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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 7(E)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	July 1, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance pertaining to Community Business Enterprise Program; amending Section 2-10.4.01 of the Code Ordinance No. 14-61

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: July 1, 2014

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

From: Carlos A. Gimenez
Mayor

Subject: Substitute Ordinance Amending 2-10.4.01 of Miami-Dade County Code Pertaining to the Community Small Business Enterprise Program (Legistar 141035)

The proposed substitute Ordinance amends section 2-10.4.01 of the code and proposes various changes to the Community Small Enterprise Program, including certification criteria, graduation criteria, and changes to net worth calculations. The substitute item removes the reinstatement of the monthly review committee meetings and excludes funds invested in an IRA, 401k, pension or other retirement account from the owner's personal net worth. Therefore, the revised proposed ordinance has no fiscal impact.

Edward Marquez
Deputy Mayor

Fis4514

MEMORANDUM
(Revised)

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

DATE: July 1, 2014

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

SUBJECT: Amended Agenda Item No. 7(E)

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. 7(E)
7-1-14

ORDINANCE NO. 14-61

ORDINANCE PERTAINING TO COMMUNITY BUSINESS ENTERPRISE PROGRAM; AMENDING SECTION 2-10.4.01 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO CREATE GRADUATION CRITERIA BASED ON PERSONAL NET WORTH, PROVIDE VIRTUAL OFFICE DEFINITION, REQUIRE ONE YEAR DOING BUSINESS IN MIAMI-DADE COUNTY PRIOR TO CERTIFICATION, ALLOW APPLICATION FOR RECERTIFICATION AFTER SUBMITTAL OF REQUIRED DOCUMENTS, AND CONTRIBUTION TO ECONOMIC DEVELOPMENT AND WELL-BEING OF MIAMI-DADE COUNTY; AND PROVIDING SEVERABILITY, INCLUSION IN CODE AND EFFECTIVE DATE

WHEREAS, the Community Business Enterprise Program provides opportunities for small business participation on Miami-Dade County contracts for procurement of architectural, engineering, landscape architectural, and surveying and mapping professional services; and

WHEREAS, the Board wishes to align the requirements of its three small business programs; and

WHEREAS, the Board wishes to include graduation provisions based on personal net worth to maintain the integrity of the small business programs, consistent with federal Disadvantaged Business Enterprise ("DBE") program guidelines; and

WHEREAS, the Board wishes to align its small business program requirements with the local preference requirements, including requiring participating firms to do business in Miami-Dade County for one year prior to certification and contribute to the economic development and well-being of the County; and

WHEREAS, the Board wishes to provide public input for the review and application of goal recommendations prior to advertisement; and

WHEREAS, the Board wishes to allow firms that have been decertified due to the non-submittal of required documents, to be able to immediately reapply for recertification once said documents have been submitted and verified, rather than waiting a year before doing so,

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

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

Sec. 2-10.4.01. Community Business Enterprise Program.

* * *

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

* * *

I. *Community Business Enterprise (CBE-A/E)* means a firm providing architectural, landscape architectural, engineering, or surveying and mapping professional services, including a design-build firm, which has >>a valid business tax receipt issued by Miami-Dade County at least one (1) year prior to certification,<< an actual place of business in Miami-Dade County>>, not a Virtual Office,<< and whose three (3) year average annual gross revenues do not exceed two million dollars ($2,000,000.00) for all Tier 1 CBE-A/Es, four million five hundred thousand dollars ($4,500,000.00) for Tier 2 CBE- A/Es in the case of architectural services, or six million dollars ($6,000,000.00) for Tier 2 CBE-A/Es in the case of landscape architectural services, engineering, and surveying and mapping services. A CBE-A/E will graduate out of the program once it has exceeded the Tier CBE-A/E size limits based on its three-year average annual gross revenues. As part of the certification process, CBE-A/Es must go through a technical certification process, which will be used to determine which of the technical certification categories the CBE-A/E will be placed in. A firm's eligibility to participate in the CBE-A/E program shall be determined based on the cumulative adjusted gross revenues of the applicant firm in combination with that of all of the firm's affiliates as provided in Appendix A. >>No firm shall be certified as a CBE-A/E where the personal net worth of any of its owners is more than one million five hundred thousand dollars ($1,500,000), exclusive of: (a) the value of the primary residence for which

[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.

there is a homestead exemption; (b) the value of the business; and (c) funds invested in an individual retirement account ("IRA"), 401k, pension, or other official retirement account. The owner MUST provide information about the terms and restrictions of the account(s) to SBD, and certify that the retirement account(s) is legitimate.<< Representations as to >>average<< gross revenues>>, personal net worth of owners and payroll<< shall be subject to audit. The Contracting Participation Levels are as follows:

i. Tier 1 CBE-A/Es in the case of architectural, landscape architectural, engineering, or surveying and mapping services – 3-year average annual gross revenues of $0 to $2,000,000.
ii. Tier 2 CBE-A/Es in the case of architectural services – 3-year average annual gross revenues of $2,000,001 to $4,500,000.
iii. Tier 2 CBE-A/Es in the case of landscape architectural services, engineering, or surveying and mapping services – 3-year average annual gross revenues of $2,000,001 to $6,000,000.

