommendation.

X. DEPARTMENTAL RESPONSIBILITIES:

A. ~~D~~SBD shall prepare standard bid participation provisions. Each department and the Public Health Trust must use these standard bid participation provision documents for all contracts with contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals unless ~~D~~SBD approves substitute bid documents. When bid documents for contracts with set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals are advertised, they shall include a current CSBE Certification List.

B. ~~Departments shall submit recommendations of the RC to the Board of County Commissioners for approval.~~ ~~D~~SBD shall notify departments of the recommended contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal.

C. Subsequent to a recommendation ~~by the RC~~ and prior to contract advertisement, each department shall advise ~~D~~SBD of any change in the scope of work of a contract. ~~D~~SBD shall review the change and recommend ~~to the County Manager~~ whether the contract requires further review by SBD ~~the RC~~ due to the change in the scope of work. Each department shall advise ~~D~~SBD of post-award changes in scope and all change orders that require Board of County Commissioners' approval shall be submitted to ~~D~~SBD. ~~D~~SBD shall review the changes and change orders and recommend ~~to the County Manager~~ whether the contract requires further review by SBD ~~the RC~~ due to the change in the scope of work, and report on the prime contractor's current status of CSBE compliance.

D. Each department shall advise ~~D~~SBD of any contract advertisement dates that are in excess of one hundred twenty (120) days of the initial RC recommendation to apply a set-aside or a goal in order to allow ~~D~~SBD to

identify any changes in availability. Each department shall advise ~~D~~SBD of any contract cancelled or not advertised within one hundred eighty (180) days after review by SBD ~~the RC~~ and the contract must be resubmitted to SBD ~~the RC~~ to re-establish availability.

XI. REVIEW PROCESS:

A. SBD shall publish a list of projects under review daily on the department's webpage. ~~DBD shall review the proposed agreement and the departmental recommendations.~~ SBD shall review the proposed contracts and the departmental recommendations. Should SBD and the Department(s) not establish consensus on recommended measures or goals, then the contract will go through the Review Committee Process, as detailed below. Upon obtaining departmental concurrence with the recommended measure, SBD shall post projects and recommended goals daily on the SBD web page. ~~DBD shall review all submissions received prior to the published RC agenda deadline, develop a DBD recommendation, and shall place the submissions on the agenda of the appropriate RC meeting.~~

B. SBD shall consider public comments in writing on projects pre- and post measure or goal recommendations.

C. All projects with recommended measures shall contain language to allow for public comment to be submitted to SBD within 36 hours of posting via a designated email address or mail.

D. All advertised projects shall contain language to allow for public comments to be submitted to SBD within 36 hours of date of advertisement via a designated email address or mail. SBD and the contracting department shall review comments and make recommendations, as applicable, to the Mayor or designee.

E. Changes to goal recommendations, approved by the Mayor or designee, as a result of public comment shall require issuance of an addendum to the project advertisement.

XII. REVIEW COMMITTEE PROCESS:

~~The RC is responsible for recommending to the County Manager whether to apply CSBE contract set-asides, trade set-asides, aggregate set-asides or subcontractor goals to a contract.~~ SBD is responsible for recommending to the Mayor or designee whether to apply CSBE contract set-asides, trade set-asides, aggregate set-asides, or subcontractor goals to a contract. The Mayor or designee may accept, reject, modify or otherwise alter SBD's or Review Committee's recommendation.

A. All recommendations shall be agreed upon between SBD and the contracting department, prior to final recommendation to the Mayor or designee.

B. The Mayor or designee shall establish a standing Review Committee (RC) to meet periodically, or as often as needed, to review projects in which consensus is not reached between SBD and the contracting department, and when public input requires deliberation regarding the measure/goal recommendation. The RC will make recommendations to the Mayor or designee.

C. The RC shall conduct public deliberations and make recommendations whether to apply CSBE set-asides or to a contract. The Mayor or designee may accept, reject, modify or otherwise alter SBD's or Review Committee's recommendation.

D. The standing members of the RC shall be: Director, Public Works Department; Director, Office of Capital Improvements; Director, Department of Procurement Management; a rotating Director of the County's capital departments or their designees; and a County Mayor appointed Chairperson. A quorum of the RC shall be three (3) members. Staff support shall be provided to the Review Committee by SBD.

~~A. The members of the RC shall be: Director, DBD; President, Public Health Trust; Director, GSA; Director, Public Works Department; Director, Aviation Department; and Director, Miami-Dade Water and Sewer Department or their designees; and four (4) individuals named by the County Manager. The County Manager shall designate one member to be chairperson. A quorum of the RC shall be six (6) members. Staff assistance shall be provided by DBD.~~

E~~B~~. The RC shall meet ~~monthly or more frequently~~ as needed.SBD ~~It~~ shall timely publish ~~a schedule of~~ meetings, listing the meeting locations, and dates.~~, times and agenda deadlines for submission of departmental recommendations to DBD~~. All RC meetings are subject to Government-in-the-Sunshine requirements. The chair shall allow participation of the public at RC meetings consistent with accomplishing the agenda of the RC.

F~~C~~. The RC shall have authority to promulgate rules of general application to carry out its responsibilities, which rules are subject to review and approval by the County ~~Manager~~ Mayor or designee.

G. The RC may, after public deliberation and consideration of alternatives, accept, reject, modify or otherwise alter staff's recommendation. The ~~County Manager~~ Mayor or designee may accept, reject, modify or

otherwise alter the RC recommendations. The Board of County Commissioners may accept, reject, modify or otherwise alter the ~~County Manager's~~ Mayor's or designee's recommendations. The Mayor or designee may accept or veto the Board of County Commissioners' recommendations. In accordance with the policy established by the Board of County Commissioners, the Board of County Commissioners may overrule the Mayor's veto.

~~E. The RC shall hear appeals as provided in Section XXI of this Administrative Order.~~

XIII. CONTRACT ADMINISTRATION - CONTRACT SET-ASIDES:

A. County construction contracts that are set-aside under the CSBE program are for bidding solely among CSBEs. In order to bid on a set-aside contract the bidder must be certified as a CSBE prior to bid submission date. A CSBE awarded a set-aside contract shall not transfer to a non-CSBE through subcontracting or otherwise any part of the actual work of the contract unless bid documents expressly and specifically permit such transfer as consistent with normal industry practice or the CSBE requests and receives prior to bid award an approval letter from ~~D~~SBD [for example, a CSBE general contractor needs to rent a particularly expensive piece of equipment with labor support to perform a specific task in the contract and requests approval from ~~D~~SBD].

B. CSBEs certified in one Contracting Participation Level (e.g., those in Contracting Participation Level III) may not bid on a lower level prime County contract set-aside for CSBEs (e.g., a $500,000 project which falls into Level I). However, lower level CSBEs may bid on higher-level contracts (e.g., a Level I CSBE may bid on a Level II or a Level III project).

C. A CSBE that performs the work of the set-aside contract with its own forces may count such work towards reducing the CSBE goal applied to the contract by a maximum of one hundred (100) percent.

D. Either the department that oversees a contract, or DPM, or OCI, or ~~D~~SBD, or ~~may request~~ the RC, as appropriate, shall ~~to~~ recommend that bonding requirements for a set-aside contract be limited or waived whenever practicable. Such recommendation shall only be made on set-aside contracts less than or equal to two hundred thousand dollars ($200,000) and as authorized by Section 255.05, Florida Statutes. This recommendation shall accompany the set-aside recommendation.

E. Bidder's Responsibilities for Contract Set-Asides

1. Bidders on contract set-asides must submit a completed "Schedule of Intent Affidavit" at the time of bid submission. Bidders who fail to submit the Schedule of Intent Affidavit shall be considered non-responsive; and

2. Bidders must submit Schedule of Intent Affidavit to the person or office to whom the bid was submitted on the bid submission due date. Defective Schedule of Intent Affidavits that are incomplete or inaccurate shall constitute non-compliance. Examples of defects include, but are not limited to, improperly executed Schedule of Intent Affidavits, the listing of ~~an unidentifiable~~ non-certified CSBE and percentage miscalculations that are not mere clerical errors apparent on the face of the "Schedule of Intent Affidavit". Bidders who fail to submit the Schedule of Intent Affidavit shall be considered non-responsive.

F. The following shall constitute a violation of this Implementing ~~Administrative~~ Order as they relate to a contract that is set-aside:

1. Submission of a "Schedule of Intent Affidavit" of CSBE subcontractors that the bidder knew or should have known is incomplete or inaccurate;

2. After bid submission due date, deviations from the "Schedule of Intent Affidavit" without the written approval of the Compliance Monitor;

3. The utilization of a non-certified CSBE; Top of Form

4. A CSBE serving as a conduit for CSBE work awarded to a firm as a CSBE but which is being performed by a non-CSBE firm;

5. Not obtaining or retaining CSBE certification while performing work designated for CSBE firms;

6. Failure to submit monthly utilization reports;

7. Failure to maintain certification;

8. Failure to comply with CSBE certification requirements including not maintaining a actual place of business in Miami-Dade County, not reporting organizational and operational changes, providing inaccurate or false information, and other certification related violations;

9. Modifications to the terms and/or prices of payment to a CSBE without prior approval from ~~D~~SBD; or

10. Unjustified failure to enter into a written subcontract with a CSBE after listing the firm on a "Schedule of Intent Affidavit".

XIV~~II~~. CONTRACT ADMINISTRATION – AGGREGATE SET-ASIDE

In the case of an Aggregate Set-Aside, the aggregated value of the set-aside shall be established after taking into account the CSBE Objective and the effect of any measures that may be applied to other County construction contracts not included in the Aggregate Set-Aside. The particular level of CSBEs that may bid for a particular contract under an Aggregate Set-Aside shall be determined by Contracting Participation Level based on the contract's estimated cost and by SIC or NAICS Code. However, where there are no CSBEs available at the level applicable to the contract's estimated cost, higher level CSBEs may be allowed to bid on the contract. At the time a proposed Aggregate Set-Aside is presented to the County Commission for waiver of competitive bidding and set-aside for CSBEs, staff shall advise the Commission of the mechanisms that will be applied to assure equitable distribution of awards thereunder to all qualified CSBEs.

XIV. CONTRACT ADMINISTRATION - SUBCONTRACTOR GOALS OR TRADE SET-ASIDES:

A. SUBCONTRACTOR GOALS

The purpose of a subcontractor goal is to have portions of the work under the prime contract performed by available subcontractors that are certified CSBEs for contract values totaling not less than the percentage of the prime contract value set out in the bid form. Subcontractor goals may be applied to a contract when estimates made prior to bid advertisement identify the quality; quantity and type of opportunities in the contract and CSBEs are available to afford effective competition in providing a percentage of these identified services.

Only expenditures to CSBEs made under a written first tier subcontract executed by both the prime contractor and the CSBE shall be counted towards meeting a first tier subcontractor goal.

Only expenditures made under a written second, third or fourth tier subcontract executed by both the next tier level subcontractor and the lower tier CSBE subcontractor shall be counted towards meeting a second, third or fourth tier subcontracting goal.

After a bid is advertised or other formal public notice, the established subcontractor goal may be reduced only with the approval of the County

Commission or the Public Health Trust. Bid documents shall include documentation demonstrating the basis for the subcontractor goal established in the contract.

Either the department that oversees a contract, or DPM, or OCI, or ~~D~~SBD, or the RC, as appropriate, shall ~~may request the RC to~~ recommend that bonding requirements for a contract with subcontractor goals be limited or waived whenever practicable. Such recommendation shall only be made on contracts less than or equal to two hundred thousand dollars ($200,000) and as authorized by Section 255.05, Florida Statutes. This recommendation for waiver of bonding requirements shall accompany the recommendation for subcontractor goals.

1. BIDDER RESPONSIBILITIES FOR SUBCONTRACTOR GOALS

With the exception of contracts for a C~~c~~onstruction M~~m~~anager-at-R~~r~~isk as noted below, where a first tier subcontractor goal has been imposed, bidders must submit a completed Schedule of Intent Affidavit (SOI), on the bid submittal due date, identifying all CSBEs to be utilized to meet the first tier subcontractor goal and the trade designation of work each will perform. The Schedule of Intent Affidavit constitutes a written representation by the bidder that, to the best of the bidder's knowledge, the first tier CSBEs listed are qualified and available to perform as specified. The Schedule of Intent Affidavit is a commitment by the bidder that, if awarded the contract, it will enter into written subcontracts with the identified first tier CSBEs for the scope of work at the price set forth in the Schedule of Intent Affidavit. Where a second, third and fourth tier subcontractor goal has been imposed, bidders must submit a commitment letter committing the bidder to meet such goal. Upon notification by the Department of Small Business Development, bidders may cure correctable defects that exist on the Schedule of Intent Affidavit within forty-eight (48) hours ~~after bid submission~~. Correctable defects may include: percentage of work not identified for subcontractor on SOI signed by subcontractor, no signature of subcontractor on the SOI and no signature of prime contractor on the SOI. Non-correctable defects may include: blank SOI (not listing the subcontractor's name and scope of work and percentage of work to be performed and listing a non-certified subcontractor). ~~All responsive bids will be opened 48 hours after the bid submission due date and nonresponsive bids will not be opened.~~

The bidder shall be responsible for administering and implementing the requirements of Section 10-33.02 of the Code of Miami-Dade County ~~Ordinance 97-52~~, as amended, and this Implementing

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~~Administrative~~ Order on the contract. This includes the following but is not limited to:

a. A~~a~~ll such subcontracts shall be in writing and shall be executed by the prime contractor and the first, second, third, and/or fourth tier CSBE subcontractor utilized to meet a first, second, third or fourth tier subcontract goal.

b. Bidders who fail to submit the required Schedule of Intent Affidavit at the time of bid submission shall be considered non-responsive.

c. Bids that contain a defective Schedule of Intent Affidavit may be voidable. Examples of defects include, but are not limited to, an incomplete Schedule, the listing of a~~n unidentifiable~~ non-certified CSBE, and percentage miscalculations that are not mere clerical errors apparent on the face of the Schedule.

d. A successful prime bidder that is a CSBE or a CSBE joint venture may perform up to fifty percent (50%) of a CSBE subcontractor goal with its own forces. The remaining subcontractor goal work shall be performed by other CSBEs.

e. Expenditures to subcontracting CSBEs shall be counted toward meeting specified goals as follows:

   1. One hundred percent (100%) of the expenditures to a CSBE that performs a commercially useful function in the supply of services required for the fulfillment of the contract;

   2. One hundred percent (100%) of the expenditures to CSBEs that subcontract work further to non-CSBEs, only if bid documents expressly and specifically permit such subcontracting as consistent with normal industry practice, or if the bidder or CSBE requests and receives prior to bid award an approval letter from ~~D~~SBD;

   3. One hundred percent (100%) of the expenditures to CSBEs that perform actual work with their own forces;

   4. None of the expenditures to a CSBE that acts essentially as a conduit to transfer funds to a non-CSBE unless bid documents expressly and

specifically permit such transfers as consistent with normal industry practice or the bidder or CSBE requests and receives prior to bid award an approval letter from ~~D~~SBD; and

5. Only expenditures to CSBEs made under a written first tier subcontract executed by both the prime contractor and the CSBE shall be counted towards meeting a first tier subcontractor goal. In addition, if the prime exceeds the first-tier CSBE subcontractor goal, the amount by which the first-tier CSBE subcontractor goal is exceeded shall count towards fulfillment of the second, third and fourth tier subcontractor goal on that contract. However, if the prime exceeds the second, third and fourth tier subcontractor goal, the amount that the second, third and fourth tier subcontractor goal is exceeded shall not count towards fulfillment of the first-tier subcontractor goal. Only expenditures made under a written second, third or fourth tier subcontract executed by both the next tier level subcontractor and the lower tier CSBE subcontractor shall be counted towards meeting a second, third or fourth tier subcontracting goal.

