

Memorandum



Date: July 6, 2016

Agenda Item No. 1(F)6

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Gimenez", written over a horizontal line.

Subject: Sunset Review of County Boards for FY 2016 – Small Business Enterprise Goods and Services Advisory Board

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2016 Sunset Review of County Boards Report for the Small Business Enterprise Advisory Board.

The Small Business Enterprise Goods and Services Advisory Board approved the attached report at its meeting on March 29, 2016 and has recommended the continuation of its board.

A handwritten signature in blue ink, appearing to read "Edward Marquez", written over a horizontal line.


Edward Marquez
Deputy Mayor

Memorandum



Date: March 29, 2016

To: Carlos A. Gimenez
Mayor

From: Michael Joseph
Vice Chairperson, Small Business Advisory Board 

Subject: Sunset Review of County Boards for 2016 – Small Business Enterprise Advisory Board

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2016 Sunset Review of County Boards Report for the Small Business Enterprise (SBE) Advisory Board for transmittal to the Board of County Commissioners (BCC). The Advisory Board approved the attached report at its meeting on March 29, 2016.

It is recommended that the BCC approve the continuation of the Small Business Enterprise Advisory Board.

BACKGROUND

The SBE Advisory Board was created on February 1, 2005, for the purpose of supporting and promoting the Small Business Enterprise (SBE) Program. The Advisory Board operated as a focal point for the public and provides oversight for the SBE Program. The Board consists of fifteen (15) members, with each Commissioner and the Mayor appointment of a member to the SBD Advisory Board.



Michael Joseph
Vice Chairperson

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE COUNTY BOARDS
2016**

I. GENERAL INFORMATION

1. Name of Board reporting: Small Business Enterprise Advisory Board
2. Indicate number of board members, terms of office, and number of vacancies:
Number of Board Members: There are five (5) Advisory Board members
Terms of Office: Term of office is four (4) years
Number of Vacancies: There are 10 vacancies
3. Identify number of meetings and members' attendance (Attach records reflecting activity from **Jan. 1, 2015** through **December 31, 2015**):
Number of Meetings: 12
Number of Meetings with a Quorum: 5
Attendance Records: See Attachment 1
4. What is the source of your funding? General funds through the budget of the Small Business Development Division of the Internal Services Department
5. Date of Board Creation: February 1, 2005
6. Attach a copy of the ordinance creating the Board (Please include all subsequent amendments).
See Attachment 2
7. Include the Board's Mission Statement or state its purpose:
As outlined in establishing ordinance
8. Attach the Board's standard operating procedures, if any. N/A
9. Attach a copy of the Board's By-Laws, if any. See Attachment 3
10. Attach a copy of the Board minutes approving the Sunset Review Questionnaire, **including a vote of the membership**.
See Attachment 4

II. EVALUATION CRITERIA

1. Is the Board serving the purpose for which it was created? (Please provide detailed information) Yes, see "Goals and Objectives" Attachment 5
2. Is the Board serving current community needs? (Please provide detailed information) Yes, by providing awareness to the small business community of contracting opportunities that are available for small business owners. Small business owners are invited to the SBE Advisory Board meetings to provide input and share their experiences as a result of participating in the program. The Board in conjunction with SBD and other organizations establishes and participates in various recruitment efforts to increase the pool of small businesses
3. What are the Board's major accomplishments?
 - a. Last 24 months. N/A
 - b. Since established. See Attachment 6

4. Is there any other board, either public or private, which would better serve the function of this board? No, there are no other boards that would better serve the function of this board
5. Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created? (If "Yes", attach proposed changes) No
6. Should the Board's membership requirements be modified? No
7. What is the operating cost of the Board, both direct and indirect? (Report on FY 2013 and FY 2014) Small Business Development staff
8. Describe the Board's performance measures developed to determine its own effectiveness in achieving its stated goals. The Small Business Advisory Board's performance measures are to operate as a focal point for the public. The Advisory Board reviews various reports that monitor the participation of small businesses on county contracts. At a minimum, county departments are to expend at least 10% of their purchases with small businesses