The County Mayor or designee shall be authorized to adjust the CBE-A/E size limits every five (5) years at his/her discretion 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. The first indexing adjustment shall occur for the 2013-2014 calendar year using the Consumer Price Index 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.

* * *

O. *Firm* means any individual, firm, partnership, corporation, association, joint venture or other legal entity permitted by law to practice architecture, engineering, landscape architecture, design-build, and land surveying and mapping services>>, which has a valid business tax receipt issued by Miami-Dade County at least one (1) year prior to certification, and an actual place of business in Miami-Dade County, not a Virtual Office. No Firm shall be certified as a CBE-A/E where the personal net worth of any of its owners is more than one million five hundred thousand dollars ($1,500,000), exclusive of: (a) the value of the primary residence for which there is a homestead exemption; (b) the value of the business; and (c) funds invested in an individual retirement account ("IRA"), 401k, pension, or other official retirement account. The owner MUST provide information about the terms and restrictions of the account(s) to SBD, and certify that the retirement account(s) is legitimate. Representations as to average gross revenues, personal net worth of owners and payroll shall be subject to audit.<<

P. *Graduation* means the CBE-A/E has exceeded >>either the personal net worth, or<< the specific size limits stated for the Program and thus may no longer be eligible for participation in the Program

* * *

Z. *Review Committee* or *RC* means the committee established by the County 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>>s<</goal>>s<< recommendation>>s<<. The RC will make recommendations to the Mayor or designee>>as needed<<.

* * *

>>GG. *Virtual Office* means an agreement that provides a receptionist, mail and facsimile services, and similar services, that give the appearance of having a business presence at a location, but the business entity has no ongoing, full-time physical presence in the building. Virtual Offices are invalid for certification purposes.<<

* * *

(3) *Program.*

* * *

B. *Miami-Dade County Community Business Enterprise (CBE-A/E) Program for Architectural, Landscape Architectural, Engineering, and Surveying and Mapping Professional Services:*

* * *

3. *Graduation:* Upon review, any CBE-A/E that exceeds the >>personal net worth or<< Tier 2 CBE-A/E size limits established by this section shall be graduated from the CBE-A/E program upon notification by SBD. These firms shall be allowed to complete any currently awarded agreements and remain eligible to be awarded agreements as primes or subconsultants for proposal(s) submitted prior to notice of graduation. However, the graduated firm will not be eligible to receive any new agreements under the CBE-A/E program.

* * *

(4) *Certification Requirements:* The County Mayor or designee shall implement eligibility criteria and administrative procedures for firms to be certified as CBE-A/Es based on regulations outlined in this section. Firms exceeding size

limits established hereunder and under Appendix A of the ordinance from which this section derives are not eligible for measures or participation in these programs.

* * *

2. SBD shall not certify an applicant, shall not recertify a CBE-A/E, and shall decertify a CBE-A/E that fails to comply with the criteria or procedures for obtaining or maintaining certification. SBD shall have authority to suspend the certification of a CBE-A/E during any appeal of a certification decision. >>Firms that have been decertified for non-submittal of documents, may apply for recertification once said documents have been submitted and verified by SBD.<<

3. Applicants and certified CBE-A/Es must be properly licensed to conduct business with the State of Florida and in Miami-Dade County>>, must have a valid business tax receipt issued by Miami-Dade County at least one (1) year prior to certification,<< and[[,]] must perform a commercially useful function with an actual place of business in Miami-Dade County, >>not a Virtual Office,<< and must continue to perform a commercially useful function in Miami-Dade County to be eligible for certification or to remain certified. A qualifier can only qualify one CBE-A/E firm. >>In addition, a Firm shall not be certified unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to the retention and expansion of employment opportunities and the support and increase to the County's tax base.<<

* * *

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 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:July 1, 2014

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

David Stephen Hope

Prime Sponsor: Commissioner Audrey M. Edmonson