

SMALL BUSINESS DEVELOPMENT - BUSINESS PROCESS AND REQUIREMENTS

SUMMARY

Through the application of small business measures, portions of or entire County contracts are reserved for participation by certified Small Business Enterprises (SBE). This procedure explains how to acquire assistance in meeting the guidelines for SBE contract measures on goods and services, construction, and architectural and engineering contracts, as well as the assignment and compliance guidelines for the Responsible Wages, Living Wage, Community Workforce Program (CWP) goals, Residents First Employment and Training, and Employ Miami-Dade programs.

PRE-AWARD

The user department shall contact the Internal Services Department's (ISD's) Small Business Development Division (SBD) prior to project advertisement.

Requirements

Each project for the procurement of Goods and Services (G&S), Construction, and Architectural & Engineering (A&E) services must be submitted to SBD prior to advertisement in order to review for maximum contracting and subcontracting opportunities for certified SBE-G&S, SBE-Construction, and SBE-A&E firms, the applicability of Responsible Wages or Living Wages, the assignment of Community Workforce Program measures, and the acknowledgement of Residents First Employment and Training and Employ Miami-Dade Program on construction projects pursuant to the contract value.

Responsibility of the User Department – Project Submittal Process

Submit **ALL** G&S, Construction, and A&E project packages to SBD prior to advertisement, including:

- The project name and project number
- The project location (to determine CWP measure for construction projects ONLY)
- Detailed scope of services
- Complete breakdown of the project cost estimate
- List of all the sub-trade areas by division for construction projects
- List of all applicable technical certification required for A&E projects
- List of any special requirements (special licensure, manufacturer's certification, experience, payment/performance bond requirement, etc.)

Responsibility of SBD – Project Review and Analysis Process

SBD will review all project submittal documents to ensure the packages are complete, identifying all trade areas and technical categories to properly bid the project. SBD will review all special requirements or conditions to ensure that there are no artificial barriers to prevent opportunities for Small Business participation, to include:

- Each sub-trade or technical certification will be reviewed for possible participation by small businesses.
- To determine whether certified firms are ready, willing, and able to perform, firms will be sent project information (submitted by the Project Manager) on an Availability form letter for their review and response accordingly. Only firms that are certified in the various commodities included in the project package will be surveyed.
- SBD will deliver the measure recommendation to the Project Manager within five (5) calendar days of receipt and contingent upon concurrence from the user department on the assigned SBE measure. For construction contracts, the applicable Community Workforce Program (CWP) goal and applicable wage schedule will be assigned during the review and be included on the project worksheet.

Miscellaneous Construction Contracts (MCC).

The MCC consist of two (2) plans, the 7040 Plan that is 100% set-aside for SBE-C firms participation ONLY; and, the 7360 Plan that is accessed when 100% set-aside for SBE-C is not attainable or the project funding source prohibits SBE-C measures. Construction contracts procured through the MCC cannot exceed \$5 million in total construction cost.

- The user departments must enter all projects in the Capital Improvements Information System (CIIS) to request a Bidder's List. The detailed information as noted below is required to process a request:
 - The project name and project number
 - The project location (to determine CWP measure for construction projects ONLY)
 - Detailed scope of services
 - The project estimated value
 - Each sub-trade, if applicable
 - Identify any special requirements for bidders
 - All sections of the on-line request must be populated
 - Submit for OMB funding approval
- SBD will email the bidders' list within (3) three calendar days of receipt of the request.

Equitable Distribution Program

The EDP Miscellaneous Continuous Agreements was created for small and miscellaneous designs and studies procuring the services of architecture, engineering, surveying, and/or mapping firms distributing contract work assignments as defined in Florida Statutes, Section 287.055.

- The user departments must enter all assignment request in the Capital Improvements Information System (CIIS) to request a Consultants' List. The detailed information as noted below is required to process a request.
 - The project name and project number
 - Detailed scope of services

- The project estimated value
- All sections of the on-line request must be populated
- SBD will email the consultants' list within (5) five calendar days of receipt of the request.

PROJECT ADVERTISEMENT – Small Business Participation Compliance

- The user department is required to notify SBD when the project is publicly advertised and provide a copy of the advertisement.
- The Project Manager must include all program requirements and forms in each bid package/advertisement.
- SBD shall be invited to participate in all pre-bid meetings to ensure firms are aware of the Small Business Measures, wage, and/or local hiring requirements. Firms may ask questions prior to submittal of the bid or proposal to ensure compliance with small business measures and other requirements.

PRE-AWARD BID/PROPOSAL COMPLIANCE REVIEW

- SBD will conduct the pre-award compliance review immediately upon receipt of the *Schedule of Intent Affidavit and Letters of Agreements* submitted by the bidders or proposers to comply with the applicable small business goals.
- Within five (5) calendar days, SBD will submit a signed memorandum to disclose the firms' compliance status with the bid as it relates to the SBE goals applied.
- The Project Manager shall not award a contract until it is determined that the recommended firm is in compliance with established small business goals. SBD will review the History of Violation Report for the following:
 - Contractors with open SBE and wage violations are not eligible to participate on County contracts until all unpaid wages and/or penalties are paid.
 - Bidders with one (1) violation of the Employ Miami-Dade Program in the last three (3) years should be found non-responsible and their bids rejected.
 - Bidders with two (2) violations of the Residents First Training and Employment Programs in the last three (3) years should be found non-responsible and their bids rejected.
- SBD will reference the bidders/proposer compliance status in the Compliance Memorandum in addition indicate if any of the firms are listed on the History of Violation Report that may prohibit the firm from receiving the award.