Attachment #1

SMALL BUSINESS ENTERPRISE ADVISORY BOARD MEETINGS AND MEMBER ATTENDANCE

Appointing Commissioner	NAME	02/20/14	04/17/14	06/19/14	08/21/14	10/16/14	02/19/15	04/16/15	06/19/15	07/04/15	08/21/15	09/17/15	11/19/15
Jean Monestime	Michael Joseph	X	C A N C E L L E D										
Dennis Moss	James Lamar Brown	Absent	C A N C E L L E D										
Audrey Edmonson	Kathy Emery	X	R E S C H E D U L E D										
Rebeca Sosa	Maria Gonzalez	Absent	R E S C H E D U L E D										
Mayor Gimenez	Laura Perez	X	R E S C H E D U L E D										
Barbara Jordan	Denise Mincey-Mills	R E S C H E D U L E D											
Xavier Suarez	Marcus Dixon	R E S C H E D U L E D											
Linda Bell	Nina Sinisterra	R E S C H E D U L E D											
Esteban Bovo	Yahima Suarez	R E S C H E D U L E D											
Jose "Pepe" Diaz	Jorge Suarez	R E S C H E D U L E D											

X = Attended Meeting

█ = Not on Advisory Board (Not Yet Appointed, Resigned or Removed)

Memorandum



Date: February 1, 2005

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

From: George M. Burgess
County Manager

Subject: Ordinance Establishing the Small Business Enterprise (SBE) Program

Agenda Item No. 4(J)

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance establishing the Small Business Enterprise (SBE) Program for the acquisition of goods and services.

BACKGROUND

On August 20th, 2004, Federal District Court Judge Adalberto Jordan issued a ruling in the case of Hershel Gill Consulting Engineers, Inc. et al. v.s. Metropolitan Dade County. This is the second federal court decision finding that the County's B/H/WBE programs do not meet the rigorous prerequisites required for the application of race-, ethnicity- or gender-conscious measures to county contracting. The County Attorney advised the effect of these two federal court decisions is that the B/H/WBE programs can no longer be applied to the bid and award of any County contract.

County staff, including the Department of Business Development (DBD) and the Department of Procurement Management have met with representatives from the affected market areas and with members of the Minority and Women-Owned Business Advisory Board to discuss the establishment of a County race and gender neutral small business program for goods and services. As proposed, the Small Business Enterprise (SBE) Program incorporates two sectors of the local market place: a) very small businesses, defined as Micro Enterprises whose three year average gross revenues do not exceed \$2,000,000 (manufacturers and wholesalers with 50 or more employees are ineligible) and b) small businesses, defined as SBEs whose three year average gross revenues do not exceed \$5,000,000 (manufacturers and wholesalers with 100 or more employees are also ineligible).

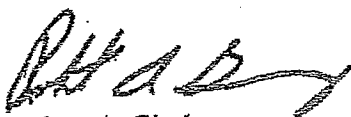
Under the SBE program, certified Micro Enterprises will receive an automatic 10% bid preference on contracts of \$50,000 and under. County departments will be required to solicit bids or quotes from at least four firms where available (2 available certified Micro Enterprises and 2 non-certified firms) for contracts of \$50,000 and under. County departments are also required to expend at least 5% of the total value of contracts \$50,000 and under with Micro Enterprises. On contracts that exceed \$50,000, certified SBEs will be afforded opportunities to participate through the application of set-asides and subcontractor goals. The proposed ordinance will also create the Small Business Advisory Board which shall be responsible for reviewing program activities and making recommendations to DBD and the Board on matters pertaining to the program.



MEMORANDUM
(Revised)

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

DATE: February 1, 2005

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(J)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 4(J)

02-01-05

ORDINANCE NO. _____

ORDINANCE CREATING SMALL BUSINESS ENTERPRISE PROGRAM APPLICABLE TO CONTRACTS FOR THE PURCHASE OF CERTAIN GOODS OR SERVICES; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REPEALING ARTICLE XXIVA, SECTIONS 2-221 THROUGH 2-228, OF THE CODE OF MIAMI-DADE COUNTY FLORIDA PERTAINING TO THE SMALL BUSINESS ADVISORY COUNCIL; CREATING THE SMALL BUSINESS ADVISORY BOARD; EXEMPTING BOARD MEMBERS FROM CERTAIN ASPECTS OF THE CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, a program which affords opportunities to small businesses to participate in the County's procurement of goods and services would foster growth in the economy of Miami-Dade County, by affording small businesses and micro businesses the opportunity to gain the experience, knowledge and resources to compete and survive, both in the government contracting arena as well as in the private contracting arena; and

WHEREAS, Miami-Dade County greatly impacts the local economy and business development through its spending of revenue for various County projects, goods, services and other needs; and

WHEREAS, the Board of County Commissioners hereby establishes an ordinance to assure that all businesses, within the relevant market area, are afforded fair treatment by the County government in the competitive process of