2. CONSTRUCTION MANAGER-AT-RISK RESPONSIBILITIES FOR SUBCONTRACTOR GOALS ON A CONSTRUCTION MANAGER-AT-RISK CONTRACT

Where a first tier subcontractor goal has been imposed, bidders must submit a Schedule of Intent Affidavit, on the bid submittal due date, identifying all CSBEs to be utilized to meet the first tier subcontractor goal, the trade designation of work each will perform. On contracts where a second, third and fourth tier subcontractor goal has been imposed, bidders must also submit a commitment letter at the time of bid submission committing the bidder to meet such goal. Bidders may correct defects that exist on the Schedule of Intent Affidavit within forty-eight (48) hours after notification by SBD ~~bid submission~~. Failure to submit the required Schedule of Intent Affidavit within the specified time shall render the bid non-responsive. Failure to submit the required commitment letter at the time of bid submission shall render the bid non-responsive. Submission of a defective form shall render the bid voidable. Expenditures to first tier CSBEs on a Schedule of Intent Affidavit that are not confirmed by a properly executed Schedule of Intent Affidavit shall not count toward the goal.

For contracts for a Cconstruction Mmanager-at-Rrisk with a guaranteed maximum price, the Primary Trade Contractors shall submit the list of first-tier CSBE subcontractors at the time of bid submission to the CM-at-Rrisk. All Primary Trade Contractors shall submit Schedule of Intent Affidavits for all subcontractors listed on the list of first-tier CSBE subcontractors ~~within two business days of the date of on the bid submission date~~ at the time of bid submittal to the CM-at-Rrisk. Bidders may correct defects that exist on the Schedule of Intent Affidavit within forty-eight (48) hours after notification by SBD. Failure to submit the required documents within the required time frames may render the bid nonresponsive or be subject to sanctions or penalties as outlined in the contract or in this Implementing ~~Administrative~~ Order.

For contracts for a Cconstruction Mmanager-at-Rrisk with a guaranteed maximum price, the use of CSBEs at the Primary Trade Contractor level and at the level of contractors that directly contract with the Primary Trade Contractors, count towards the first-tier CSBE subcontractor goal on the contract. In addition, if the CM-at-Rrisk exceeds the first-tier CSBE subcontractor goal, the amount by which the first-tier CSBE subcontractor goal is exceeded counts towards fulfillment of the second, third and fourth tier subcontractor goal on that contract. However, if the CM-at-Rrisk exceeds the second, third and fourth tier subcontractor goal, the amount that the second, third and fourth tier subcontractor goal is exceeded by shall not count towards fulfillment of the first-tier subcontractor goal.

For contracts for a Cconstruction Mmanager-at-Rrisk, the Cconstruction Mmanager-at-Rrisk shall be responsible for administering and implementing the requirements of Section 10-33.02 of the Code of Miami-Dade County ~~Ordinance 97-52, as amended~~, and this Implementing ~~Administrative~~ Order, on the contract. This includes the following but is not limited to:

a. All such subcontracts shall be in writing and shall be executed by the prime contractor and the first, second, third, and/or fourth tier CSBE subcontractor utilized to meet a first, second, third or fourth tier subcontract goal.

b. Bidders who fail to submit the required Schedule of Intent Affidavit at the time of bid submission shall be considered non-responsive.

c. Bids that contain a defective Schedule of Intent Affidavit may be voidable. Examples of defects include, but are not limited

to, an incomplete Schedule, the listing of an unidentifiable CSBE, and percentage miscalculations that are not mere clerical errors apparent on the face of the Schedule.

d. A successful prime bidder that is a CSBE or a CSBE joint venture may perform up to fifty percent (50%) of a CSBE subcontractor goal with its own forces. The remaining subcontractor goal work shall be performed by other CSBEs.

e. Expenditures to subcontracting CSBEs shall be counted toward meeting specified goals as follows:

1. One hundred percent (100%) of the expenditures to a CSBE that performs a commercially useful function in the supply of services required for the fulfillment of the contract;

2. One hundred percent (100%) of the expenditures to CSBEs that subcontract work further to non-CSBEs, only if bid documents expressly and specifically permit such subcontracting as consistent with normal industry practice, or if the bidder or CSBE requests and receives prior to bid award an approval letter from ~~D~~SBD;

3. One hundred percent (100%) of the expenditures to CSBEs that perform actual work with their own forces;

4. None of the expenditures to a CSBE that acts essentially as a conduit to transfer funds to a non-CSBE unless bid documents expressly and specifically permit such transfers as consistent with normal industry practice or the bidder or CSBE requests and receives prior to bid award an approval letter from ~~D~~SBD; and

5. Only expenditures to CSBEs made under a written first tier subcontract executed by both the prime contractor and the CSBE shall be counted towards meeting a first tier subcontractor goal. Only expenditures made under a written second, third or fourth tier subcontract executed by both the next tier level subcontractor and the lower tier CSBE subcontractor shall be counted towards meeting a second, third or fourth tier subcontracting goal.

f. In order to assure at the time of bid submission, agreement upon the above information between the bidder and the first tier CSBE subcontractor so identified, bidders must submit Schedule of Intent Affidavits signed by the identified first tier CSBE subcontractors to the Contracting Officer by no later than 4:00 p.m. on the second business day following the bid submission date. Failure to submit Schedule of Intent Affidavits signed by the affected CSBEs within the specified time shall render the bid non-responsive. Upon notification by the Department of Small Business Development, bidders may correct defects that exist on the Schedule of Intent Affidavit within forty-eight (48) hours after notification by SBD ~~bid submission~~. Submission of a defective form uncorrected within the required time frame shall render the bid voidable.

g. Bidders whose bids do not meet the specified goal, in order to remain eligible, must submit to the Contracting Officer on the bid submission due date, evidence proving the lack of available CSBEs to afford effective competition to provide the services to meet the goal. To prove lack of availability, bidders must submit the following:

1. Unavailability Certificates either completed and signed by all of the CSBEs available to perform the scopes of work are completed and signed by the bidder explaining the contacts with all of the CSBEs available to perform the scopes of work, statements or actions of the CSBEs showing unavailability, and the reason(s) why the CSBEs' signature could not be obtained;

2. A listing of any bids received from a CSBE, the scope of work and price of each bid, and the bidder's reasons for rejecting each bid;

3. A statement of the bidder's contacts with ~~D~~SBD for assistance in determining available CSBEs;

4. A description of the bidder's process for soliciting and evaluating bids from CSBEs, including copies of telephone logs detailing time, date and name of contacts with potential subcontractors;

5. Bidders may establish a CSBE as unavailable if its bid is not reasonably competitive with comparable bids of non-CSBEs for the same scope of work. To establish

a CSBE as unavailable if its bid is not considered reasonably competitive, the prime bidder must furnish ~~D~~SBD with copies of all bids received from all firms, both CSBEs and non-CSBEs, for each specific scope of work for which they are claiming that the bid is not reasonably competitive. A CSBE's bid will be considered reasonably competitive if its bid, for the same scope of work, is within 25% of the bid of comparably sized non-CSBE firms;

6. The bidder who is awarded a contract having a second, third or fourth tier subcontractor goal shall notify ~~D~~SBD, in writing, at least one week prior to initiating the process to select lower tier CSBEs whose participation will be utilized to meet such goal, of the name, address and tier level of the subcontractor who will award the lower tier subcontract to a CSBE, the scope of work for such lower tier subcontract and the bid submission date for such lower tier subcontract. The prime contractor shall obtain ~~D~~SBD's approval prior to the award of any lower tier subcontract that will be utilized to meet a lower tier subcontractor goal; and

7. On contracts in excess of $25 million which have subcontractor goals, the prime contractor shall be required during the term of the contract to make a quarterly presentation to the CSBE Advisory Board on his or her performance in meeting such goal.

Bidders whose bid does not meet the specified goal, and who do not prove lack of availability as indicated in 2(g) above, are not in compliance with this Implementing ~~Administrative~~ Order.

h. In order to ensure CSBE compliance at every tier, the CM-at-R~~r~~isk contractor should monitor CSBE participation at the second, third and fourth tier levels.

i. The CM-at-R~~r~~isk contractor is responsible for compliance with the requirements of any CSBE subcontractor goal that has been applied to any portion of work on the CM-at-R~~r~~isk contract.

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j. The following shall constitute non-compliance with the Implementing ~~Administrative~~ Order as they relate to a contract, which has a CSBE subcontractor goal:

1. The utilization of a non-certified CSBE;

2. CSBE serving as a conduit for CSBE work awarded to a firm as a CSBE but which is being performed by a non- CSBE firm;

3. A prime contractor not meeting CSBE subcontractor goal requirements;

4. Not obtaining or retaining CSBE certification while performing work designated for CSBE firms;

5. Failure to submit monthly utilization reports;

6. Deviations from the Schedule of Intent Affidavit or listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract without prior approval from ~~D~~SBD;

7. Termination of the CSBE's contract without prior approval from ~~D~~SBD;

8. Reduction of the scope of work of a first tier CSBE subcontractor without prior approval from ~~D~~SBD. Reduction of the scope of work of a second, third or fourth tier CSBE subcontract utilized to meet a second, third or fourth tier subcontractor goal without prior approval of ~~D~~SBD;

9. Modifications to the terms and/or prices of payment to a CSBE without prior approval from ~~D~~SBD; or

10. Unjustified failure to enter into a written first tier subcontract with a CSBE after listing the firm on a Schedule of Intent Affidavit or on a list of first tier subcontractors as required on a CM-at-R~~r~~isk contract. Unjustified failure to enter into a written second, third or fourth tier subcontract with a CSBE utilized to meet a second, third or fourth tier subcontractor goal.

B. TRADE SET-ASIDES

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The purpose of a Trade Set-aside is to have the entire Specialty Trade component(s) of a County contract or a miscellaneous construction contract to be performed by available first tier subcontractors that are certified CSBEs. Trade Set-asides may be applied to a miscellaneous construction contract as individual work orders are processed through ~~D~~SBD ~~and the RC~~.

Either the department that oversees a contract, or DPM, or OCI, or ~~D~~SBD, ~~or the RC, as appropriate,~~ may ~~request the RC to~~ recommend that bonding requirements for a contract with Trade Set-asides be limited or waived, whenever practicable. Such recommendation shall only be made on contracts less than or equal to two hundred thousand dollars ($200,000) and as authorized by Section 255.05, Florida Statutes. This recommendation shall accompany the recommendation for Trade Set-asides.

1. BIDDER RESPONSIBILITIES ON TRADE SET-ASIDES

a. Bidders on contracts to which a Trade Set-aside has been applied must submit a completed Schedule of Intent Affidavit at the time of bid submission. The Schedule of Intent Affidavit constitutes a written representation by the bidder that, to the best of the bidder's knowledge, the CSBEs listed are qualified and available to perform as specified. The Schedule of Intent Affidavit is a commitment by the bidder that, if awarded the contract, it will enter into written subcontracts with the identified CSBEs for the scope of work at the price set forth in the Schedule of Intent Affidavit.

b. All bidders must submit Schedule of Intent Affidavits to the Contracting Officer by the bid submittal due date. Failure to submit Schedule of Intent Affidavits within the specified time shall render the bid non-responsive. Submission of a defective form shall render the bid voidable.

c. In contracts with Trade Set-asides for CSBEs, a CSBE shall be counted toward meeting the goal for one Contracting Participation Level only. The prime bidder shall declare at bid submission toward which Trade Set-aside the CSBE business enterprise shall count.

d. All such subcontracts shall be in writing and shall be executed by the prime contractor and the first tier CSBE subcontractor.

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e. Bidders who fail to submit the Schedule of Intent Affidavit shall be considered non-responsive.

f. Bids that contain a defective Schedule of Intent Affidavit may be voidable. Examples of defects include, but are not limited to, an incomplete Schedule, the listing of an unidentifiable CSBE, and percentage miscalculations that are not mere clerical errors apparent on the face of the Schedule.

g. A successful prime bidder that is a CSBE or a CSBE joint venture may perform up to fifty percent (50%) of a CSBE Trade Set-aside with its own forces.

h. The following shall constitute non-compliance with thi~~s~~e Implementing ~~Administrative~~ Order as they relate to a contract with a Trade Set-aside:

1. Submission of a Schedule of Intent Affidavit of CSBE subcontractors that the bidder knew or should have known is incomplete or inaccurate;

2. After bid submission due date, deviation from the Schedule of Intent Affidavit without the written approval of the Compliance Monitor;

3. The utilization of a non-certified CSBE for the Trade Set-aside;

4. A CSBE serving as a conduit for CSBE work awarded to a firm as a CSBE but which is being performed by a non-CSBE firm;

5. A prime contractor not meeting CSBE program Trade Set-aside requirements;

6. Failure to submit monthly utilization reports;

7. Failure of the CSBE to maintain certification;

8. Deviations from the Schedule of Intent Affidavit without prior approval from ~~D~~SBD;

9. Termination of the CSBE's contract without prior approval from ~~D~~SBD;

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10. Reduction of the scope of work of a first tier CSBE subcontractor without prior approval from ~~D~~SBD;

11. Modifications to the terms and/or prices of payment to a CSBE without prior approval from ~~D~~SBD; or

12. Unjustified failure to enter into a written first tier subcontract with a CSBE after listing the firm on a Schedule of Intent Affidavit.

C. COUNTY RESPONSIBILITIES

1. After considering the quality, quantity and type of opportunities provided by the contract, and the availability of CSBEs to afford effective competition in providing the services required under the contract, each department or DPM will recommend to ~~D~~SBD the type and level of contract set-aside, Trade Set-aside or subcontractor goal that could be applied.

2. ~~D~~SBD shall review the Schedule of Intent Affidavit, commitment letters, Unavailability Certificates, and listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract to determine compliance with the contract set-aside, Trade Set-aside or subcontractor goal stated in the bid documents. The Compliance Monitor may meet with a bidder before recommending that the Contracting Officer determine noncompliance. This written recommendation shall be forwarded to the bidder and the Contracting Officer.

3. In the event the Contracting Officer receives a recommendation of non-compliance from the Compliance Monitor, he or she may conduct a meeting or hearing at which the bidder shall be afforded an opportunity to present data supporting its compliance with the goal. The Contracting Officer shall consider the evidence and make a determination as to compliance.

XVI. CONTRACT ADMINISTRATION - PROGRAM INCENTIVES FOR PARTICIPATION IN MENTOR-PROTEGE PROGRAM AND/OR WORKER TRAINING PROGRAM:

A. BID PREFERENCE ELIGIBILITY

Bidders claiming a bid preference as a result of participation in the CSBE Mentor-Protégé or Worker Training Program shall complete and submit

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with their bid a claim of bid preference. To qualify for the bid preference, the bidder must:

1. Have been actively and successfully participating in a ~~D~~SBD-approved Mentor-Protégé relationship, as either a Mentor or a Protégé, for at least six (6) months prior to the bid submittal date for the bid for which the bid preference is being sought; or

2. Be currently participating in, or currently providing significant funding for, a CSBE Advisory Board-approved Worker Training Program; or

3. Have successfully completed a ~~D~~SBD-approved Mentor-Protégé relationship, as either a Mentor or a Protégé, within the twelve (12) months prior to the bid submittal date for the bid for which the bid preference is being sought.

