Attachment # 44

Resolution No. R-630-13 Due Diligence Checklist, and Affidavit

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 11(A)(1)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 16, 2013

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

SUBJECT: Resolution requiring a detailed project budget, sources and uses statement, certifications as to past defaults on agreements with non-county funding sources, and due diligence check prior to the County Mayor recommending a commitment of County funds to social services, economic development, community development, and affordable housing agencies and providers
Resolution No. R-630-13

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell and Co-Sponsors Commissioner Esteban L. Bovo, Jr., Commissioner Sally A. Heyman and Chairwoman Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

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MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 16, 2013

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

SUBJECT: Amended Agenda Item No. 11(A)(1)

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 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 _____

Amended
Agenda Item No. 11(A)(1)
7-16-13

RESOLUTION NO. R-630-13

RESOLUTION REQUIRING A DETAILED PROJECT BUDGET, SOURCES AND USES STATEMENT, CERTIFICATIONS AS TO PAST DEFAULTS ON AGREEMENTS WITH NON-COUNTY FUNDING SOURCES, AND DUE DILIGENCE CHECK PRIOR TO THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE RECOMMENDING A COMMITMENT OF COUNTY FUNDS TO SOCIAL SERVICES, ECONOMIC DEVELOPMENT, COMMUNITY DEVELOPMENT, AND AFFORDABLE HOUSING AGENCIES AND PROVIDERS; REQUIRING CERTAIN TERMS TO BE INCLUDED IN CONTRACTS

WHEREAS, Miami-Dade County provides funding from state, local and federal sources for the provision of economic development, community development, and affordable housing activities as well as social services throughout the County, which include but are not limited to general revenue funds, local Documentary Surtax funds, State Housing Initiative Partnership funds, Home Investment Partnerships funds, Emergency Services Grant funds, and Community Development Block Grant funds, and funds awarded through the County's Community-Based Organization ("CBO") funding process (hereinafter together referred to as "Housing and Community Development Funds"); and

WHEREAS, the County's need is great but its resources are limited, making the efficient and transparent use of these Housing and Community Development Funds imperative; and

WHEREAS, this Board desires to ensure that for-profit and non-profit agencies which receive Housing and Community Development Funds ("Agency" or "Agencies") are ready to proceed with the project, are limiting the amount spent on administrative costs, are properly leveraging the Housing and Community Development Funds with other available funds, and are using Housing and Community Development Funds to provide much-needed services to the County's residents; and

WHEREAS, past instances of poor performance and lack of accountability on the part of agencies receiving Housing and Community Development Funds have caused the Board to institute reform and tighten County procedures; and

WHEREAS, this Board desires to ensure that the County Mayor or County Mayor's designee includes certain protections for the County in contracts negotiated and executed between the County and the Agencies,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The Board directs the County Mayor or County Mayor's designee, prior to making a recommendation for funding, awarding, entering into a contract for, or otherwise issuing any form of commitment of Housing and Community Development Funds, require that Agencies submit to the County Mayor or County Mayor's designee: (A) an affidavit certifying that, within the past five (5) years, neither the Agency nor its directors, partners, principals, members or board members (i) have been sued by a funding source for breach of contract or failure to perform obligations under a contract; (ii) have been cited by a funding source for non-compliance or default under a contract; or (iii) have been a defendant in a lawsuit based upon a contract with a funding source; and (B) a detailed project budget and Sources and Uses Statement which shall be sufficiently detailed to show (i) the total project cost; (ii) the amount of funds to be used for administrative and overhead costs; (iii) whether the Housing and Community Development Funds will be "gap" funds, meaning that they would be the last remaining funds needed to ensure funding for the total project cost; (iv) any profit to be made by the person or agency; and (v) amount of funds devoted toward the provision of the desired services or activities. The County Mayor or County Mayor's designee is directed to create a form of the affidavit described above in subsection (A), which shall include a section for the Agency

to explain any matters which prohibit the Agency from making the certifications required and a section to explain if and how any of the matters disclosed are being resolved.

Section 2. Prior to the County Mayor or County Mayor's designee making a recommendation for funding, entering into a contract for, or otherwise issuing any form of commitment of Housing and Community Development Funds to any person or entity, the County Mayor or County Mayor's designee shall engage in a due diligence effort which includes checking all sources listed on Exhibit 1, attached hereto, and ensuring that the Agency is not in non-compliance on other contracts involving Housing and Community Development Funds, including but not limited to inquiring of other County departments, including inquiring of other County departments.

Section 3. The County Mayor or County Mayor's designee is directed to incorporate the policies espoused in Sections 1 and 2, above, into its competitive and non-competitive processes for selecting persons or agencies to receive Housing and Community Development Funds, including but not limited to the annual Request for Application (RFA) process administered by the Public Housing and Community Development Department, or its successor department, and the annual Community-Based Organization funding process. The Mayor or Mayor's designee is not required by this resolution to recommend against funding or contracting with any Agency based upon the matters disclosed in the affidavit described in Section 1(A), above. Rather, the County Mayor or County Mayor's designee is directed to include with any recommendation for funding or award of any contract for Housing and Community Development Funds a description of the due diligence investigation performed in a section of the justification memorandum called "Due Diligence" and to report to the Board any instance where the research conducted pursuant to Sections 1 and 2, herein, revealed information which affected, either positively or negatively, the County Mayor or County Mayor's designee's decision to

recommend a particular agency for funding or which may adversely affect the Board's decision to approve said recommendations.