4. *Bid preference* means an amount deducted from the total bid price in order to calculate the bid price to be used to evaluate the bid submitted by a Micro Enterprise or SBE on a competitively bid contract to be awarded on the basis of price (as opposed to an RFP, RFI or RFQ) which is not set aside.
5. *Bidder or Proposer* means any person, partnership, corporation or other business entity that submits a bid or proposal.
6. *Board* means the Board of County Commissioners of Miami-Dade County, Florida.
7. *Commercially useful function* means contractual responsibility for the execution of a distinct element of the work of a contract by a SBE and the carrying out of its contractual responsibilities by actually performing, managing, and supervising the work involved. The determination of whether an activity is a commercially useful function shall include the evaluation of the amount of work subcontracted; normal industry practices; the skills, qualifications, or expertise of the enterprise to perform the work; whether the business owner performs, manages, and/or supervises the work involved; and other relevant factors. Acting as an authorized representative of a manufacturer as is normal industry practice is considered a commercially useful function. Commercially useful function shall also include a distributor authorized by a manufacturer to distribute the manufacturer's products locally.
8. *Contract* means an agreement for the purchase of goods or services; including professional services. Professional services as used in this section includes but is not limited to accounting, legal, health care, consulting and management services. Contract does not mean an agreement to purchase, lease, or rent real property; a grant, license, permit, franchise or a concession; an agreement to acquire professional architectural, engineering, landscape architectural or land surveying and mapping services; or a contract for construction or construction management services.

17. *Prompt Payment* is the intent of the Board that all firms, including SBEs and Micro Enterprises providing goods and services to the county, receive payments promptly as specified herein.
18. *Selection factor* means a factor considered in evaluating the response submitted to an RFP, RFQ or RFI by a bidder that is:
- A SBE,
 - A joint venture with one or more SBEs
19. *Small Business Advisory Board* is the board established for the purpose of supporting and promoting the Small Business Enterprise Program.
20. *Small Business Enterprise (SBE)* means a business entity certified by DBD, providing goods or services, which has an actual place of business in Miami-Dade County and whose three year average gross revenues does not exceed \$5 million. The term Small Business Enterprise shall also include a manufacturer with one hundred (100) employees or less or wholesaler with fifty (50) employees or less without regard to gross revenues. Representations as to a business entity's average gross revenues and payroll shall be subject to audit.
21. *Service* means work offered for public or private consumption that does not consist primarily of goods.
22. *Set-aside* means the designation of a given contract for competition among SBEs.
23. *Subcontractor goal* means a proportion of a total contract value stated as a percentage to be subcontracted to SBE(s) to perform a commercially useful function.
24. *Work* means the provision of goods or services.
- (3) *Program.*
- (a) *Application.* Except where federal or state laws or regulations mandate to the contrary, the provisions of

(c) *Contracts Greater than \$50,000.*

The following SBE measures may be applied to contracts greater than \$50,000:

1. *Set-asides:*

- a. Competitive bidding requirements may be waived (by the County Manager or County Commission depending on whether the amount of the contract is above or below the minimum amount established by ordinance for competitive bidding) for a contract and the contract set-aside for bidding solely by SBEs where prior to bid advertisement, there are at least three (3) available SBEs to perform the contract, and where such set-aside is in the best interests of the County.
- b. Transferring to a non-SBE through subcontracting or otherwise all or part of the actual work of a set-aside contract to a non-SBE is prohibited unless such transfer receives prior approval from DBD.

2. *Subcontractor goals:*

- a. Subcontractor goals may be applied to a contract based on estimates made prior to bid advertisement of the quality, quantity and type of subcontracting opportunities provided by the contract and the availability of SBEs to perform such work. Bid documents for contracts to which a SBE subcontract goal is applied shall provide that only SBEs certified to provide the type of goods or services for which a goal is imposed shall be counted towards meeting a goal. The bid documents shall further provide that a bidder must be found in compliance with the requirements of

non-SBE member. The bidder shall receive credit towards meeting the goal to the extent that the combined dollar value of the SBE's participation as shown in the joint venture agreement submitted in conformity with and meeting the requirements of this paragraph bears to the total contract price bid by the bidder.

- c. A bidder that is a SBE may meet up to 100% of the subcontractor goal with its own forces. A bidder that is a joint venture having one or more SBE venturers may comply with the goal based on the percentage participation of the SBE joint venturer(s) in the ownership, control and profits of the joint venture, and in the performance of the contract work.
- d. Bid documents shall provide only expenditures to SBEs for performing a commercially useful function shall be counted toward meeting a subcontractor goal, expenditures to SBEs who subcontract work further to non-SBEs shall not be counted toward meeting a specified goal unless such subcontracting receives prior approval from the DBD.