   ~~D~~SBD shall determine whether the bidder has been actively and successfully participating in or has successfully completed a ~~D~~SBD approved Mentor-Protégé relationship. The CSBE Advisory Board shall approve all Worker Training Programs; ~~D~~SBD shall determine the level of participation in, and/or level of funding provided for, the Worker Training Program that is appropriate for qualification for the bid preference.

   A bid preference resulting from participation in the CSBE Mentor-Protégé or Worker Training Program may only be claimed on contracts that are not CSBE contract set-asides. The bid preference for the Mentor-Protégé Program is up to 2% of the bid price based on the sliding scale shown in Table 1 below; the bid preference for the Worker Training Program is up to 2% of the bid price based on the sliding scale shown in Table 1 below.

   The bid preference shall be calculated and subtracted from the total bid price. This difference shall be used in evaluating the bid. The bid preference is used only to calculate an amount to be used in evaluating the bid and does not affect the contract price.

Table 1 - Sliding Scale for Bid Preference

Estimated Project Cost	CSBE Bid Preference Incentive
>$0.....<=$75,000	2.0% of total bid price
>$75,000.....<=$125,000	1.0% of total bid price
>$125,000.....<=$250,000	0.8% of total bid price
>$250,000.....<=$500,000	0.6% of total bid price

>$500,000.....<=$1,000,000	0.4% of total bid price
>$1,000,000	0.2% of total bid price

B. SELECTION FACTOR ELIGIBILITY

Proposers claiming a selection factor based on participation in the CSBE Mentor-Protégé or Worker Training Program must complete and submit with their proposal a claim for such a selection factor. To qualify for the selection factor, the proposer must:

1. Have been actively and successfully participating in a ~~D~~SBD-approved Mentor- Protégé relationship, as either a Mentor or a Protégé, for at least six (6) months prior to the proposal submittal date for the proposal for which the selection factor is being sought; or

2. Be currently participating in or currently providing significant funding for a CSBE Advisory Board-approved Worker Training Program; or

3. Have successfully completed a ~~D~~SBD-approved Mentor-Protégé relationship, as either a Mentor or a Protégé, within the twelve (12) months prior to the proposal submittal date for the proposal for which the selection factor is being sought.

~~D~~SBD shall determine whether the proposer has been actively and successfully participating in, or has successfully completed, a ~~D~~SBD- approved Mentor-Protégé relationship. The CSBE Advisory Board shall approve all Worker Training Programs; ~~D~~SBD shall determine the level of participation in, and/or level of funding provided for, the Worker Training Program that is appropriate for qualification for the selection factor.

A selection factor resulting from participation in the CSBE Mentor-Protégé or Worker Training Program may only be claimed on contracts that are not CSBE contract set-asides. The selection factor for the Mentor Protégé Program is up to 10% of the total evaluation points based on the sliding scale shown in Table 2 below; the selection factor for the Worker Training Program is up to 10% of the total evaluation points based on the sliding scale shown in Table 2 below.

Table 2- Sliding Scale for Selection Factor

Estimated Project Cost	CSBE Selection Factor Incentive
>$0..... ..<=$75,000	10.0% of total evaluation points

>$75,000.....<=$125,000	5.0% of total evaluation points
>$125,000.....<=$250,000	4.0% of total evaluation points
>$250,000.....<=$500,000	3.0% of total evaluation points
>$500,000.....<=$1,000,000	2.0% of total evaluation points
>$1,000,000	1.0% of total evaluation points

Any evaluation/selection committee formed to evaluate a proposal with a CSBE selection factor shall include a voting representative from ~~D~~SBD.

XVII. DESIGN BUILD CONTRACTS:

The construction portion of the design-build contract is subject to the procedures in this Implementing ~~Administrative~~ Order.

XVIII. PROMPT PAYMENT:

It is the County's intent that ALL FIRMS, INCLUDING CSBEs providing construction services to the County, shall receive payments promptly in order to maintain sufficient cash flow.

A. PRIME CONTRACTOR RESPONSIBILITIES

1. A prime contractor shall include in its billing to Miami-Dade County or the Public Health Trust copies of those portions of the billings from CSBE subcontractors utilized to meet the subcontractor goal applicable to the contract which the contractor approves and whose cost is included in the payment amount requested from Miami-Dade County or the Public Health Trust. A prime contract which contains a second, third or fourth tier subcontractor goal shall require all subcontractors in direct privity with a second or lower tier CSBE subcontractor, and all successive subcontractors on up to and including the first tier subcontractor level, to include portions of any lower tier CSBE subcontractor's billings which are approved by such subcontractors and are included in any payment amount they request.

2. Prime construction contracts to which a CSBE Trade Set-aside or subcontractor goal has been applied shall require that billings from CSBEs at whatever tier level for which the contract measure has been applied, shall be promptly reviewed and payment made to such CSBEs on those amounts not in dispute within two (2) business days of receipt of payment therefore. The foregoing obligation to promptly review and pay CSBE billings shall apply to prime contractors and subcontractors who are in direct privity with the CSBE and to each successive subcontractor on up the line to the level of prime contractor. The two (2) day payment provision

shall equally apply to retainage payments received by prime contractors from the County, and subsequently passed on to subcontractors.

3. The prime contractor agrees to the contract requirements of Section 10-35, Code of Miami-Dade County, Release of Claim by Subcontractors Required. The requirements found in Section 10-35 are hereby fully incorporated into this CSBE Prompt Payment Subsection and non-compliance, by failing to pay subcontractors and failing to provide the requisite subcontractor affidavit and/or consent of surety to requisition payment, shall be enforceable through this Subsection.

4. The prime contractor on a prime construction contract to which a CSBE Trade Set-aside or a first tier subcontractor goal has been applied shall inform ~~D~~SBD, the Contracting Officer, and the first tier CSBE subcontractor, in writing, of those amounts billed by the CSBE which are in dispute, and the specific reasons why they are in dispute, within five (5) calendar days of submittal of such billing by the first tier CSBE subcontractor to the prime contractor. Prime contracts to which a second or lower tier subcontractor goal has been applied shall provide that subcontractors in direct privity with any CSBE utilized to meet such lower tier subcontractor goal, shall inform the affected CSBE in writing, with copies to the prime contractor and ~~D~~SBD, of those amounts of such CSBE's billings that are disputed and the specific reasons therefore within five (5) calendar days of submittal of such billing from the CSBE.

5. Undisputed portions of billings from CSBEs that are submitted to the prime contractor at least five (5) days or more before the date of the prime contractor's next scheduled draw must be submitted by the prime contractor to the County in the prime contractor's next scheduled draw, according to the contract's payment schedule. For example: if the County's billing cycle on the specific contract allows the prime contractor to submit its draw on the 30th of each month, a CSBE that submits its billing to the prime contractor on or before the 25th of the month shall have its billing included in the prime contractor's next scheduled draw submitted to the County on the 30th.

6. Undisputed portions of billings from CSBEs that are submitted to the prime contractor less than five (5) days before the prime contractor's next scheduled draw, may be submitted in the next draw; however, said billings shall be submitted no later than in the prime contractor's next subsequent scheduled draw. For example; if the County's billing cycle on the specific contract allows the prime

contractor to submit its draw on the 30th of each month, a CSBE that submits its billing to the prime contractor after the 25th of the month but before the 30th of the month shall, at the latest, have its billing included in the prime contractor's subsequent scheduled draw submitted to the County on the 30th of the following month.

7. Failure of the prime contractor to include the CSBE's billing(s) in its next scheduled draw or subsequent scheduled draw to the County as outlined above, and absent notification of disputes, as set forth in Subsection XVII (A) herein shall result in the prime contractor making full payment directly to the CSBE for the full amount of the submitted billing(s). Full payment to the CSBE subcontractor for the particular billing(s) shall be made within the same number of days that the County has mandated as the billing cycle for said contract in operation, or within forty (40) calendar days of submittal of such billing(s) by the CSBE to the prime contractor, whichever is less, regardless of whether the prime contractor has received its payment from the County.

8. If for any reason, the prime contractor chooses not to submit any billings to the County on its next or subsequent scheduled draw, the prime contractor shall make full payment to the CSBE subcontractor(s) for billings submitted by the CSBE subcontractor(s) in accordance with the subsection above, full payment to the CSBE subcontractor(s) for the particular billing(s) shall be made by the prime contractor within the same number of days that the County has mandated as the billing cycle of said contract in operation, or within forty (40) calendar days of submittal of such billing(s) by the CSBE subcontractor(s) to the prime contractor, whichever is less, regardless of whether the prime contractor has received its payment from the County.

9. Failure of the prime contractor to comply with the applicable requirements of this Subsection shall result in the prime contractor's forfeiture of the right to use the dispute as justification for not paying the first tier CSBE subcontractor and payment shall be forthcoming from the prime contractor. Prime contracts to which a second or lower tier subcontractor goal has been applied shall provide that a subcontractor in direct privity with a CSBE utilized to meet such goal who fails to comply with the applicable provisions of this Subsection shall result in such subcontractor's forfeiture of the right to use the dispute as justification for not paying the CSBE subcontractor and payment shall be forthcoming from such subcontractor.

10. None of the provisions of Subsection XVII (A) requiring the prime contractor to make full payment on any billing by a subcontractor due to failure to comply with this section shall be construed as also requiring the County to make a similar full payment of that billing to the prime contractor. The County shall not be precluded from disputing billings submitted by prime contractors in accordance with the notice requirements of Subsection XVII (A) as stated herein.

11. Failure of the prime contractor to comply with any of the requirements found in Section 10-33.02 (3)(B)1 et seq. of the Code of Miami-Dade County shall result in the imposition of one (1) or more of the following sanctions:

    a. The suspension of any payment or part thereof until such time as the issues concerning compliance have been resolved;

    b. Work stoppage;

    c. Termination, suspension, or cancellation of the contract in whole or part;

    d. The contractor may also be subject to debarment.

12. In addition to any sanction available pursuant to Subsection XVII (A)(11) above, construction contracts to which a CSBE trade set-aside or subcontractor goal at any subcontractor tier level has been applied shall provide that failure of the prime contractor or any subcontractor in direct privity to the CSBE to make prompt payment as provided in Section 10-33.02 (3)(B)1, et. Seq., of the Code of Miami-Dade County shall result in the imposition of a penalty of $75 per day for each day payment to a CSBE subcontractor is not made within the time frames specified in these provisions. Any such penalty shall be~~ paid into the Minority Business Development Trust Fund administered by the Department of Business Development by deduction~~ deducted from the prime contractor's next invoice~~.~~ Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized solely to defray SBD's cost of administering this Implementing Order. Contractual documents shall also require the prime contractor or any subcontractor in direct privity to the CSBE to make payment to the CSBE of one (1) percent interest per month on any balance not paid by the time frame specified in these provisions; unpaid balance shall bear interest from thirty (30) days after the due date at a rate of one (1) percent per month. The CSBE must invoice the prime contractor for any interest accrued in order to receive the

interest payment. Any overdue period of less than one (1) month shall be considered as one (1) month in computing interest. Unpaid interest shall compound monthly. With respect to each past due payment, interest shall cease to accrue after interest on that payment has accrued for twelve (12) months. For purposes of this section, one (1) month shall constitute a period beginning on any day of one month and ending on the same day of the following month. No contract between the prime contractor and the CSBE or any subcontractor in privity thereto shall prohibit the CSBE from invoicing for late payment interest charges allowed under this section.

13. The County Mayor~~nager~~, or ~~his or her~~ designee, shall establish administrative procedures to apply similar provisions, as found in this Subsection, XVII (A) (1) to CSBEs that are being used to meet 2nd, 3rd and/or 4th tier CSBE measures on County contracts.

B. COUNTY RESPONSIBILITIES

1. Bid documents for contracts with CSBE contract set-asides, Trades Set-asides or subcontractor goals shall require that billings from contractors under prime construction contracts with Miami-Dade County or the Public Health Trust that are a CSBE contract set-aside or which contain a Trade Set-aside or subcontractor goal shall be promptly reviewed and payment made by the County or the Public Health Trust on those amounts not in dispute within fourteen (14) calendar days of receipt of such billing by the County or the Public Health Trust.

2. The County and the Public Health Trust shall notify the prime contractor, and the Department of Small Business Development (S~~D~~BD), in writing, of those billings submitted by the prime contractor which are in dispute, and the reasons why they are in dispute within fourteen (14) calendar days of receipt of such billing by the County or Trust. This provision is applicable regardless of whether the disputed billing pertains to the work performed and/or billing of CSBE subcontractors. Reference is hereby made to Section 2-8.1.4(6) of the Code of Miami-Dade County, which sets forth the procedures for improper invoices and resolution of disputes.

3. ~~D~~SBD may investigate reported instances of late payment to CSBEs.

C. FINANCE DEPARTMENT RESPONSIBILITIES

The Finance Department shall review billings from contractors under prime construction contracts with Miami-Dade County or the Public Health Trust that are a CSBE contract set-aside or which contain a Trade Set-aside or subcontractor goal and make payment on those amounts not in dispute within fourteen (14) calendar days of receipt of billing.

XIX~~VIII~~. CONTRACT ADMINISTRATION - COMPLIANCE AND MONITORING:

A. COMPLIANCE REVIEW

1. The Compliance Monitor shall review bidder's submission for compliance with this Implementing ~~Administrative~~ Order on every contract to which a CSBE contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal has been applied. The purpose of this review shall be for the Compliance Monitor to consider whether to recommend the Bidder's bid is determined to be in compliance or non-compliance with the requirements of this Implementing ~~Administrative~~ Order. The Compliance Monitor may consider relevant information from any person in making this decision. The Compliance Monitor may require the Bidder to produce information deemed pertinent and appropriate and may obtain further information from whatever sources the Compliance Monitor deems appropriate.

2. The Compliance Monitor shall notify the bidder in writing stating the facts and the reasons on which the non-compliance is based. The bidder may request a meeting within five (5) business days from the date of the notification of non-compliance. The bidder shall supply further relevant information as required by the Compliance Monitor. No new altered Schedule of Intent Affidavit will be accepted.

3. The Compliance Monitor shall make a written recommendation to the Contracting Officer, which shall include a statement of the facts and reasons for which the non-compliance is based.

4. Following receipt of a recommendation of non-compliance from the Compliance Monitor, the Contracting Officer shall review the Compliance Monitor's recommendation of bidder's non-compliance with this Implementing ~~Administrative~~ Order. The Contracting Officer shall notify the bidder of such non-compliance. The bidder may request a meeting within five (5) business days from the date of notification of noncompliance with the Contracting Officer if the Contracting Officer was not present at the first meeting referenced in Subsection XVIII (A)(2). The bidder shall supply further relevant information as required by the Compliance Monitor. No new altered Schedule of Intent Affidavit will be accepted.

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5. The Contracting Officer in conjunction with the Compliance Monitor may conduct an informal meeting with the bidder. Other parties may be invited to offer information relevant to the issue of the bidder's non-compliance.

6. The Contracting Officer shall in writing determine whether the bidder complies with the requirements of this Implementing ~~Administrative~~ Order and whether to recommend to the County Mayor or designee~~nager~~ that the contract be awarded to the bidder. A copy of such recommendation shall be sent to the bidder. Such recommendation shall not affect the power of the Board of County Commissioners to reject the bidder's bid for any other reason or to take such action on the recommendation of the Contracting Officer as the Board deems appropriate.