POST-AWARD COMPLIANCE

RESPONSIBILITIES OF PROJECT MANAGER

Invite SBD to attend all Pre-Construction/Pre-Work meetings to advise awarded Prime of small business, wage, and/or workforce requirements.

SMALL BUSINESS ENTERPRISE (SBE) PROGRAMS

SBE programs require the Prime to enter into subcontract with certified SBE firms for the price and scope reported on the Letters of Agreement (for A&E), or Schedules of Intent Affidavit (for Construction and G&S), submitted with the bid/proposal. SBEs must maintain certification throughout the duration of the job, perform a commercially useful function, and cannot subcontract work further. SBEs must have a contractual responsibility for the execution of a distinct element of the work of a contract and carry out that responsibility by actually performing, managing, and supervising the work involved. Acting as a broker is not considered a commercially useful function. The following requirements also apply:

- Collect Monthly Utilization Reports with each requisition for payment and forward to SBD for review.
- On contracts with SBE measures, ensure prompt review of billings and payment to Prime contractors of those amount not in dispute within **14 (fourteen) calendar days** of receipt of billings.
- Ensure small businesses meeting goals are promptly paid in accordance with the program requirements - SBE firms meeting goals must be paid by the Prime **within two (2) calendar days** of receiving payment from the County/Developer.
- Submit requests to deviate from approved small business measures (including changes to the subcontractors) to the Director of SBD for approval prior to deviation.
- Forward complaints regarding small business utilization and/or payment to SBD for investigation.

RESPONSIBLE WAGES AND BENEFITS

Responsible Wage requirements apply to construction contracts valued in excess of \$100,000. All contractors regardless of tier must pay employees the wage rate in the schedule that corresponds with the type of work being performed without regard to skill. The County's wage schedule is updated annually. The wage schedule that applies is the one in effect for the year in which the work is being performed. The following requirements also apply:

- Ensure the Responsible Wage schedule is posted on the job site.
- Collect certified payrolls from all contractors at all tiers with every payment requisition and forward to SBD for review. Requisitions that do not include payrolls should be rejected.
- In the case of suspected underpayment to employees, withhold funds due to prime contractor in order to protect any wages due to employees, upon receipt of a written stop payment request from SBD.
- Forward complaints of underpayment to SBD for investigation.

LIVING WAGE FOR SERVICE CONTRACTS

The Living Wage applies to Service Contracts for Covered Services outlined in the Code and IO awarded by the County that involve a total contract value in excess of \$100,000. Any and all contracts for covered services shall be void, and no funds may be released, unless prior to entering any agreement with the County for a service contract, the Covered Employer certifies to the

applicable department that it will pay each of its employees no less than the Living Wage. A copy of this certificate must be made available to the public upon request.

- Collect certified payrolls from all contractors and subcontractors every six (6) months with every payment requisition and forward to SBD for review. Requisitions that do not include payrolls should be rejected.
- In the case of suspected underpayment to employees, withhold funds due to prime contractor in order to protect any wages due to employees upon receipt of a written stop payment request from SBD.
- Forward complaints of underpayment to SBD for investigation.

COMMUNITY WORKFORCE PROGRAM

The Community Workforce Program (CWP) is designed to increase employment opportunities in the area of construction for residents of underserved residential areas throughout Miami-Dade County. These areas are identified as Designated Target Areas (DTA). The local workforce goal is a requirement that a percentage of the workforce performing construction trades work and labor under the contract be a resident of a DTA. The following requirements also apply:

- Prior to issuance of the Notice to Proceed, the successful bidder must submit to SBD through the Project Manager a workforce plan outlining how the CWP goal will be met.
- The Project Manager shall not issue the Notice to Proceed until it receives the Contractor's Workforce Plan and it is deemed acceptable by SBD.

RESIDENTS FIRST TRAINING AND EMPLOYMENT PROGRAM

The Residents First Training and Employment Program applies to contracts valued in excess of \$1 million and requires that:

- All persons employed by the contractor to perform construction shall have completed the OSHA 10-Hour safety training course established by the Occupational Safety & Health Administration of the United States Department of Labor; and
- Contractor will make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having fifty-one percent (51%) of all Construction Labor hours performed by Miami-Dade County residents.

Prior to issuance of the Notice to Proceed, the user department shall ensure the contractor submits the following forms (in addition to the Responsible Contractor/Subcontractor Affidavit Form RFTE-1):

- *Construction Workforce Plan* (Form RFTE 2) – Ensure the Contractor provides complete subcontractor information for its Construction Workforce Plan.
- *Occupational Safety and Health Administration (OSHA) Contractor Affidavit* (Form RFTE 3) – