MEMORANDUM

Agenda Item No. 7(C)

(Second Reading 9-7-16)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: June 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance pertaining to Small Business Enterprise Architecture and Engineering Program; amending section 2-10.4.01 of the Code to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson, and Co-Sponsors Commissioner Daniella Levine Cava, Commissioner Barbara J. Jordan and Commissioner Dennis C. Moss.

Abigail Price-Williams
County Attorney

APW/smm

Memorandum

MIAMI-DADE COUNTY

Date: September 7, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact Statement for Ordinance Pertaining to Small Business Enterprise Architecture and Engineering Program

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The proposed ordinance amends 2-10.4.01 of the Code of Miami-Dade County to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements.

The Internal Services Department, Small Business Development Division, is already responsible for assigning goals/measures to County contracts, and, it is expected that this existing staff will be able to manage those contracts meeting the criteria of this proposed ordinance. Increased penalties may have a positive fiscal impact on the County, however, it is difficult to make an estimate at this point.

Edward Marquez
Deputy Mayor

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Memorandum

MIAMI-DADE COUNTY

Date: September 7, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Social Equity Statement for Ordinance pertaining to Small Business Enterprise Architecture and Engineering Program amending section 2-10.4.01 of the Code of Miami-Dade County, Florida to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements

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The proposed Ordinance amends the Small Business Enterprise Architecture and Engineering Program Section 2-10.4.01 of the Code of Miami-Dade County, Florida to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements.

Increasing the penalties on applicable contracts will provide for stronger accountability to small business measures during the duration of the contract. In addition, this amendment will assist all parties involved to resolve any issues in meeting small business measures.

Edward Marquez
Deputy Mayor

Attachments

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(C)

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**

_____ **Statement of social equity required**

_____ **Ordinance creating a new board requires detailed County Mayor'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**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(C)
9-7-16

ORDINANCE NO. _____

ORDINANCE PERTAINING TO SMALL BUSINESS ENTERPRISE ARCHITECTURE AND ENGINEERING PROGRAM; AMENDING SECTION 2-10.4.01 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR INCREASED PENALTIES TO BE PAID BY CONTRACTORS AND SUB-CONTRACTORS UPON FAILURE TO MEET GOAL REQUIREMENTS; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-10.4.01 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 2-10.4.01 Small Business Enterprise Architecture and Engineering Program.

* * *

(6) *Administrative penalties.* For violation of or noncompliance with this section or its implementing order, proposal(s), and/or competitive selection documents, the County Mayor or designee may impose penalties that include, but are not limited to, the following:

* * *

3. 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

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

from the contractor for such noncompliance as follows: for the first deficit, a penalty in an amount equal to [[~~10~~]]>>20<< percent of the amount thereof; for the second deficit, a penalty in an amount equal to [[~~20~~]]>>40<< percent thereof; for the third and successive deficits, a penalty in an amount equal to [[~~30~~]]>>60<< percent thereof. A fourth violation and finding of noncompliance, shall constitute a default of the subject contract and shall 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.

4. If the required payment is not made within thirty (30) days of the administrative hearing or final resolution of any appeal therefrom, the noncomplying 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.

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency: AW

Prepared by: dsh

David Stephen Hope

Prime Sponsor: Commissioner Audrey M. Edmonson
Co-Sponsors: Commissioner Daniella Levine Cava
Commissioner Barbara J. Jordan
Commissioner Dennis C. Moss