Section 4. The County Mayor or County Mayor's designee is directed to include a provision in contracts negotiated and executed between the County and Agencies receiving Housing and Community Development Funds to permit the County Mayor or County Mayor's designee to make unannounced, on-site visits during normal working hours to the Agency's headquarters and/or any location or site where the services contracted for are performed.

Section 5. This resolution is intended to apply only to contracts or recommendations by the County Mayor or County Mayor's designee which are submitted to the Board after the adoption date of this resolution.

The Prime Sponsor of the foregoing resolution is Vice Chair Lynda Bell and the Co-Sponsors are Commissioner Esteban L. Bovo, Jr., Commissioner Sally A. Heyman and Chairwoman Rebeca Sosa. It was offered by Commissioner **Lynda Bell**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			aye
Lynda Bell, Vice Chair			aye
Bruno A. Barreiro	aye	Esteban L. Bovo, Jr.	aye
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	absent
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Sen. Javier D. Souto	absent	Xavier L. Suarez	aye
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of July, 2013. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Brenda Kuhns Neuman

Exhibit 1
Due Diligence Checklist

Miami-Dade County Office of Inspector General searchable website
Vendor Registration documents, affidavits, and applicable licenses (ADPICS, BTS, and the Florida Department of Business and Professional Regulation (http://www.myfloridalicense.com/dbpr/)
Insurance, and/or bonds, as applicable
SBD Violations Report (http://www.miamidade.gov/sba/reports-history-of-violations.asp)
Florida Convicted Vendor List (http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists/convicted_vendor_list)
Contractor Debarment Report (http://www.miamidade.gov/sba/reports-debarment.asp)
Delinquent Contractors (http://wasiap.miamidade.gov/ARI/menu_1_0.do)
Goal Deficit Make-Up Report (http://www.miamidade.gov/sba/reports-goal-deficit.asp)
Suspended Contractors (http://egvsys.metro-dade.com:1608/wwwserv/ggvt/bnzawbcc.dia)
Florida Suspended Contractors (http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists/suspended_vendor_list)
Federal Excluded Parties List System (https://www.epls.gov/)
Sudan-Iran Affidavit (http://www.sbafla.com/fsb/LinkClick.aspx?fileticket=iePW9X7I3-E%3D&tabid=751&mid=2409)
State of Florida Corporations (Sun Biz) (http://www.sunbiz.org/search.html) (or State of Corporate Registration)
Capital Improvements Information System (CIIS) database, if applicable (http://intra.miamidade.gov/CIIS/CIIS_Menu_Main.asp) (*Construction only*)
A&E Technical Certification Report (http://www.miamidade.gov/procurement/technical-certification.asp) (*Design and Professional Services only*)
Pre-Qualification Report (http://www.miamidade.gov/procurement/pre-qualification-certification.asp) (*Design and Professional Services only*)
Web search for compliance and performance record (including Better Business Bureau and other jurisdictions)
Reference checks for contracts similar in scope (including County departments, other agencies, and companies/firms). *If a contractor has performance or compliance issues on another contract, the scope of that contract must be compared with the subject contract.*
Tax returns, Financial Statements (Audited), Pro Forma statements, and other financial documents/statements
Local public records search (including the Miami-Dade Clerk of Courts http://www2.miami-dadeclerk.com/public-records/)
Dunn & Bradstreet financial reports*
Public Access to Court Electronic Records (PACER) litigation reports*

* These are subscription-based services. Please contact Procurement Management Services if a project warrants access to these services.

AFFIDAVIT

Applicant Name: _____

Address: _____

Telephone Number: _____

Pursuant to Miami-Dade County Resolution No. R-630-13, the undersigned certifies, to the best of his or her knowledge and belief, that:

1. Within the past five (5) years, neither the Agency nor its directors, partners, principals, members or board members:
   - (i) have been sued by a funding source for breach of contract or failure to perform obligations under a contract;
   - (ii) have been cited by a funding source for non-compliance or default under a contract;
   - (iii) have been a defendant in a lawsuit based upon a contract with a funding source.

Please list any matters which prohibit the Agency from making the certifications required and explain how the matters are being resolved (use separate sheet if necessary):

_____

_____

_____

_____

This is certified by my signature:

_____	_____	_____
Applicant's Signature	Print Applicant's Name	Date

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20___ by _____. He/she is personally known to me or has presented ____ _____ as identification number: _____

(Print or Stamp of Notary):

Expiration Date: _____

Notary Seal:

Notary Public – State of _____