3. *Bid Preference:*

- a. A bid preference shall apply to all contracts which are to be awarded on the basis of price (as opposed to RFPs, RFIs and RFQs) and are not set-aside. The preference shall be used only to evaluate a bid and shall not affect the contract price.
- b. The preference accorded on contracts \$1 million or less shall be ten (10) percent of the price bid. The preference

that are not set aside for bidding solely by SBEs.

RFPs, RFQs and RFIs that assign weights to evaluation or selection criteria, shall provide that a bidder entitled to a selection factor shall receive an additional ten (10%) percent of the evaluation points scored on the technical portion of such bidder's proposal. RFPs, RFQs and RFIs that do not assign weights to evaluation or selection criteria, shall provide that whenever there are two best ranked proposals that are substantially equal and only one of the two so ranked is submitted by a bidder entitled to a selection factor, the selection factor shall be the deciding factor for award.

(d) *Review Committee.* The County Manager shall establish an administrative procedure for the review of each proposed County contract greater than \$50,000 to which this section applies.

(e) *Management & Technical Assistance.* The Department of Business Development (DBD) will provide Management and Technical Assistance and Community Outreach to business entities certified as SBEs or Micro Enterprises with Miami-Dade County.

(f) *SBE Financial Assistance.* DBD will develop a program to identify methods of financial assistance to SBE/Micro Enterprise vendors on Miami-Dade County contracts.

(g) *Small Business Advisory Board.* There is hereby created a Miami-Dade County Advisory Board for the SBE Program.

1. The Advisory Board will operate as a focal point for the public and with the assistance of the County Manager, will collect, input and disseminate information related to economic opportunities within Miami-Dade

described in the ordinance for graduation from the SBE/Micro Enterprise program, loss of certification may lead to removal of the firm from continued participation in the Small Business Enterprise program.

3. The Department of Business Development shall maintain and publish at least every other week an updated list of SBEs and Micro Enterprises, identifying each listed SBE and Micro Enterprise based on the nature of the goods and/or services the SBE and Micro Enterprise shall be certified to provide.
4. The Department of Business Development shall not certify an applicant, shall not recertify a SBE or Micro Enterprise, and shall decertify a SBE or Micro Enterprise that fails to comply with the criteria or procedures for obtaining or maintaining certification. DBD shall have authority to suspend the certification of a SBE or Micro Enterprise during any appeal of a decertification decision.
5. Certification shall be renewed annually, and must be in effect at the time of bid submission, bid award, and throughout the duration of the contract. SBEs and Micro Enterprises experiencing changes in ownership shall notify DBD within thirty (30) days of the effective date of such changes.
6. Applicants and certified SBEs or Micro Enterprises must have an occupational license for an actual place of business in Miami-Dade County at which they perform a commercially useful function in the provision of the type of goods or services for which certification is sought in order to be eligible for certification or remain certified.
7. A business entity shall be eligible to be certified as a SBE or Micro Enterprise only if the owner holding at least 10 percent shares or ownership in the business entity personally possesses any regulatory licenses and

prime vendor must pay the full amount of the received SBE billings by the next billing cycle or 40 calendar days from receipt, whichever is less.

4. The County or prime vendor in direct privity with a SBE/Micro Enterprise on a contract with SBE measures must notify the SBE/Micro Enterprise and DBD, in writing, of those amounts billed by the SBE/Micro Enterprise which are in dispute, and the specific reasons why they are in dispute, within fourteen (14) calendar days of submittal of such billing, or by the next scheduled billing whichever comes first. Failure of the County or prime vendor to comply with the applicable requirements of this subsection shall result in the forfeiture of the right to use the dispute as justification for not paying the SBE/Micro Enterprise and payment shall be forthcoming from the County or prime vendor as appropriate by the next billing date or 40 calendar days from receipt of billing, whichever is less. Departments shall report disputed invoices to the Board on a quarterly basis.
5. A SBE/Micro Enterprise may invoice the County or prime vendor, as appropriate, 1% interest per month for any undisputed amount that is not promptly paid.