7. Consideration of Other Bids

   If the Contracting Officer or Compliance Monitor deems it advisable in the interest of expediting the award of the contract, the procedures set forth in this subsection may be carried out with respect to the bids of one or more additional bidders at the same or different time with each such proceeding to be separately conducted.

8. Failure of Bidder to Participate

   The bidder will be bound by the proceedings under this subsection to which they have been given required notice without regard to their participation or lack of participation. A lack of participation upon receiving notices and requests pursuant to this Implementing ~~Administrative~~ Order shall not be grounds for reconsideration of any action taken in the proceedings.

9. Miami-Dade County shall not award this contract to any bidder, which it determines, fails to comply with the applicable requirements of this Implementing ~~Administrative~~ Order. Nothing herein shall relieve any bidder from any of the terms, conditions or requirements of the contract or modify Miami-Dade County's rights as reserved in the contract document.

B. POST-AWARD COMPLIANCE AND MONITORING

1. Approval of Subcontracts

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The Successful Bidder shall submit to the Contracting Officer, for approval, written subcontracts corresponding in all respects to the Successful Bidder's Schedule of Intent Affidavit or Set-Aside List of Subcontractors or listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract. The Successful Bidder shall enter into a written subcontract with each listed first tier CSBE subcontractor and shall thereafter neither terminate any such subcontract, nor reduce the scope of work to be performed by, or decrease the price to be paid to the first tier CSBEs thereunder, without in each instance obtaining prior written approval of the Contracting Officer. On contracts where a second, third or fourth tier subcontractor goal has been imposed, the Successful Bidder shall submit to the Contracting Officer, for approval, written subcontracts executed by both the next tier level subcontractor and the lower tier CSBE subcontractor corresponding to the information provided to ~~D~~SBD in Section XIV (2)(b) above. The Contracting Officer shall not give a final written determination without a recommendation from SBD ~~the Compliance Monitor~~.

2. Access to Records

Successful Bidders and CSBEs shall permit the County to have access during normal business hours to books and records relating to the bidder's compliance with the contract set-aside, Trade Set-aside, aggregate set-aside or subcontractor goal applied to the contract or relating to CSBE compliance with certification requirements. Such books and records include but are not limited to corporate documents, charters, organizational filings, tax filings, registrations, licenses, stock registrations, partnership agreements, contracts, subcontracts, joint venture agreements, telephone logs, checking accounts, journals, ledgers, correspondence, pension and benefits documents, and documents and records between the bidder or the CSBE and other entities. This right of access shall be granted for one year after completion of the work or full payment of contract obligations, whichever comes last, or for one year after the expiration of CSBE certification.

3. Access to Job Site

Successful Bidders and CSBEs shall permit the County to have access to project locations during normal business hours in order to conduct visual inspections and employee interviews.

4. Monthly/Quarterly Reporting

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The Successful Bidder on a project that is a CSBE contract set-aside or on a project with CSBE Trade Set-asides, aggregate set-asides or subcontractor goals shall submit monthly a Utilization Report to the Compliance Monitor through the Contracting Officer on or before the tenth working day following the end of the month the report covers. The Compliance Monitor shall give standard reporting forms to the Successful Bidder. The Utilization Report is to be completed by the Successful Bidder. Where a first tier subcontractor goal has been imposed, the Utilization Report shall include information on CSBEs utilized to meet such first tier subcontractor goal. Where a second, third and fourth tier subcontractor goal has been imposed, the Utilization Report shall also include information on CSBEs utilized to meet such goal. Failure to comply with the reporting requirements may result in the imposition of contractual sanctions or administrative penalties by the County. In addition to the above requirements, on County contracts in excess of $25 million which have subcontractor goals, the prime contractor shall be required, during the term of the contract, to make a quarterly presentation to the CSBE Advisory Board on his or her performance in meeting such goal.

5. Deviations from the Schedule of Intent Affidavit

a. In the event that during the performance of a contract a first tier CSBE is not able to provide the services specified on the Schedule of Intent Affidavit or the listing of first tier subcontractors required on a CM-at-R~~r~~isk contract, the Successful Bidder must locate a CSBE to substitute for the unavailable first tier CSBE unless the bidder can prove the lack of an available CSBE to provide the services to be provided by the prior CSBE. The Successful Bidder must receive approval for substitution from ~~D~~SBD by submitting a request in writing addressed to the Director of ~~D~~SBD through the Contracting Officer. The request must include a revised Schedule of Intent Affidavit of first tier subcontractors as required on a CM-at-R~~r~~isk contract to include the substitute first tier CSBE and a Schedule of Intent Affidavit from the substitute first tier CSBE. The Compliance Monitor will review the request and make a recommendation regarding the substitution to the Contracting Officer. A Successful Bidder that cannot secure a substitute first tier CSBE must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, and telephone numbers of all CSBEs contacted, and the date of contact for each CSBE. All certified CSBEs certified in the appropriate specialty trade area in SIC 17

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must be contacted in order to prove lack of an available CSBE.

In the event that during the performance of a contract where a second, third or fourth tier subcontractor goal has been imposed a second, third or fourth tier CSBE that is not able to provide the services specified to ~~D~~SBD in Section XIV (A)(2)(b) above, the Successful Bidder must locate a CSBE to substitute for the unavailable second, third or fourth tier CSBE unless the bidder can prove the lack of an available CSBE to provide the services to be provided by the prior CSBE. The Successful Bidder must receive approval for substitution from ~~D~~SBD by submitting a request in writing addressed to the Director of ~~D~~SBD through the Contracting Officer. The Compliance Monitor will review the request and make a recommendation regarding the substitution to the Contracting Officer. A Successful Bidder that cannot secure a substitute second, third or fourth tier CSBE must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, and telephone numbers of all CSBEs contacted, and the date of contact for each CSBE. All certified CSBEs certified in the appropriate specialty trade area in SIC 17 must be contacted in order to prove lack of an available CSBE.

b. The Compliance Monitor shall be responsible for monitoring the performance of the Successful Bidder regarding compliance with contract set-asides, Trade Set-asides, aggregate set-asides or subcontractor goals applied to the contract. The Compliance Monitor may, at his or her discretion, investigate deviations in the utilization of first tier CSBEs from that described on the Schedule of Intent Affidavit or on the listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract, or deviations in the utilization of second, third or fourth tier subcontractors from the information provided to ~~D~~SBD in Section XIV(A)(2)(B)(6) above on contracts where a second, third or fourth tier subcontractor goal has been imposed, and make recommendations regarding compliance to the Contracting Officer. The Contracting Officer shall not make a final determination without a recommendation regarding compliance from SBD ~~the Compliance Monitor~~. Deviations from the goal stated in the contract that shall be monitored include, but are not limited to:

1. Termination of a CSBE's subcontract;

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2. Reduction in the scope of work to be performed by a first tier CSBE or reduction in the scope of work to be performed by a second, third or fourth tier CSBE utilized to meet a second, third or fourth tier subcontractor goal;

3. Modifications to the terms of payment or price to be paid to a CSBE; or

4. Failure to enter into a contract with a CSBE being utilized to meet a first, second, third or fourth tier subcontractor goal.

c. Excuse from entering into subcontracts:

If, prior to execution of a subcontract required by this Implementing ~~Administrative~~ Order, the Successful Bidder submits a written request to the Contracting Officer demonstrating to the satisfaction of the Contracting Officer that, as a result of a change in circumstances beyond his/her control of which he/she was not aware and could not reasonably have been aware until subsequent to the date of the award of the contract, a CSBE who is to enter into such subcontract has unreasonably refused to execute the subcontract, or is not available, the Successful Bidder shall be excused from executing such subcontract. The procedures of paragraphs (e) and (f) below shall apply to this paragraph.

d. Termination of Subcontracts:

If, after execution of a subcontract required by this Implementing ~~Administrative~~ Order, the Successful Bidder submits a written request to the Contracting Officer and demonstrates to the satisfaction of the Contracting Officer that, as a result of a change in circumstances beyond his/her control of which he/she was not aware and could not be reasonably have been aware, until subsequent to the date of execution of such subcontract, a CSBE, who entered into such subcontract has committed a material breach of the subcontract, the Successful Bidder shall be entitled to exercise such rights as may be available to him/her to terminate the subcontract. The procedures of paragraphs (e) and (f) below apply to this paragraph.

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e. County's Determination of Bidder's Excuse or Termination:

If the Successful Bidder at any time submits a written request to the Contracting Officer under the prior two paragraphs, the Contracting Officer as soon as practicable, shall determine whether the Successful Bidder has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the Successful Bidder, upon notice, an opportunity to present pertinent information and arguments. The procedures of paragraph (f) below apply to this paragraph.

f. Alternative Subcontracts:

If the Successful Bidder is excused from entering into a subcontract or rightfully terminates a subcontract under this Implementing ~~Administrative~~ Order and without such subcontract the Successful Bidder will not achieve the level of CSBE participation upon which the contract was awarded, the Successful Bidder shall make every reasonable effort to propose and enter into an alternative subcontract or subcontracts for the same work to be performed by another available CSBE as appropriate, for a subcontract price or prices totaling not less than the subcontract price under the excused or terminated subcontract, less all amounts previously paid thereunder. The Successful Bidder must submit to the Compliance Officer a revised Schedule of Intent Affidavit of first tier subcontractors as required on a CM-at-R~~r~~isk contract and Schedule of Intent Affidavit to include the substitute first tier CSBE. For contracts where the Successful Bidder is requesting substitution of a second, third or fourth tier CSBE subcontractor, the Successful Bidder must submit to the Compliance Officer a revised list of the second, third or fourth tier subcontractors being utilized to meet the goal. A Successful Bidder that cannot secure a substitute CSBE must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, telephone numbers, and the date of contact for each CSBE. All CSBEs certified within the appropriate SIC/NAICS code or trade category must be contacted. The procedures of paragraphs (1) and (2) below apply to this paragraph:

1. The Compliance Monitor may require the Successful Bidder to produce such information, as the Compliance Monitor deems appropriate and may

obtain further information from other sources. The Compliance Monitor shall make his/her recommendation under this paragraph to the Contracting Officer and forward a copy to the bidder.

2. The Contracting Officer will consider objections to the Compliance Monitor's recommendation only if the Contracting Officer receives such written objections within five calendar days from the Successful Bidder's receipt of the Compliance Monitor's recommendation. The Contracting Officer with or without a hearing, and as he/she in his/her discretion may determine, will reply to the Successful Bidder's written objection within ten (10) days of receipt of these objections.

XIX. SANCTIONS FOR CONTRACTUAL VIOLATIONS:

Bid and contract documents for all agreements, including CM-at-R~~r~~isk, shall provide that, notwithstanding any other penalties or sanctions provided by law, a bidder's violation of or failure to comply with this ordinance or this Implementing ~~Administrative~~ Order may result in the imposition of one or more of the following sanctions:

a. The suspension of any payment of part thereof until such time as the issues concerning compliance are resolved; and/or

b. Work stoppage; and/or

c. Termination, suspension, or cancellation of the contract in whole or part; and/or

~~d. Two percent (2%) of the contract amount not to exceed twenty thousand dollars ($20,000.00) will be imposed for those bidders who have second and third violations. Said amount will be deducted from the bidder's requisition and made payable to the Board of County Commissioners. to be deposited in the Department of Business Development's Compliance Trust Fund~~.

d~~e~~. If after award, a CSBE firm meeting a goal is substituted due to unavailability on five (5) different occurrences during a calendar year, the CSBE firm will be decertified.

e~~f~~. In the event a bidder or CSBE attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, or is found after a hearing to have discriminated in violation of Article VII of Chapter 11A of the Code of Miami-Dade County, the County shall,

whenever practicable, terminate the contract or require the termination or cancellation of the subcontract for the project on which the bidder or CSBE committed such acts. In addition, and as a further sanction, the County Mayor~~nager or his~~ or ~~her~~ designee may impose any of the above-stated sanctions on any other contracts or subcontracts the bidder or CSBE has on County projects. In each instance, the bidder or CSBE shall be responsible for all direct and indirect costs associated with such termination or cancellation including attorney's fees and costs. The bidder or CSBE may also be subject to debarment.

f~~g~~. In the event that a bidder fails to achieve the CSBE measures after contract completion, the bidder's eligibility to receive any future county contracts will be conditioned upon the bidder making up the deficit in CSBE participation in such future contracts by having CSBEs perform equal to double the dollar value of the deficiency in the CSBE measure in the prior contract. The procedures for making up the CSBE deficit are as follows:

1. ~~Upon completion of a County contract with CSBE measures, the Compliance Monitor for DBD, in accordance with Ordinance No. 97-52, as amended, will obtain the final Monthly Utilization Report and determine if the bidder has met the CSBE measures.~~ Upon completion of a contract or after final payment on a contract SBD shall review the final Monthly Utilization Report and other project documents to include final payments and make a determination as to whether the bidder met the CSBE measure. If the bidder has not met the CSBE measure, SBD will notify the bidder in writing of the deficit and corresponding make-up penalty.

~~2. If the bidder has not met the CSBE measures, the compliance officer will notify the bidder in writing of the CSBE deficit.~~

2~~3~~. If the bidder is found in non-compliance with the CSBE measures, the Compliance Officer may issue a letter of non-compliance requesting that the bidder make up the CSBE deficit on an existing or future County contract for double the amount of the deficit on the contract in question. The bidder will also be required to submit a plan indicating any current or future County contracts in which the CSBE deficit will be remedied.

3~~4~~. The bidder must respond to ~~D~~SBD in writing within ten business days from the date of the non-compliance letter. The bidder must acknowledge receipt of the noncompliance letter and provide a plan to make up the CSBE measure.

4~~5~~. The compliance monitor will review the plan for approval.

5~~6~~. When a contract is identified in which the CSBE measure deficit will be remedied, the bidder will provide a Schedule of Intent Affidavit, or a listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract, and Schedule of Intent Affidavit for the CSBE firm(s) that will be utilized in making up the deficit.

6. For any future contracts, a Schedule of Intent Affidavit must be submitted as part of any bid or proposal at the time of bid or proposal submittal. The Schedule of Intent Affidavit must identify all CSBEs to be utilized to meet the first tier subcontractor goal and the trade designation of work each firm will perform in satisfaction of the make-up, in addition to any other goals that may be applicable. Failure to include the required Schedule of Intent Affidavit with bids or proposals for any future contracts shall result in the submittal being deemed nonresponsive.

7. Any contractor subject to an approved make-up plan that fails to comply with any of the material terms of that make-up plan, without good cause, shall be subject to an automatic suspension from bidding and/or otherwise participating on County contracts as a prime or subcontractor for a six (6) month period.

8. A contractor that fails to comply with any of the materials terms of a second make-up plan, without good cause, shall be subject to an automatic suspension from bidding and/or otherwise participating on County contracts as a prime or subcontractor for a one (1) year period.

9. A contractor that fails to comply with any of the material terms of a third make-up plan, without goods cause, may be subject to debarment and shall automatically be evaluated for debarment. After serving a debarment for failure to satisfy a make-up plan for no good cause, the subject firm shall be deemed ineligible for bidding on county contracts with measures for one (1) additional year unless the County Mayor or designee determines that an emergency exists justifying such participation, and the Board of County Commissioners approves such decision.

10~~7~~. The bidder will remain in a non-compliance status until the CSBE make-up goal has been achieved.

11~~8~~. Failure of the bidder to make up the CSBE measure when opportunities are available on existing or future County Contracts will result in the imposition of other penalties or sanctions as referenced in Sections XIX and XX.

Some of the contractual violations that may result in the imposition of the sanctions listed in Section XIX above include, but are not limited to, the following:

1. A CSBE serving as a conduit for CSBE work awarded to a firm as a CSBE but which is being performed by a non- CSBE firm;

2. A prime contractor not meeting CSBE Program Trade Set-aside or subcontractor goal requirements;

3. Not obtaining or retaining CSBE certification while performing work designated for CSBE firms;

4. Failure to submit monthly utilization reports;

5. Failure to comply with CSBE certification requirements, including not maintaining a place of business in Miami-Dade County, not reporting organizational and operational changes, providing inaccurate or false information, and other certification related violations;

6. Failure to maintain certification;

7. Deviations from the Schedule of Intent Affidavit or listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract without prior approval from ~~D~~SBD;

8. Termination of the CSBE's contract without prior approval from ~~D~~SBD;

9. Reduction of the scope of work of a first tier CSBE subcontract without prior approval from ~~D~~SBD or reduction of the scope of work of a second, third or fourth tier subcontract utilized to meet a second, third or fourth tier subcontractor goal without prior approval of ~~D~~SBD;

10. Modifications to the terms and/or prices of payment to a CSBE without prior approval from ~~D~~SBD; or

11. Unjustified failure to enter into a written first tier subcontract with a CSBE after listing the firm on a Schedule of Intent Affidavit or a listing of first tier subcontractors as required on a CM-at-R~~r~~isk contract. Unjustified failure to enter into a written second, third or fourth tier subcontract with a CSBE utilized to meet a second, third or fourth tier subcontractor goal.

XXI. ADMINISTRATIVE PENALTIES

A. DEBARMENT

1. The County may debar a CSBE or a non-CSBE for violation of, or non-compliance with, the provisions of Ordinance No. 97-52 as amended, this Implementing ~~Administrative~~ Order, or implementing bid documents.

2. Causes for debarment are as noted in Section 10-38 of the Code. These include, but are not limited to, a preponderance of evidence that the CSBE has forfeited a bond or defaulted on financial assistance, either of which was provided under the CSBE program; or if any individual or corporation, partnership or other entity, or any individual officer, shareholder with a significant interest, director or partner of such entity, qualifying agent or affiliated business of such entity attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement.

B. DECERTIFICATION

Violations of certification requirements are addressed in Section II of this Implementing ~~Administrative~~ Order.

C. SUSPENSIONS

1. If the determination of the County Mayor or designee is that the contractor or subcontractor failed to comply and that such failure was pervasive, the Mayor or designee may order that the contract work be suspended or terminated, and that the non-complying contractor or subcontractor and the principal owners and/or qualifying agent thereof be prohibited from bidding on or otherwise participating in County construction contracts for a period not exceed three (3) years.

D. MONETARY PENALTIES

1. If the determination of the County Mayor or designee is that the contractor or subcontractor failed to comply and that such failure was limited to isolated instances and was not pervasive, the County Mayor or designee may, in the case of a goal deficit, order a penalty amount to be withheld from the contractor for such noncompliance as follows: for the first deficit, a penalty in an amount equal to 10% of the amount thereof; for the second deficit, a penalty in an amount equal to 20% thereof; for the third and successive deficits, a penalty in an amount equal to 30% thereof. A

fourth violation and finding of noncompliance, shall constitute a default of the subject contract and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized solely to defray SBD's costs of administering Section 10-33.02 of the Code of Miami-Dade County.

2. If the required payment is not made within thirty (30) days of the administrative hearing or final resolution of any appeal there from, the non-complying contractor or subcontractor and the principal owner(s) and qualifying agent(s) thereof shall be prohibited from bidding on or otherwise participating in County construction contracts for a period not to exceed three (3) years.

XXII. APPEALS PROCESS:

~~A. This appeals process does not apply to appeals of decisions made pursuant to bid documents implementing the CSBE program when such bid documents provide procedures for appeals of such decisions.~~

~~B. Upon a denial of certification, a decertification, a determination of noncompliance with the requirements of this Administrative Order, Ordinance No. 97-52, as amended, or implementing bid documents, which decision will be final unless appealed, the Compliance Monitor shall notify the affected party, in writing, setting forth the reasons for the determination and advising of this appeals process.~~

~~C. The affected party may appeal the determination by filing a written appeal with the Director of DBD within thirty (30) days of receipt of the notice.~~

~~D. DBD shall forward all written appeals to the RC. The RC or a committee thereof appointed by the chairperson shall hear all appeals and forward recommendations regarding the appeal to the County Manager.~~

~~E. Decisions by the County Manager shall be final unless the County Commission agrees in its sole discretion upon request by the affected party to review the County Manager's decision.~~

A. Any firm that is denied certification, decertified or issued a determination of noncompliance with the requirements of this Implementing Order, Section 10-33.02 of the Code of Miami-Dade County, as amended, or implementing bid documents may appeal such action. The Compliance Monitor shall notify the affected party, in writing, setting forth the reasons for the determination and advising of this appeals process. The affected party may appeal the determination by filing a written appeal with the Director of SBD within thirty (30) days of receipt of the notice. This appeals process does not apply to appeals of decisions made pursuant to bid documents implementing the CSBE program when such bid documents provide procedures for appeals of such decisions.

B. Decisions by the County Manager or designee shall be final ~~unless the County Commission agrees in its sole discretion upon request by the affected party to review the County Manager's decision~~.

C. PROCEDURES FOR ADMINISTRATIVE HEARING:

The procedure for administrative hearings shall provide that:

1. SBD will schedule a hearing date before a hearing officer, upon timely receipt of a request for an administrative hearing along with a $250 nonrefundable filing fee to appeal a determination of non-compliance with the requirements of this Implementing Order, Section 10-33.02 of the Code of Miami-Dade County, as amended, or implementing bid documents.

2. The prevailing party shall not incur any additional expenses, fees or penalties. The unsuccessful appellant shall be responsible for all additional fees, costs and penalties associated with the appeal.

3. SBD shall serve upon the firm, contractor (or subcontractor) and/or lessee a notice of hearing within five (5) working days of the appointment of the administrative hearing officer. Such notice shall include:

   a. A copy of SBD's determination of non-compliance, as appropriate, outlining alleged prohibited practices upon which it is based;

   b. A description of the administrative penalties being considered;

4. An administrative hearing shall be scheduled to be heard before an administrative hearing officer within twenty (20) days after service

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of the notice. The notice shall also advise the appellant that he or she may be represented by an attorney, may present documentary evidence and verbal testimony, and may cross-examine or rebut evidence and testimony presented against them.

5. Within five (5) days after completion of the administrative hearing, the administrative hearing officer shall ~~submit written findings and recommendations together with a transcript of the administrative hearing and all exhibits received by the County Mayor or designee~~ transmit his/her findings of fact, conclusions, and recommendations together with a transcript of all evidence taken before him/her and all exhibits received by him/her, to the Mayor or designee, who (i) may sustain, reverse or modify the hearing officer's recommendations and (ii) shall render a final decision, in writing. The determination of the Mayor may be reviewed by an appropriate court in the manner provided in the Florida Rules of Appellate Procedure.

D. QUALIFICATIONS OF HEARING OFFICERS:

1. Administrative hearing officers shall be residents of Miami-Dade County who possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability. Appointments shall be made by the County Mayor or designee. The list of administrative hearing officers should include retired judges who are licensed and admitted to practice law in the State of Florida, or arbitrators or mediators certified by the Eleventh Judicial Circuit or State Bar Association. Appointees should become acquainted with this Implementing Order and the provisions of section 10-33.02 Code of Miami-Dade County, as amended, applicable to the particular violation(s) to be heard. Additional qualifications include, but are not limited to, experience in equal opportunity, anti-discrimination, contacting, procurement, bonding or financial services activities. Such appointments shall be submitted to the Clerk of the Board of County Commissioners for ratification by the Clerk. The Clerk shall submit an annual report to the Board on the number of women who have served as administrative hearing officers.

2. The County Mayor or his or her designee shall appoint as many administrative hearing officers as are deemed necessary. Every effort will be made to ensure that the appointment of hearing officers reflect the diversity of the demographics of Miami-Dade County. Appointments shall be made for a term of one (1) year. Any administrative hearing officer may be reappointed at the discretion of the County Mayor or designee, subject to ratification

by the Clerk of the Board of County Commissioners. There shall be no limit on the number of reappointments that may be given to any individual administrative hearing officer; provided, however, that a determination as to reappointment must be made for each administrative hearing officer at the end of his or her one-year term. The County Mayor or designee shall have the authority to remove administrative hearing officers at any time. Appointments to fill a vacancy shall be for the remainder of the unexpired term.

3. Administrative hearing officers shall not be County employees but shall be compensated at a rate to be determined by this I.O.

4. The Miami-Dade County Attorney's Office shall serve as general counsel to the administrative hearing officer.

XXIII. MENTOR-PROTÉGÉ PROGRAM:

1. Program Mission

Miami-Dade County seeks to build effective working relationships between leaders of mature established companies and emerging small business enterprises in order for the latter to benefit from the knowledge and experience of the established Mentor firms. Working together in regular meetings, the Mentors will focus on and assist with the development of the Protégé's business plan, identifying the most critical needs to achieve the plan, and implementing the actions to obtain the results.

The Mentor-Protégé Program is a community-based effort, involving leaders of major firms, financial and bonding institutions, contracting associations, small business enterprises, and support service organizations. The Program is a deliberate effort to overcome barriers that typically inhibit or restrict the success of small businesses. The Program is designed to produce a broad base of high quality, competitive and profitable companies through incremental improvement. It is expected that as a result of the Mentor-Protégé Program, Protégés will experience a greater than industry average success rate and realize the growth and profitability objectives of their business plans as well as long range stability. By implementing the Mentor-Protégé Program as a component of its CSBE program, Miami-Dade County will provide a community benefit by strengthening emerging businesses and providing them with previously denied opportunities for growth, expansion and increased participation in Miami-Dade County's economic development.

2. Definitions

A. ~~D~~SBD - The Miami-Dade County department that sponsors and provides direct support and overall management to the Mentor-Protégé Program component of the CSBE Program.

B. Mentor-Program Coordinator - The ~~D~~SBD staff member designated as the individual responsible for coordinating and administering the various activities of the Mentor-Protégé Program.

C. Mentor - A firm with an actual functioning place of business in Miami-Dade or Broward County which is deemed by ~~D~~SBD as productive and successful, and which has applied for and has been approved by ~~D~~SBD, in accordance with applicable procedures, for participation as a mentor in the Mentor-Protégé Program. Although a Mentor may not provide mentoring services to more than three (3) Protégé firms at any one time, it is allowed to serve as a Mentor for an unlimited number of times (pursuant to ~~D~~SBD approval).

D. Protégé - A certified CSBE firm, which has applied for and has been approved, in accordance with applicable procedures, for participation as a protégé in the Mentor-Protégé Program. Such participation cannot exceed two (2) years and a firm may have only one (1) term of participation as a protégé.

3. Individual Goals

A. The primary goals of Miami-Dade County's CSBE Mentor-Protégé Program are:

1. To develop and strengthen Protégé firms through coaching and counseling from Mentors.

2. To expand business opportunities for Protégé firms.

3. To enable Protégés to become competent and viable well managed businesses.

4. To assist mentoring companies in carrying out their civic and corporate responsibilities by furnishing opportunities to provide developmental assistance to other emerging Miami-Dade County firms.

5. To enhance Miami-Dade County's overall business and economical environments.

4. Measurable Objectives

An important facet of the Miami-Dade County Mentor-Protégé Program is the ability to conduct ongoing monitoring and assessment of the results of implementation of the Programs through the use of measurable program objectives. The primary measurable objectives to be considered in the evaluation of the effectiveness of the Mentor-Protégé Program are:

A. Specific Protégé Objectives:

1. Increase in Protégé's business capital.

2. Increase in Protégé firm's capacity to perform as depicted in equipment owned or leased, size of payroll, materials purchased, overhead costs.

3. Increase in Protégé's bonding capacity.

4. Increase in Protégé's gross earnings.

5. Increase in Protégé's net earnings and profit margin.

6. Increase in Protégé's credit rating.

7. Increase in value of Protégé's current and future work.

8. Increase in Protégé firm's longevity and viability during and after concluding Mentor-Protégé participation.

9. Achievement of goals outlined in the strategic business plan.

From various financial, operating, personnel, and other reports received from the Protégé, the above objectives are determined, monitored and evaluated at the beginning stage of the Protégé's participation in the Mentor-Protégé Program, at various intervals (monthly, quarterly and annually) throughout the duration of the Protégé's participation in the Program, at the conclusion of the two-year mentoring period, and through follow-up annual review from one to five years after the Protégé has completed the Mentor-Protégé Program. This provides a means of determining whether mentoring procedures need to be revised or refocused either within individual Mentor-Protégé teams or with the entire Program, and helps to track the long-range impact of participation in the Mentor-Protégé Program.

B. General Program Objectives:

1. Increase in number of actual or requested Mentor-Protégé Program Mentors.

2. Increase in number of actual or requested Mentor-Protégé Program Protégés.

3. Increase in repeat Mentor-Protégé Program participation by Mentors.

4. Increase in successful graduates.

5. Program Eligibility and Participation

A. Mentor Eligibility Requirements

1. The potential Mentor shall be a company which is successful and productive in its area of work or services with a minimum of five (5) years of experience in its principal industry and which agrees to provide developmental assistance through the Mentor-Protégé Program.

2. The Mentor firm must have and maintain an actual place of business where it provides its actual products and services in Miami-Dade County throughout the duration of its mentorship.

3. The Mentor firm must be, and remain in, good legal business standing with the State of Florida, Miami-Dade County and all other local jurisdictions. Mentors must be solvent and licensed businesses.

4. The potential Mentor shall agree to follow all Mentor-Protégé Program guidelines and devote the necessary time, staff and other resources in order to fulfill its responsibility as a Mentor, including attending all meetings scheduled with Protégé and/or ~~D~~SBD.

B. Mentor Application Process

1. The potential Mentor shall apply with ~~D~~SBD on the appropriate application form to be considered for program participation as a Mentor. Documentation such as company brochures, occupational licenses and other licenses may be required to ensure basic eligibility requirements are met.

2. In some instances it may be necessary for ~~D~~SBD to contact the owner or managers of the prospective Mentor by telephone or to visit the offices to determine whether an applicant firm is eligible to be a Mentor.

3. ~~D~~SBD shall review the application and inform the applicant whether it has been approved as a Mentor within ten (10) business days of receipt of the completed Mentor application.

4. ~~D~~SBD will assign Protégés to Mentors (either one or two Mentors per Protégé, as available or appropriate) subject to approval by the CSBE Advisory Board and both parties must sign an agreement to formalize their commitment to the Program. Pairing Mentors with Protégés, which have a working relationship with each other, will be strongly discouraged since one of the objectives of the Mentor-Protégé Program is to establish new productive relationships in the construction industry.

C. Mentor Responsibilities

1. Meetings - The approved Mentor shall conduct monthly face-to-face coaching and counseling meetings with the Protégé to review the Protégé's strategic business plan and to discuss problems, strategies, and objectives for timely and efficient completion of projects and effective management. These meetings will be held at a time and place mutually agreed upon by the Mentor and Protégé; however, such meetings should occur no less than once every 30 calendar days between the first and 10th day of each month and should be at least two (2) hours in duration (more time should be allotted for these meetings as deemed necessary). The agenda for the meetings should be established in advance and should consist of items relevant to the Protégé's previously identified problem areas and his/her changing needs as well as the current experiences of both the Mentor and Protégé. The Protégé will also be expected to provide reports on his/her efforts in implementing the established phases of its business plan or any actions suggested by the Mentor at the previous counseling session(s) and both parties should establish target dates for any further improvements or enhancements. The Mentor and Protégé shall alternate in preparing a report of the results of the monthly meeting using the form and format provided and submitting a copy of the report to the

other party as well as to the ~~D~~SBD Mentor-Protégé Program Coordinator and the CSBE Advisory Board within five (5) business days of the meeting. The Mentor-Protégé Program Coordinator or a representative shall attend the monthly meetings between Mentor-Protégé teams at least every other month.

2. Informal Contacts - The Mentor should also routinely communicate with the Protégé on the telephone and attempt to make other informal contacts or correspond on a routine basis (such as every other day) to discuss daily problems and situations encountered by the Protégé and to provide periodic review.

3. Introduction to Resources - The Mentor shall, as frequently as possible, introduce the Protégé to various business resources in which he/she consults, including representatives in the banking, bonding, management, and business industries as a means of providing access and breaking down previously existing barriers which may have hindered small businesses in the past.

4. Independence - The Mentor must not assume managerial or administrative control of the Protégé during or following the mentorship period.

5. Reporting Problems to ~~D~~SBD - The Mentor will discuss progress, issues or problems encountered with the Mentor-Protégé arrangement with ~~D~~SBD Mentor-Protégé Program coordinating staff as soon as possible after concerns are identified.

6. Working Relationships - Nothing in Mentor-Protégé Program regulations shall prohibit Mentors and Protégés from working together on joint ventures or in contractor-subcontractor arrangements on construction or other projects provided that control of the Protégé firm remains with the Protégé itself. These Protégés may be used to meet subcontractor goals on which the Mentor bids.

7. Incentives - In addition to the benefits provided in the section immediately above, Mentors can be compensated for their involvement in the Mentor-Protégé Program by the award of an incentive on bidding on Miami-Dade County contracts. This incentive may consist of either 2% of the bid price, or up to 10% of the total evaluation points, for bid evaluation

purposes only. A Mentor claiming an incentive in bidding on Miami-Dade County contracts based on involvement in the Mentor-Protégé Program must meet the eligibility criteria shown in Section XV of this Implementing ~~Administrative~~ Order.

D. Protégé Eligibility Requirements

1. The prospective Protégé shall be a company certified as a CSBE with ~~D~~SBD, must have been actively conducting business for a minimum of two (2) years, must be considered as ready for expansion, and must agree to participate fully in the Mentor-Protégé Program.

2. The prospective Protégé firm must have and maintain an actual place of business where it provides its actual products and services in Miami-Dade County throughout the duration of its Mentor-Protégé Program participation.

3. The prospective Protégé firm must be and remain in good legal business standing with the State of Florida, Miami-Dade County and all other local jurisdictions. Protégés must be solvent and licensed businesses.

4. The prospective Protégé shall agree to follow all Mentor-Protégé Program guidelines and devote the necessary time, staff and other resources in order to fulfill its responsibility as a Protégé, including attending all meetings scheduled with the Mentor and/or ~~D~~SBD.

E. Protégé Application Process

1. The prospective Protégé shall apply with ~~D~~SBD on the appropriate application form to be considered for program participation as a Protégé. Accompanying the application should be a completed strategic business plan and the documentation requested providing various information concerning the prospective Protégé's current financial standing, bonding level, capacity, staffing, workload, and other key business indicators. Additional documentation such as company brochures, occupational licenses and other licenses may be required to determine Mentor-Protégé Program eligibility requirements.

2. ~~D~~SBD shall review the application and inform the applicant whether it has been approved as a Protégé within ten (10)

business days of receipt of the completed Protégé application.

3. ~~D~~SBD will assign Protégés to Mentors as deemed appropriate and/or as available and both parties must sign an agreement to formalize their commitment to the Program.

F. Protégé Responsibilities

1. Strategic Business Plan - The Protégé shall prepare and strive to achieve goals outlined in a strategic business plan. ~~D~~SBD's Management and Technical Assistance Program (MTA), as described in Section XIV of this Implementing ~~Administrative~~ Order, should be used by the Protégé as a resource in developing this business plan if such assistance is needed. This business plan shall serve as a guideline and benchmark for evaluating the Protégé's progress in the Mentor-Protégé Program.

2. Meetings - The approved and assigned Protégé must make him/herself available for the monthly face to face coaching and counseling conferences with the Mentor and must be consistently prepared to review progress made in achieving the desired outcome outlined in their strategic business plan. In the meeting the Protégé must make the Mentor aware of all problems affecting the timely and efficient completion of projects and effective management of the firm. These conferences will be held at a time and place mutually agreed upon by the Mentor and Protégé; however, such meetings should occur no less than once every 30 calendar days between the first and 10th day of each month and 65 should be at least two (2) hours in duration (more time should be allotted for these meetings as deemed necessary). The topics for the meetings should consist of items relevant to the Protégé's previously identified problem areas and his/her changing needs as well as the current experiences of both the Mentor and Protégé. The Protégé will also be expected to provide reports on his/her efforts in implementing the established phases of its business plan or any actions suggested by the Mentor at the previous counseling session(s) and both parties should establish target dates for any further improvements or enhancements. The Mentor and Protégé shall alternate in preparing a report of the results of the monthly meeting and submitting a copy of the report to the other party as well as to the ~~D~~SBD Mentor-Protégé Program Coordinator and CSBE Advisory Board.

3. Informal Contacts - The Protégé should also routinely converse with the Mentor on the telephone and attempt to make other informal contact or correspond on a routine basis (such as every other day) to discuss daily problems and situations encountered by the Protégé and to obtain periodic counseling and guidance as needed.

4. Use of Training Resources - In an effort to enhance its business and industry knowledge and effectiveness, the Protégé may be required to attend, at its own expense if necessary, training conferences, coursework, or workshops on a routine basis as recommended by the Mentor or Mentor-Protégé Program Coordinator. These conferences are expected to cover various aspects of general business management as well as training sessions addressing specific industry topics. Attendance at these events must be recorded and made a part of the progress report for the appropriate period of attendance.

5. Use of MTA Program - In an effort to enhance its business and industry knowledge and effectiveness, the Protégé may be required to make routine use of the technical assistance component of the CSBE Program by seeking, scheduling and attending various services professionals as provided by the MTA Program. A listing of these resources are available through ~~D~~SBD and participation in the MTA Program must be recorded and made a part of the progress report for the appropriate period of participation.

6. Independence - The Protégé is not permitted to relinquish managerial or administrative control to the Mentor.

7. Reporting Problems - The Protégé will discuss poor progress or problems encountered with the Mentor-Protégé arrangement with ~~D~~SBD Mentor-Protégé Program coordinating staff as soon as possible after concerns are identified.

6. Program Coordination

A. ~~D~~SBD is responsible for the overall coordination and administration of the CSBE Mentor-Protégé program. ~~D~~SBD's duties will include:

1. Advertising and promoting the program.

2. Organizing related business events.

3. Identifying and approving potential Mentors.

4. Identifying and certifying potential Protégés.

5. Assigning Mentors to Protégés as available.

6. Informing and reminding Mentors and Protégés of their roles and responsibilities.

7. Attending Mentor-Protégé meetings to promote effective cooperation and participation.

8. Reviewing meeting and progress status reports.

9. Maintaining program records.

10. Contracting for the management, accounting and other professional services that Protégés will need.

11. Identifying the necessary sources of program funding.

12. Attracting the support of larger corporate sponsors.

7. Advisory Board

An Advisory Board consisting of representatives from the Allied Minority Contractor's Association, Inc the South Florida Chapter of the Associated General Contractors of America; the BAC Funding Corporation; the Construction Association of Florida, Inc; the engineering Contractor's Association of South Florida, Inc.; the Latin Builders' Association; the Underground Contractors' Association of South Florida, Inc.; the Miami-Dade Chamber of Commerce; the Contractor's Resource Center; the UPPAC; a representative of the local bonding industry; a representative of the local banking and financial industry; and a certified CSBE ~~Allied Minority Contractors, Associated General Contractors South Florida Chapter, Association of Women Architects and Engineers, Black Business Association, Construction Association of South Florida, Engineering Contractors Association of South Florida, Latin Builders Association, Air Conditioning and Refrigeration Association, Inc., Underground Contractors Association of South Florida, Black Architects and Engineers, Contractor's Resource Center, UPPAC, the bonding industry, the banking industry, and a~~

~~certified CSBE~~ will provide general CSBE program oversight and will have the specific responsibility for assisting the County in tracking and monitoring the results and effectiveness of the Mentor-Protégé Program. The Board of County Commissioners shall appoint members of the CSBE Advisory Board from lists submitted by the member associations outlined above. While the CSBE Advisory Board shall not assume ~~D~~SBD's administrative or other responsibilities, it may serve as a liaison between Mentor-Protégé Program participants and the local business community recommends program policy, participate in the recruitment of prospective Mentors and Protégés, and review and report on Program progress. The Advisory Board, in accordance with Section 10-33.02 of the Code of Miami-Dade County ~~Ordinance 97-52, as amended~~, shall recommend to the Miami-Dade County Commission the maximum length of time a CSBE may participate in the program.

The County Mayor or designee shall approve the replacement of any of the delineated recommending organizations above, where said organization(s) fails to either (i) provide a list of recommended appointees within thirty (30) days of written notice from the Department of Small Business Development, or (ii) continue to operate in Miami-Dade County, or the appointed CSBE Advisory Board member fails to participate in board activities for a period of six (6) months. The current CSBE Advisory Board shall provide the name(s) of a recommended replacement organization(s) to be considered by the County Mayor, by majority vote.

Sections 2-11.1(c) and (d) of the Conflict of Interest and Code of Ethics Ordinance of Miami-Dade County are waived for CSBE Advisory Board members for transactions arising from the exercise of those powers given the CSBE Advisory Board by Ordinance 97-52, as amended.

XXIV~~II~~. BONDING AND FINANCIAL ASSISTANCE PROGRAM:

A. ~~D~~SBD RESPONSIBILITIES:

1. After being certified* by ~~D~~SBD in the CSBE Program, the CSBE will meet with the ~~D~~SBD Training Coordinator. The ~~D~~SBD Training Coordinator will:

   a. Provide an overview of ~~D~~SBD functions;

b. Provide an overview of the CSBE program;

c. Provide the CSBE with a packet containing forms for the MTA, Bonding & Financial Assistance, and Mentor-Protégé Programs as well as a Needs Assessment form; and

d. Assist the CSBE in filling out the Needs Assessment Form.

*Note - in some instances, firms applying for CSBE certification will be referred to the MTA Program for assistance before being certified.

2. The ~~D~~SBD Training Coordinator will review the CSBE Needs Assessment Form to determine what needs the CSBE has, and will make sure that the CSBE meets all eligibility requirements for the various programs.

3. If participation in the Mentor-Protégé Program is recommended, the ~~D~~SBD Training Coordinator will assist the CSBE in filling out the forms to register for that Program. ~~D~~SBD will review the list of registered Mentors and Protégés and recommend a Mentor-Protégé relationship for the CSBE. This recommendation will be forwarded to the CSBE Advisory Board or a committee thereof for their review. A tracking form will be submitted by Mentors and Protégés to keep status of their current relationship.

4. If participation in the Bonding & Financial Assistance Program is recommended, the ~~D~~SBD Training Coordinator will assist the CSBE in filling out the necessary forms. An appointment will be set up for the CSBE with the MTA consultant for further processing of the appropriate application(s).

5. If participation in the MTA Program is recommended, the ~~D~~SBD training Coordinator will assist the CSBE in filling out the necessary forms. The CSBE will be directed to the various resources that will assist the CSBE in obtaining the assistance identified in the Needs Assessment form; ~~D~~SBD staff will set up appointments with the appropriate resources for the CSBE and follow up at monthly intervals to assure compliance.

6. ~~D~~SBD staff will keep records and files on all CSBEs that have applied to participate in any of the ~~D~~SBD training or assistance programs. They will also set up appointments for CSBEs with the appropriate entities as applicable. ~~D~~SBD staff will also follow up with all such CSBEs to ensure that their needs have been met, to

identify any issues or problems, and to determine how successful the programs have been.

7. ~~D~~SBD will coordinate regular workshops for CSBEs on how to do business with the County, to discuss County procurement processes and to develop specialized business related educational opportunities.

8. ~~D~~SBD is responsible for marketing of the CSBE program and its various facets as well as for Community Outreach for the Program and for the CSBE Advisory Board.

9. ~~D~~SBD is responsible for providing various reports to the County Manager, the CSBE Advisory Board and the Board of County Commissioners. Such reports will include:

   a. Bonding & Financial Assistance Program: number of clients that applied, number that received bonds and/or loans, amount of bond or loan;

   b. MTA Program: number of clients that applied, number of clients trained, number and amount of Business Plans and Accounting Services reimbursements, etc.;

   c. Mentor-Protégé Program: number of clients that have signed up for the Program, number of current Mentor-Protégé relationships, progress to date on each current relationship, number of successful completions.

B. CONSULTANT RESPONSIBILITIES:

1. The Consultant will provide MTA to small businesses performing as prime contractors or subcontractors on Miami-Dade County construction contracts, or performing as vendors and providing goods and/or services to Miami-Dade County. These services will be referred to as the "Program."

2. The Consultant will identify the needs of the Program participants and develop all applicable forms. Any small business that becomes a Program participant shall fill out an application and undergo a Needs Assessment performed by the Consultant. After the Needs Assessment is performed, the Consultant shall identify the applicant's needs such as MTA.

3. The Consultant shall also identify the applicant's need for Financial, Management and Bonding Assistance, and shall provide the

applicant with such assistance. ~~D~~SBD may require that the applicant pursue and complete certain MTA Programs prior to obtaining approval for participation in programs such as the Financial and/or Bonding Assistance Programs.

C. DESCRIPTION

1. The Consultant will provide Bonding Assistance and Financial Assistance to small businesses performing as prime contractors or subcontractors on Miami-Dade County construction contracts, or performing as vendors and providing goods and/or services to Miami-Dade County. These services will be referred to as the "Program."

2. The Consultant shall have in-house underwriting or pen authority of a minimum of $6,000,000 for Bonding Assistance. The Consultant shall solicit eligible bonding companies to participate in the Program and write various types of bonds required by the contracting documents when the in-house authority is exceeded. The Consultant shall maintain a listing of the bonding companies, which will be utilized in this program. This listing shall include treasury listed and state listed companies only.

3. The Consultant shall solicit eligible lending institutions to participate in the Financial Assistance portion of the Program, and write various types of mobilization, working capital and revolving loans as needed. The Consultant shall maintain a listing of the financial institutions, which will be utilized in this program.

4. Once the CSBE is referred for Bonding and Financial Assistance, the CSBE will provide the Consultant with all the necessary documentation to develop a bonding and/or financial package.

   The CSBE firm's progress in obtaining bonding and/or financial assistance will be reported to the MTA unit at ~~D~~SBD on a monthly basis.

5. The Consultant (with ~~D~~SBD~~)~~ will identify the needs of the Program participants and develop all applicable forms. Any small business who becomes a Program participant shall fill out an application and undergo a Needs Assessment performed by the Consultant. After the Needs Assessment is performed, the Consultant shall identify the applicant's needs such as Bonding Assistance or Financial Assistance.