(J) *Sanctions*

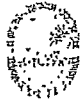
Bid and contract documents shall provide that, notwithstanding any other penalties or sanctions provided by law, a bidder's violation of or failure to comply with this section or its implementing administrative orders may result in the imposition of one or more of the following sanctions:

1. The suspension of any payment or part thereof until such time as the issues concerning compliance are resolved;
2. Work stoppage;
3. Termination, suspension, or cancellation of the contract in whole or part;

- not to exceed three (3) years, of a contractor, its individual officers, its shareholders with significant interests, and its affiliated businesses.
2. The loss of eligibility to be certified as a SBE or Micro Enterprise for a specified period of time, not to exceed three (3) years, for an applicant or a SBE or Micro Enterprise, its individual officers, its shareholders with significant interests, and its affiliated businesses.
 3. Where a contractor, its individual officers, shareholders with significant interests, or its affiliated businesses, attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, all such individuals and entities participating in the fraud, misrepresentation or material misstatement shall be excluded from County contracting, and SBE or Micro Enterprise certification for a specified period of time, not to exceed 5 years.
 4. If any individual or corporation, partnership or other entity, or any individual officer, shareholder with significant interests, director or partner of such entity or affiliated business of such entity participates in an attempt to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, all such individuals and entities participating in the fraud, misrepresentation or material misstatement shall be excluded from County contracting, subcontracting, and SBE or Micro Enterprise certification, for a specified period of time, not to exceed five (5) years.

(L) Appeals.

1. Appeals of decisions other than contractual violations, made under this ordinance by the Department of Business Development or other designees of the County Manager, shall be made to the County Manager.
2. Decisions by the County Manager under this ordinance shall be final unless the County



MEMORANDUM

Agenda Item No. 7(B)

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


DATE: May 3, 2011

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

SUBJECT: Ordinance pertaining to the Small
Business Enterprise ("SBE")
Program for the purchase of
goods and services amending
Section 2-8.1.1.1.1 of the Code

This ordinance was amended at the Internal Management and Fiscal Responsibility Committee to change the sentence dealing with a fourth violation and finding of noncompliance, from "may be the cause for suspension....", to "shall be the cause for suspension...."

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



R. A. Cuevas, Jr.
County Attorney

RAC/up

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Page 2

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. Authorizes the County Mayor or designee to establish the frequency and administrative procedures for certification renewal by Implementing Order approved by the Board of County Commissioners.
2. Clarifies that acting as a broker is not considered a commercially useful function for purposes of certification eligibility.
3. Authorizes the Mayor or designee to adjust the SBE/Micro-SBE 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.

Program Amendments

1. Changes the name of the Department of Business Development to the Department of Small Business Development.
2. Streamline the Review Committee Process

Honorable Chairman Joe A. Martínez
and Members, Board of County Commissioners
Page 4

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 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 the program.


Assistant County Manager

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
5-3-11

ORDINANCE NO. _____

ORDINANCE PERTAINING TO THE SMALL BUSINESS ENTERPRISE ("SBE") PROGRAM FOR THE PURCHASE OF GOODS AND SERVICES; AMENDING SECTION 2-8.1.1.1.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING SERVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Sec. 2-8.1.1.1.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows¹:

Sec. 2-8.1.1.1.1 Small Business Enterprise Program.

(2) *Definitions.* The following definitions shall apply in this section.

1. *Agreement* is a duly executed legally binding contract.
2. *Available or availability* means to have prior to bid submission, the ability to provide goods or services under a contract, by having:
 - a. Reasonably estimated, uncommitted capacity;
 - b. All necessary licenses, permits, registrations and certifications, including Small Business Enterprise (SBE) or Micro Enterprise certification to provide the type of goods or services being purchased under the contract;
 - c. The ability to obtain financing/insurance that is reasonably required and consistent with normal industry practice; and
 - d. The ability to otherwise meet bid specifications.
3. *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 for a contract.
4. *Bid preference* means an amount deducted from the total bid price in order to calculate the bid price to be used to evaluate the bid submitted

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.

capital assets, and investments, proceeds from transaction between a firm and its domestic and foreign affiliates are excluded.

>>12.<<[[43.]] *Joint venture* means an association of two or more persons, partnerships, corporations or other business entities under a contractual agreement to conduct a specific business enterprise for a specified period with both sharing profits and losses.

>>13.<<[[44.]] *Management and Technical Assistance (MTA)* means a program designed to provide direct and indirect assistance for small business enterprise development.

>>14.<<[[45.]] *Mentor-Protégé Program* is a program whose purpose is to build effective working relationships between leaders of mature established companies and emerging SBEs and Micro Enterprises in order for the latter to benefit from the knowledge and experience of the established Mentor firms.

>>15.<<[[46.]] *Micro Enterprise* means a business entity certified by >>S<<[[B]]BD, providing goods or services, which has an actual place of business in Miami-Dade County and whose three year average gross revenues does not exceed \$2 million, or a manufacturer with fifty (50) employees or less, >>or a<< wholesaler with fifteen (15) employees or less >>whose actual place of business is in Miami-Dade County.