6. If Bonding Assistance is identified as a need, the applicant shall fill out a Bonding Assistance application. The application form (to be developed by the Consultant) shall contain, among other things, a release from the participant to Miami-Dade County, the Construction Manager and the Consultant (Consultants and Sub-Consultants), their officers, employees, contractors and agents, from any and all liabilities and claims, of whatever nature, arising out of any denial of a bond.

7. In considering the bond request, the Consultant will proceed with reasonable speed. Although the subcontractor is not required under Miami-Dade County's provisions to provide a bond, it is the Consultant's responsibility to provide the prime contractor the participant's bonds prior to the date the work begins. This is necessary to meet the following Miami-Dade County contract provisions, which will be administered by the Consultant. The following provisions will appear in all relevant County contracts:

   Florida Law requires bonding for public works projects for 100% of the contract amount. This bonding requirement is between the County and its first tier contractor; however,

   a. It shall be the responsibility of each subcontractor submitting bids to a prime contractor to be prepared to submit faithful performance and payment bond(s) if so requested by the prime contractor after execution of a written subcontract and prior to commencement of subcontractor's work.

   b. In the event any subcontractor submitting a bid to a prime contractor does not, upon the request of the prime contractor and the expense of the prime contractor, furnish to such prime contractor a bond(s), issued by an admitted bonding company wherein the prime contractor shall be named the obligee, guaranteeing prompt and faithful performance of such subcontract and the payment of all claims for labor and materials furnished or used in and about the work to be done and performed under such subcontract, the prime contractor may reject such bid and make a substitution of another subcontractor subject to the bid specifications. Such bond(s) may be required at the expense of the subcontractor only if the prime contractor in his written or published request for sub-bids (1) specifies that the expense for such bond(s) shall be borne by the subcontractor and (2) clearly specifies the amount and requirements of such bond(s).

c. In any event, if the bond process for the Program participant is not completed before the Prime's contract approval and award date, or 90 days prior to the commencement of work of the Program participant, it is the prime contractor's sole discretion to extend time for the bond to be concluded or waive the bond. The prime contractor must allow the Consultant to exhaust all attempts to provide a bond prior to requesting to substitute the Program participant in accordance with the bid specifications.

8. If Financial Assistance is identified as a need, the Applicant shall fill out a Financial Assistance application. The Consultant will review this application; if it is acceptable to the Consultant, it shall be forwarded to the Loan Committee for review if it is acceptable to the Consultant, it shall be forwarded to the Loan Committee for review. If the Loan Committee approves the loan request, a Commitment Letter is issued, noting the proposed terms of the loan request. The applicant will have thirty (30) days to accept these terms; if accepted, a closing date will be set.

   The Loan Committee shall be made up of one representative from the CSBE Advisory Board, two representatives from the local Miami-Dade County banking industry and two County staff members (one from the County May~~ornager~~'s Office and one from the Finance Department). The Loan Committee shall not exceed five members and the County May~~ornager~~ or ~~his or her~~ designee shall appoint members.

9. The Consultant with ~~D~~SBD shall also identify the applicant's need for MTA, and shall provide the applicant with a list of providers of such assistance. The Consultant may refer the applicant to certain MTA Programs prior to obtaining approval for participation in Financial and/or Bonding Assistance Programs.

D. PROGRAM REQUIREMENTS

The Program is divided into two segments, each designed to enhance the other components of the program to make the complete project functional. The following elements outline the minimum tasks required by the County to have an effective Bonding and Financial Assistance Program:

1. BONDING ASSISTANCE PROGRAM (BASIC SERVICES)

   The Bonding Assistance Program is one of the basic programs, which will require constant staffing for participants seeking assistance. The Consultant shall assist the Program participant in

preparing and completing the bond package using the following forms:

a. Bond Application

b. Income Statement

c. Schedule of Accounts Payable (if required)

d. Schedule of Accounts Receivable (if required)

e. Schedule of Contracts under construction

f. Schedule of Contracts completed

g. Contractor's estimate of subject job

h. Certificate of Insurance

i. Escrow Agreement (if required)

j. Assignment of Contract proceeds agreement (if required)

k. Agreement of General Indemnity

l. Business Plan

The Consultant shall also:

a. Coordinate the placement of bonds for the project;

b. Provide interested small businesses with adequate information about the requirements of the Bonding program;

c. Coordinate and provide ongoing services between the County, contractors and bonding companies;

d. Advise and inform the County Mayor~~nager, or his~~ or ~~her~~ authorized representative, of the progress of the Bonding Assistance Program on an ongoing basis;

e. Attend and actively participate in the periodic meetings with County staff, contractors and subcontractors and report the status of the Bonding Assistance Program and explain any changes that may enhance or detract from the of the program;

f. Prepare, at a minimum quarterly progress reports by the 7th day of the month following the end of each quarter which shall describe significant achievements and problems which have a potential effect on the contract's costs with sufficient detail to assure that directions being pursued are in compliance with the established Bonding Assistance Program; and

g. Prepare an annual report for the County Mayor~~nager~~ highlighting the Progress of the Bonding Assistance Program participant performing on various County construction projects, and summarizing the services provided and include the observations and recommendations on new developments in the bonding marketplace.

Bond Application Review Process

Upon completion of the bond application package, the Consultant shall perform the review and approval of the Bonding Assistance Program participant's application. The Consultant will consider, at a minimum, past performance record, character, capability, and capital. It is the primary responsibility of the Consultant to determine if the applicant is bondable after the review process. Applicants who are determined as non-bondable may not be eligible for the mobilization/working capital loan assistance program; however, they may be eligible for the MTA Program.

2. FINANCIAL ASSISTANCE SERVICES

The Financial Assistance Program is the other basic program which will require constant staffing for participants seeking assistance. The Consultant shall provide:

a. Low-interest loans for Mobilization, Working Capital and/or Revolving Loans

b. Loan Packaging for application to outside lending institutions

c. Banking Services

d. Letters of Credit

e. Accounting Services, including preparation of Tax Returns, Financial Statements, Compilations, Reviews, Audits and Business Plans All financial records maintained for the

Program will be incorporated into a generally accepted accounting system for the participant.

The Consultant shall assist the Program participant in preparing and completing the Financial Assistance application package using the following forms:

a. Loan application forms

b. Business financial statements for the last three (3) fiscal year ends

c. Financial statement of the business and supporting bank statements not older than 90 days

d. Corporate tax returns for the last three (3) years

e. Aging of accounts receivable and payables not older than 90 days

f. Projected cash flow and income statement with loan proceeds g. History of business including complete detailed business plan with 5 years projection h. Trade references

i. Complete list and evidence of costs of all equipment in the business

j. Estimates of equipment and fixtures to be acquired, if any

k. Copies of pending contracts or purchase orders

l. Copy of lease or letter of intention to lease

m. Contract for purchase (buyer and seller agreement)

n. Articles of Incorporation, By-Laws and Certificate of Good Standing, or copy of Partnership Agreement

o. Current and projected employee data

p. Personal financial statement and supporting bank statements not older than 90 days

q. Personal Income Tax for the last three (3) years, including Schedule C for sole proprietorship and Form 1065 for partnership

r. Statement of personal history

s. Personal resume

t. Copy of Warranty Deeds of all real estate owned by business or guarantors, and copy of closing statements evidencing original purchase

u. Evidence of tax assessment values and any existing appraisals (A current appraisal, not older than 6 months, by an appraiser acceptable to the County shall be required if approval is granted)

v. Evidence of existing mortgage balances and copy of corresponding documents w. Evidence of insurance coverage on properties owned

x. An original loan denial letter and a copy of the supporting credit application from one (1) bank not older than 90 days.

The Consultant shall:

a. Provide interested small businesses with adequate information about the requirements of the Financial Assistance Program;

b. Coordinate and provide ongoing services between the County, contractors and lending institutions;

c. Advise and inform the County Mayor~~nager or his~~ or ~~her~~ designee of the progress of the Financial Assistance Program on an ongoing basis;

d. Attend and actively participate in the periodic meetings with County staff, contractors and subcontractors and report the status of the Financial Assistance Program and explain any changes that may enhance or detract from the effectiveness of the program;

e. Prepare at a minimum, quarterly progress reports by the 7th day of the month following the end of each quarter or as otherwise agreed upon which shall describe significant achievements and problems which have a potential effect on the Program with sufficient detail to assure that directions

being pursued are in compliance with the established Financial Assistance Program; and

f. Prepare an annual report for the County Mayor~~nager~~ highlighting the progress of the Financial Assistance Program, and summarizing the services provided and includes the observations and recommendations on new developments in the financial marketplace.

Financial Assistance Application Review Process

Upon completion of the Financial Assistance application package, the Consultant shall perform the review and approval of the Program participant's application. The Consultant will consider, at a minimum, past performance record, character, capability, and capital.

3. EXPEDITED PAYMENT PROCESS

Department of Small Business Development (~~D~~SBD) shall pre-qualify a pool of disbursement agents for the purpose of providing expedited payments to eligible CSBEs who participate as prime contractors and subcontractors on County construction contracts.

~~D~~SBD shall establish, through a competitive process, a pool of disbursement agents to provide, on a rotational basis, disbursement services for eligible CSBEs. A lottery will be implemented to establish the order in which the disbursement agents will be assigned the contracts for specific projects. One disbursement agent will be assigned to all eligible CSBEs on a given prime contract. For miscellaneous and open contracts, a work order will be considered a "project" for the purposes of assignment to disbursement agents.

Expedited payments can be made to eligible CSBEs who participate in the Expedited Payment Process. Eligible expenses incurred by the CSBEs are limited to an initial draw of up to 10% of the CSBE's contract or subcontract award amount or subcontract award amount. The County will provide funding for contracts or projects to eligible CSBE firm via the disbursement agent. The release of money is subject to the normal retainage, which shall be held by the user department. Normal retainage processing shall be applicable to procedures of the user department.

The CSBEs must have completed the Management and Technical Assistance Program's Professional Development and Training

Modules in order to access financial assistance through the expedited payment process. The Professional Development and Training Modules include the following:

1. Introduction overview of county processes

2. Business Management

3. Pre-Award Contracting and Responsibilities

4. Bonding and Financial Assistance

Once a CSBE has successfully completed the aforementioned modules, a certificate, as well as Continuing Education Credits (CECs) will be issued to that firm. ~~D~~SBD shall maintain and publish in the certification list CSBE firms that are eligible to the access expedited payment process.

~~D~~SBD will include in all pre-bid and pre-construction meetings information pertaining to potential CSBE firms participating in the expedited payment process via a disbursement agent.

~~D~~SBD shall determine if the disbursement agent has performed as required and will authorize payment of disbursement agent fees.

RESPONSIBILITIES OF PROJECT MANAGER:

The project manager shall ensure that:

- Contract specifications include language indicating that all CSBE measures shall be based on total construction contract amounts including change orders, not including the amount of the disbursement agent's fee. The specifications shall state that the County shall issue approved payments directly to the Disbursement Agent for that portion of the contract sum designated for this Program on the CSBE's behalf.

The project manager shall be responsible for:

- Verifying that CSBE prime or subcontractors be identified by line item in each requisition. Once the Prime's requisition is approved, the CSBE subcontractor's portion will be disbursed to the disbursement agent.

- Advising ~~D~~SBD of all pre-bid and pre-construction meetings.

- Advising ~~D~~SBD of those instances where a CSBE is not performing as expected or experiencing difficulties on the project.

- Monitoring, analyzing, and reporting contract progress and problems to ~~D~~SBD in a timely manner.

- Attending meetings with ~~D~~SBD, prime contractor, CSBE and disbursement agent as needed.

- Reviewing and approving or rejecting payment request within 5 business days of receipt of billing.

- Disbursing payments to Disbursement Agent immediately upon approval by the finance or managing department.

RESPONSIBILITIES OF PARTICIPATING CSBE:

The participating CSBEs shall:

- Attend the required professional development modules offered by ~~D~~SBD in order to be eligible for the Expedited Payment Process. After completing the Professional Development and Training Modules, a certificate of successful completion and CECs will be issued to the eligible firm. This certificate will be maintained by the CSBE, and noted in a ~~D~~SBD database, to confirm the firm's eligibility to access this Program. Eligible CSBE firms may continue to access this Program as long as their CSBE certification is current.

- Notify the County and the disbursement agent in writing that the services of a disbursement agent will not be utilized.

- Submit proper invoices for eligible expenses to the disbursement agent in a timely manner in appropriate format and with supporting documentation sufficient for verification by the County and the prime contractor in accordance with the contract specifications.

RESPONSIBILITIES OF THE DISBURSEMENT AGENT:

The disbursement agent shall:

- Obtain verification from ~~D~~SBD that the CSBE is qualified to participate in the Program.

- Make the first payment of eligible expenses up to 10% of the CSBE's contract amount and subsequent proceeds of contract to participating CSBEs throughout the completion of the project.

- Verify that the labor and materials billed have been provided for the specific project, consulting with the project manager and/or the prime contractor.

- Disburse approved payments assigned to firms within two (2) business days upon receipt of payment from the County.

- Receive requisitions with supporting documentation from all of the CSBE firms' vendors and issue the disbursement on the CSBEs' behalf by joint checks.

- Monitor, analyze, and report contract progress and problems via paper trail to ~~D~~SBD and the project manager via monthly status reports to ~~D~~SBD.

- Report any improprieties to ~~D~~SBD and the project manager within one business day.

- Maintain up-to-date records and status reports of participating subcontractors, vendor/supplier contracts, change orders, and schedules to be readily available for the review or audit by ~~D~~SBD, surety, prime contractors and/or CSBE.

- Maintain a current comparison between the original job estimate and the actual cost of the CSBE contract, as provided by a schedule of values listing each line item, or contract line item, and be able to provide such reports within 1 business day.

- Establish a trust account solely for disbursing County funds. Upon approval of a payment requisition, the County will transfer the appropriate amount to the disbursement agent's account; subsequently, the disbursement agent will write a check to the participating CSBEs. Joint checks shall be made to vendor/suppliers.

- Submit approved invoices with supporting documentation sufficient for the County to review and approve pay for disbursement services.

- Comply with all applicable federal, state and local policies.

- Communicate with the project manager no less than once every three months to discuss progress of project, and make minutes of such meetings.

- Disburse contract proceeds for participating CSBEs through the completion of project.

- Upon written demand, return County funds to the County within five (5) business days.

- The complete requirements and responsibilities of the disbursement agent will be addressed in the disbursement agent's agreement with the County.

MINIMUM CRITERIA FOR DISBURSEMENT AGENTS

The minimum requirements for a disbursement agent shall include:

- Registered as a Miami-Dade County vendor

- Minimum of 5 years disbursement/banking experience

- Minimum of $1 million in disbursements annually over a period of 5 years

- Minimum of $3 million for each of the following policies:

    - Errors/Omission & Employee Dishonesty & Fiduciary Liability Insurance
    - Directors/Officers Insurance

- MTA Program training for at least one member of firm

DISBURSEMENT AGENT FEES

The disbursement agent's fee will be one percent (1%) of the total CSBE's contract amount on contracts up to $1,000,000: .5% on contract of $1,000,001 to $2,500.000 and .4% on contracts over $2,500.000. There will be a minimum charge of one thousand ($ 1,000.00) dollars on any CSBE contract. The aforementioned fees shall be subject to negotiation at the sole discretion of the County.

ELIGIBLE EXPENSES FOR FIRST DRAW/SUBSEQUENT DRAWS OF EXPEDITED PAYMENT

The disbursement agent shall disburse funds to eligible CSBE prime contractors and CSBE subcontractors upon receipt of a notice to proceed, as follows:

- Equipment purchases are not eligible unless the equipment is required by contract specifications to be acquired and incorporated into the project. Said equipment shall be in the name of the County or a portion of its life would be prorated for the job in accordance with

accepted user department's contracts. If the equipment does not become a part of the asset built, then the equipment purchased shall be used exclusively for the County contract in order to be considered an eligible expense. Equipment rental charges may be considered an eligible expense to the extent the rental charge is prorated. Only the actual time the equipment is used on the project is eligible.

- On the first draw, the participating CSBE must furnish the disbursement agent with evidence of financial commitment or proper receipt for any eligible expense incurred on the job without a markup that can be reimbursed.

- Overhead, standby, delay or interference costs are not considered Eligible Expenses.

- Subsequent draws for remaining contract payments will be disbursed at least once a month by disbursement agent throughout the completion of the project.

RESPONSIBILITIES OF THE PRIME CONTRACTOR:

The Prime Contractor shall:

- Be responsible for the quality and accuracy of the work performed by the participating CSBEs.

- Notify the disbursement agent, the project manager and ~~D~~SBD of any problems involving the work of participating CSBEs in writing within one business day.

- Ensure that the CSBE subcontractors are identified by line item in each requisition. Once the prime's requisition is approved, the disbursement agent will disburse the CSBE subcontractor's portion.

- Advise the project manager of any unforeseen changes in the scope of work by change orders that may affect the participating CSBE's scope and/or contract amount.

- Confirm that the amounts to be disbursed conform to the actual work performed by the participating CSBE.

- The prime contractor and the surety shall have the right to object to any payments by of an invoice by the disbursement agent to a participating CSBE subcontractor upon the following conditions:

a. The dollar amount or specifications are not in accordance with its contract or subcontract terms;

b. The payment of the invoice amount would adversely affect the progress of the work stating the specified grounds; and

- Must approve or deny the request for expedited payment within three (3) business days concurrent to the County's review. Objections are to be directed to the disbursement agent and the project manager in writing within five (5) business days of notification of the expedited payment.

~~D~~SBD will provide ongoing oversight and evaluation of the Program to ensure that procedures are adhered to and will recommend changes to improve and enhance Program with the assistance of the CSBE Advisory Board.

PROGRAM RESTRICTIONS

The following restrictions shall apply to the Program applicant:

a. Any applicant who exceeds the CSBE Program size thresholds is prohibited from participating in this program.

b. Applicants who have been identified through the Needs Assessment as needing MTA will be certified for such assistance for a period of two (2) years after identification of such need.

USE OF OTHER LOCALLY FUNDED ASSISTANCE AGENCIES

The Consultant shall utilize the services of other publicly and privately funded assistance agencies and non-profit agencies which can provide technical and financial services to small businesses required under this contract.

XXIV. MANAGEMENT AND TECHNICAL ASSISTANCE PROGRAM:

A. ~~D~~SBD RESPONSIBILITIES

1. After being certified* by ~~D~~SBD in the CSBE Program, the CSBE will meet with the ~~D~~SBD Training Coordinator. The ~~D~~SBD Training Coordinator will:

a. Provide an overview of ~~D~~SBD functions;

b. Provide an overview of the CSBE program;

c. Provide the CSBE with a packet containing forms for the MTA, Bonding & Financial Assistance, and Mentor- Protégé Programs, as well as a Needs Assessment form.

d. Assist the CSBE in filling out the Needs Assessment form.

*Note - in some instances, firms applying for CSBE certification will be referred to the MTA Program for assistance before being certified.

2. The ~~D~~SBD Training Coordinator will review the CSBE Needs Assessment Form to determine what needs the CSBE has, and will make sure that the CSBE meets all eligibility requirements for the various programs.

3. If participation in the Mentor-Protégé Program is recommended, the ~~D~~SBD Training Coordinator will assist the CSBE in filling out the forms to register for that Program. ~~D~~SBD will review the list of registered Mentors and Protégés and recommend a Mentor-Protégé relationship for the CSBE. This recommendation will be forwarded to the CSBE Advisory Board, or a committee thereof, for their review. A tracking form will be submitted by Mentors and Protégés to keep status of their current relationship.

4. If participation in the Bonding & Financial Assistance Program is recommended, the ~~D~~SBD Training Coordinator will assist the CSBE in filling out the necessary forms. An appointment will be set up for the CSBE with the MTA consultant for further processing of the appropriate application(s).

5. If participation in the MTA Program is recommended, the ~~D~~SBD Training Coordinator will assist the CSBE in filling out the necessary forms. The CSBE will be directed to the various resources that will assist the CSBE in obtaining the assistance identified in the Needs Assessment; ~~D~~SBD staff will set up appointments with the appropriate resources for the CSBE and follow up at monthly intervals to assure compliance.

6. ~~D~~SBD staff will keep records and files on all CSBEs that have applied to participate in any of the ~~D~~SBD training or assistance programs. They will also set up appointments for CSBEs with the appropriate entities as applicable. ~~D~~SBD staff will also follow up with all such CSBEs to ensure that their needs have been met, to identify any issues or problems, and to determine how successful the programs have been.

7. ~~D~~SBD will coordinate regular workshops for CSBEs on how to do business with the County, to discuss County procurement processes and to develop specialized business related educational opportunities.

8. ~~D~~SBD is responsible for marketing of the CSBE Program and its various facets as well as for Community Outreach for the Program and for the CSBE Advisory Board.

9. ~~D~~SBD is responsible for providing various reports to the County Manager, the CSBE Advisory Board and the Board of County Commissioners. Such reports will include:

   a. Bonding & Financial Assistance Program: number of clients that applied, number that received bonds and/or loans, amount of bond or loan;

   b. MTA Program: number of clients that applied, number of clients trained, number and amount of Business Plans and Accounting Services reimbursements, etc.

   c. Mentor-Protégé Program: number of clients that have signed up for the Program, number of current Mentor-Protégé Program relationships, progress to date on each current relationship, and number of successful completions.

B. CONSULTANT RESPONSIBILITIES

1. The Consultant will provide MTA to small businesses performing as prime contractors or subcontractors on Miami-Dade County construction contracts, or performing as vendors and providing services to Miami-Dade County. These services will be referred to as the "Program."

2. The Consultant will identify the needs of the Program participants and develop all applicable forms. Any small business that becomes a Program participant shall fill out an application and undergo a Needs Assessment performed by the Consultant. After the Needs Assessment is performed, the Consultant shall identify the applicant's needs such as MTA.

3. The Consultant shall also identify the applicant's need for Financial, Management and Bonding Assistance, and shall provide the applicant with such assistance. ~~D~~SBD may require that the applicant pursue and complete certain MTA Programs prior to

obtaining approval for participation in programs such as the Financial and/or Bonding Assistance Programs.

C. PROGRAM REQUIREMENTS

The Program is divided into two segments, each designed to enhance the other components of the program to make the complete project functional. The following elements outline the minimum tasks required by the County to have an effective MTA, and Community Outreach Program:

1. MTA SERVICES

MTA services are provided based on need and tailor made to address those needs on a case-by-case basis. These services shall be offered to an applicant when it is determined by ~~D~~SBD and/or the Consultant that the inclusion of these services will enhance the bonding or financial assistance opportunities for firms which under normal procedures would not qualify for bonding or financial assistance.

The following represents the minimum services required by the County to be offered to the small businesses:

a. Pre-Award Services

1. Assist with pricing;

2. Assist with the preparation of the bid or proposal documents;

3. Analyze the specifications, bid and labor problems;

4. Assist with purchasing materials for the job;

5. Assist with the preparation of change orders, job budgets, and trade payment breakdown;

6. Assist with obtaining construction permits and subcontractor permits for subcontracts;

7. Assist interested and qualified small businesses that lack bonding and loan credit facility, to obtain bonding, loans and lines of credit;

8. Assist with construction scheduling;

9. Assist in quality control;

10. Assist with cost control;

11. Avoid time delays;

12. Assist in site management; and

13. Maintain a file of successful bid/proposal documents from past procurement and encourage Program participants to review and evaluate such documents.

b. Post-Award Services:

1. Attend pre-construction conference;

2. Monitor schedules, performance and compliance with construction management directives;

3. Monitor and report routinely on contractor's progress and performance;

4. Coordinate information regarding contractor's performance with General Contractor and Construction Manager/Inspector;

5. Assist in conflict resolution;

6. Assist when language is a barrier;

7. Monitor work product and relations with suppliers and subcontractors;

8. Review monthly draws and payment schedules;

9. Monitor contractor's payroll and tax reporting functions;

10. Prepare periodic reports for bonding and working capital providers;

11. Prepare final report on contractor's performance; and

12. Conduct debriefing sessions; at the request of unsuccessful bidders or at the discretion of ~~D~~SBD, on

awarded contracts to explain why bids/proposals may have been unsuccessful.

c. Access to Business Management Services including:

1. Business planning
2. Financial planning
3. Tax planning
4. Marketing
5. Contract procurement
6. Franchising
7. Cash flow management
8. Pursuit of capitalization
9. Creating/improving business image
10. Computerization
11. Receivables and payables management
12. Entrepreneurial training
13. Cost accounting methodology and practice
14. Total quality management (TQM)
15. Industrial and manufacturing development
16. Distribution
17. Inventory control
18. Provide two computer workstations, accessible by the physically challenged
19. Develop and design an electronic information system (i.e. electronic bulletin board or Internet Web Page) designed to benefit small businesses by providing information and links to resources including technical

service providers, professional organizations and area chambers of commerce

20. Establish Small Business Resource Library which includes:

    a. On line computer services

    b. video tutorials

    c. magazines

    d. books

    e. reference materials

21. Federal information support which includes:

    a. current bidding opportunities

    b. government literature on regulatory changes

    c. timely information on available federal programs

22. Provide newsletter which contains:

    a. timely information on specialized training, seminars and conferences

    b. "Client Classifieds" which helps match client services, identifies personnel, and markets special activities sponsored by Program clients c. listing of vendors who have established special service delivery costs for Program participants

d. Other: Evaluate and provide feedback and suggested changes to the County May~~ornager~~ on construction related contracting and procurement processes within the County. Such processes include bid/proposal specifications, procurement policy, job performance requirements, dividing of contracts and purchase orders into smaller sizes to afford greater opportunities, general bidding requirements, bonding and insurance requirements, certification procedures, etc. Establish a Technical Assistance Account for each Program

Participant upon completion of the Needs Assessment portion of the Program. This account is limited to $2,500 per year, subject to availability of funds. Funds from this account may be used to pay for Technical Assistance Services not available through the County or through ~~D~~SBD (such as approved educational training programs, seminars, conferences, etc.).

D. COMMUNITY OUTREACH

~~D~~SBD and the Consultant shall coordinate Community Outreach to stimulate the interest of the small business community in the Program. The Consultant must design and implement (with S~~D~~BD) an outreach program that will communicate the advantage of the Program as well as convince potential participants that contracting opportunities exist. This outreach program must be approved, before implementation, by the County Mayor~~nager or his~~ or ~~her~~ designee. The program must demonstrate ongoing recruitment and assistance to small businesses. The following reflects the minimum Frequency of Consultant outreach services required during the contract period:

Programs	Frequency
Technical Workshops	Quarterly
*Organizational Outreach	On-going
Advertisement in major & minority publications	Monthly

*Organizational Outreach in the community includes briefing the local Chambers of Commerce, trade organizations and other agencies as deemed necessary to emphasize the purpose and assistance offered under the Program.

The Consultant shall provide the County Mayor~~nager or his~~ or ~~her~~ designee with a schedule of workshops or other related activities within 30 days of the planned event. These activities must be conducted within the Miami-Dade County area at locations and times, which will afford maximum attendance, by potential program participants.

The Consultant shall also:

1. Communicate with contractors/vendors that are currently certified with the County under the CSBE Program or the Minority & Women-Owned Business Enterprise (MWBE) Program;

2. "Network" with local organizations to assure maximum exposure to potential contractors/vendors;

3. Develop a marketing/communications program to encourage participation by small businesses;

4. Develop a database of small businesses; and

5. Design and develop a program to disseminate information which will inform potential participants of the criteria, guidelines and benefits of the Program.

E. PROGRAM RESTRICTIONS

The following restrictions shall apply to the program applicant:

a. Any applicant who exceeds the CSBE Program size thresholds is prohibited from participating in this program.

b. Applicants who have been identified through the Needs Assessment as needing MTA will be certified for such assistance for a period of two (2) years after identification of such need.

F. USE OF OTHER LOCALLY FUNDED ASSISTANCE AGENCIES

The Consultant shall utilize the services of other publicly and privately funded assistance agencies and non-profit agencies which can provide technical and financial services to small businesses required under this contract.

XXVI. CSBE ADVISORY BOARD

The CSBE Advisory Board, created by Ordinance 97-52, as amended and its membership, appointed by the Board of County Commissioners, consists of one each of the following:

1. one member from the list of recommended appointees submitted by the Allied Minority Contractor's Association, Inc.;

2. one member from the list of recommended appointees submitted by the South Florida Chapter of the Associated General Contractors of America;

~~3. one member from the list of recommended appointees submitted by the Association of Women Architects and Engineers;~~

34. one member from the list of recommended appointees submitted by the ~~Black Business Association~~ BAC Funding Corporation;

4~~5~~. one member from the list of recommended appointees submitted by the Construction Association of Florida, Inc.;

5~~6~~. one member from the list of recommended appointees submitted by the Engineering Contractor's Association of South Florida, Inc.;

6~~7~~. one member from the list of recommended appointees submitted by the Latin Builder's Association;

~~8. one member from the list of recommended appointees submitted by the Air Conditioning and Refrigeration Association, Inc.;~~

7~~9~~. one member from the list of recommended appointees submitted by the Underground Contractor's Association of South Florida, Inc.

8~~10~~. one member from the list of recommended appointees submitted by the ~~Association of Black Architects and Engineers~~ Miami-Dade Chamber of Commerce;

9~~11~~. one member from the list of recommended appointees submitted by the Contractor's Resource Center;

10~~12~~. one member from the list of recommended appointees submitted by the UPPAC;

11. one member from the list of recommended appointees submitted by the National Association of Women in Construction;

12~~13~~. a representative of the local bonding industry;

13~~14~~. a representative of the local banking and financial industry; and

14~~15~~. a certified CSBE.

The term of each member shall be two (2) years. Members shall serve without compensation.

The Advisory Board is created for the purpose of providing general program oversight and assisting ~~D~~SBD in tracking and monitoring the results and effectiveness of the CSBE Program. The Advisory Board shall not assume ~~D~~SBD's administrative or other responsibilities. The Advisory Board may serve as liaison between Program participants and the local business community, recommend additional Program Incentives, participate in the recruitment of prospective participants for the CSBE program, and review and report on the Program's progress. The Advisory Board, in accordance with Section 10-33.02 of

the Code of Miami-Dade County ~~Ordinance 97-52~~, as amended, shall recommend to the County Commission the maximum length of time a CSBE may participate in the program.

Sections 2-11.1(c) and (d) of the Conflict of Interest and Code of Ethics Ordinance of Miami-Dade County are waived for Advisory Board members for transactions arising from the exercise of those powers given the Advisory Board by this ordinance.

This Implementing ~~Administrative~~ Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

~~George M. Burgess~~
Alina T. Hudak
County Manager