16<<[[47.]] *Prompt Payment* is the intent of the Board that all firms, including SBEs and Micro Enterprises providing goods and services to the county, receive payments promptly as specified herein.

>>17. Review Committee or RC means the committee established by the Mayor or designee to review proposed projects for the application of contract measures where SBD and the contracting department have not established consensus and when public input requires deliberation regarding the measure/goal recommendation. The RC will make recommendations to the Mayor or designee.

18. SBD means the Department of Small Business Development.

19. Schedule of Intent Affidavit (SOI) means a form contained in the bid documents of a SBE contract set-aside or a contract with subcontractor goals in which bidders list at the time of bid submission all SBEs 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.

20.<<[[48.]] *Selection factor* means a factor considered in evaluating the response submitted to an RFP, RFQ or RFI by a bidder that is:

Dade and Public Health Trust contracts (as defined in this section) funded in whole or in part by County funds. The County ~~[[Manager]]~~ >>Mayor or designee<< shall prepare ~~[[administrative]]~~ >>implementing<< orders, bid and contract documents implementing the provisions of this section. The County ~~[[Manager]]~~ >>Mayor or designee<< by ~~[[administrative]]~~ >>implementing<< order may exclude classes of contracts, or parts thereof, from application of this section. The words County ~~[[Manager]]~~ >>Mayor or designee<< in this section shall mean the County ~~[[Manager]]~~ >>Mayor<< or ~~[[his or her]]~~ designee.

(b) *Contracts of \$50,000 or less.*

* * *

3. Annually, ~~>>S<<[[D]]~~BD shall provide a report of awards to Micro Enterprises and SBEs to the Board.

(c) *Contracts Greater than \$50,000.* The following SBE measures may be applied to contracts greater than \$50,000:

* * *

1. *Set-asides:*

* * *

b. Transferring to a non-SBE through subcontracting or otherwise all or part of the actual work of a set-aside contract to a non-SBE is prohibited unless such transfer receives prior approval from ~~>>S<<[[D]]~~BD.

2. *Subcontractor goals:*

* * *

b. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that ~~[[a]]bidder~~>>S<< must submit with its bid a ~~[[copy of]]~~>>completed Schedule of Intent Affidavit<< ~~[[subcontract agreements]]~~ with those SBE subcontractors the bidder proposes to utilize in order for such proposed participation to be eligible to be counted towards meeting the goal. Each >>Schedule of Intent Affidavit<< ~~[[agreement]]~~ shall be in writing, shall be executed by the bidder and the SBE, and shall specify the type of goods or services the SBE is to provide and the >>percentage of work<< ~~[[price]]~~ the SBE is to >>perform<< ~~[[be—paid]]~~ therefore. The solicitation documents for any competitive selection involving a separate evaluation of sealed price envelopes shall require that the technical submission contain a document duly

corresponding in all respects to the Successful Bidder's Schedule of Intent Affidavit to include the type of goods and services the SBE is to provide and the percentage and/or price. Each subcontract agreement shall incorporate the prompt payment obligations and rights provided by the Small Business Enterprise Program.<<

* * *

- (d) *Review Committee* The County [[Manager]] >>Mayor or designee<< shall establish an administrative procedure for the review of each proposed County contract greater than \$50,000 to which this section applies.
- (e) *Management & Technical Assistance.* The Department of >>Small<< Business Development (>>S<<[[D]]BD) will provide Management and Technical Assistance and community outreach to business entities certified as SBEs or Micro Enterprises with Miami-Dade County.
- (f) *SBE Financial Assistance.* >>S<<[[D]]BD will develop a program to identify methods of financial assistance to SBE/Micro Enterprise vendors on Miami-Dade County contracts.
- (g) *Small Business Advisory Board.* There is hereby created a Miami-Dade County Advisory Board for the SBE >>and CBE<< Program >>s<<.

* * *

- 8. >>S<<[[D]]BD shall provide appropriate staff support.

* * *

(h) *Certification.*

- 1. The Department of >>Small<< Business Development shall implement eligibility criteria and >>administrative<< procedures for entities to be certified as SBEs/Micro Enterprises.

* * *

- 3. The Department of >>Small<< Business Development shall maintain an updated list of firms that identifies each listed SBE and Micro Enterprise based on the nature of the goods and/or services the SBE and Micro Enterprise shall be certified to provide.
- 4. The Department of >>Small<< Business Development shall not certify an applicant, shall not recertify an SBE or Micro Enterprise, and shall decertify an SBE or Micro Enterprise that fails to comply with the criteria or procedures for obtaining or maintaining

(k) Administrative Penalties. The County Manager may impose, notwithstanding any other provision of this section, one or more of the following penalties for violation of or noncompliance with this section or its implementing administrative orders and bid documents:

1. The exclusion from county contracting and subcontracting for a specified period of time, not to exceed three (3) years, of a contractor, its individual officers, its shareholders with significant interests, and its affiliated businesses.
2. The loss of eligibility to be certified as an SBE or Micro Enterprise for a specified period of time, not to exceed three (3) years, for an applicant or a SBE or Micro Enterprise, its individual officers, its shareholders with significant interests, and its affiliated businesses.
3. Where a contractor, its individual officers, shareholders with significant interests, or its affiliated businesses, attempts to comply with the provisions of this section through fraud, misrepresentation, or material misstatement, all such individuals and entities participating in the fraud, misrepresentation or material misstatement shall be excluded from County contracting, and SBE or Micro Enterprise certification for a specified period of time, not to exceed 5 years.
4. If any individual or corporation, partnership or other entity, or any individual officer, shareholder with significant interests, director or partner of such entity or affiliated business of such entity participates in an attempt to comply with the provisions of this section through fraud, misrepresentation, or material misstatement, all such individuals and entities participating in the fraud, misrepresentation or material misstatement shall be excluded from County contracting, subcontracting, and SBE or Micro Enterprise certification, for a specified period of time, not to exceed five (5) years.
- >>5. 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.
6. 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

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.<< ~~[[render a final decision, in writing, addressing all matters before him or her, including, where appropriate, a determination of the sanction to be imposed; provided, however, the Mayor or designee may appeal the hearing officer's decision to the Board of County Commissioners,]]~~ >>The<< ~~[[decision]]~~ >>determination of the<<[[hearing officer or the Board of County Commissioners]] >>Mayor may be reviewed by an appropriate court in the manner provided in the Florida Rules of Appellate Procedure.

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. 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.~~

~~4. 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.~~

~~5. 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~~

BYLAWS

SMALL BUSINESS ADVISORY BOARD
(amended August 2013)

ARTICLE I.

The name of this organization shall be the Small Business Advisory Board, an organization established by the Board of County Commissioners by Ordinance No. 05-29 on February 15, 2005.

ARTICLE II.

Object

Section 1. The object of this Board shall be to address the issues affecting small businesses in Miami Dade County; to increase the opportunities afforded to small businesses; to facilitate the abilities of small business to grow and compete as small businesses in Dade County.

Section 2. The Small Business Advisory Board shall have the following duties, functions, powers and responsibilities as established in Dade County Ordinance No. -05-29.

- a. To review County set-aside programs for small businesses, and make recommendations concerning said programs to the Board of County Commissioners on all matters pertaining to these programs.
- b. The Advisory Board shall serve as a focal point for the public, consulting with representatives of small businesses to address their issues and needs.
- c. The Advisory Board, with the assistance of the Mayor will collect, input, and disseminate information related to economic opportunities within Miami Dade County government for small business owners.
- d. The Board shall submit every two years a written report to the County Commission to by January 30th. This report will include ways to improve communication between the small businesses, the community and the County, and address their needs.

The Board shall advise the Board of County Commissioners on all matters pertaining to the Small Business Enterprise (SBE) and the Community

meeting without an acceptable excuse; or (ii) if he/she is absent from three (3) of the board's meeting without an acceptable excuse within a calendar year. An "acceptable excuse" is defined as an absence for medical reasons, business reasons, personal reasons, or any other reason, which the board, by a two-thirds vote of the membership, deems appropriate. By a two-thirds vote of the members of the full Small Business Advisory Board, the provisions of this section may be waived. Such absences shall be calculated from October 1 until September 30. The member shall then be deemed to be removed and a vacancy created. No more than four excused absences in one fiscal year will be permitted.

Section 4. Members may speak on behalf of the Minority Small Business Advisory Board only with the permission of the Chairperson or with the approval of the membership.

Section 5. Any member desiring to resign from the organization shall submit his/her resignation in writing to the appointing Commissioner and the Chairperson.

ARTICLE IV.

Officers

Section 1. The officers of the Small Business Advisory Board shall be Chairperson, and First Vice Chairperson. In addition, the immediate past Chair shall serve automatically as an officer of the Board for one year. A Board Member at Large shall be a member of the Board, in good standing, nominated and elected by the Board at the October meeting.

Section 2. The First Vice Chairperson shall be of active assistance to the Chairperson and shall perform the duties of the Chairperson in his or her absence or inability to serve.

Section 3. At the regular meeting in October, the Chairperson shall open the floor for nominations, starting with the office of Chairperson. Officers shall be elected by a voice vote if there is only one nominee and if more than one nominee by a simultaneous written ballot, signed by the member casting the ballot, to be made a part of the public record. Officers shall serve for one year or until their successors are elected, and their term of office shall begin at the close of the meeting at which they are elected. No vote by proxy shall be permitted. Election shall be by a majority of the votes cast by members present and voting.

Section 4. No **Officer** shall be eligible to serve more than two consecutive terms.

Section 5. A vacancy in the office of Chairperson shall be filled by the First Vice Chairperson. If the Member at Large is unable to serve, an election shall be held at the first meeting following the vacancy.

Section 6. In addition to those duties prescribed by the parliamentary authority adopted by the membership, the Chairperson shall assign members to task forces and committees with due consideration for the desire of the member and the need of the task force or committee; shall present all reports to the Board of County Commissioners; may

Task Forces/Committees

Section 1. Task Forces/Committees shall have the responsibility for performing such duties as are necessary to accomplish the function, powers and purpose of the Small Business Advisory Board as set forth in these Bylaws.

Section 2. Each Task Force/Committee shall meet regularly upon the call of its Chair, and Task Force/Committee meetings shall be announced and publicized.

Section 3. Comprehensive reports of the Task Force/Committees activities shall be provided in writing at the annual meeting and at such other times, as they shall be distributed with the Chairperson. Copies of reports shall be distributed with the minutes of the meeting.

ARTICLE VIII.

Parliamentary Authority

The rules contained in the current edition of Mason's Manual of Legislative Procedure shall govern the organization in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order the organization may adopt.

ARTICLE IX.

Amendments of Bylaws

These Bylaws may be amended at any regular meeting by a two-third vote of members present and voting, provided that the amendments have been submitted in writing at the previous meeting or has been mailed to the membership at least fifteen days prior to the meeting at which it will be considered.

Small Business Enterprise Goods and Services
Advisory Board
 Summary of Meeting
 March 29, 2016

6-Appointed 4-Quorum
 Start Time: 11:33 A.M.
 End Time: 11:40 A.M.

<u>Members Present</u>	<u>Members Absent</u>
Denise Mincey-Mills	Kathy Emery
Maria Gonzalez	<u>Yamileth Pereyra</u>
Michael Joseph	
Anthony Rodriguez	

Others Present

- I. **Welcome** – Meeting called to order by Vice-Chairperson Michael Joseph
- II. **New Business**
 - A. **Update Contact Information**
 - i. Board members were asked to complete a form provided by SBD to update their contact information
 - B. **Approval of Minutes**
 - i. Board members reviewed the minutes from the Advisory Board meeting of 03/21/2016. After being moved and seconded, the minutes were approved.
 - C. **Sunset Review**
 - i. Board members reviewed and had final discussions regarding the information (attendance) contained in the report. SBD staff indicated that attendance was documented using the Sign-In sheets from each meeting. After being moved and seconded, the minutes of today's meeting were approved.
- III. **Adjournment** - Having no further business, Vice-Chairperson Joseph moved to adjourn the meeting, Board Member Mincey-Mills seconded and the meeting was adjourned.

Small Business Advisory Board Goals and Objectives

FY 2014-2015

- Gain a better understanding of the challenges small businesses face when working with Miami-Dade County (MDC)
- Increase Monitor effectiveness of how Procurement Management and staff consider small businesses with bids
- Further understand and address the late payment issues for the small business firms
- Encourage BCC to fill any vacancies on the Small Business Advisory Board
- Review reports on SBE Program's performance
- Semi-annually review ordinance and implementing orders

Small Business Advisory Board
Major Accomplishments 2014-2015

- Gained a better understanding of the challenges small businesses face when working with Miami-Dade County (MDC)
- Monitored effectiveness of how Procurement Management and staff consider small businesses with bids
- Addressed and understood the late payments issues for the small business firms
- Encouraged BCC to fill any vacancies on the Small Business Advisory Board
- Reviewed reports on SBE Program's performance
- Semi-annually reviewed ordinance and implementing orders
- Reviewed disparity study
- Reviewed proposed legislation amending the Small Business Enterprise for Goods and Services Program to provide more opportunities for small businesses as follows:
 - Reducing size standards to allow for greater participation from small businesses
 - Amending certification requirements to give more opportunities to local businesses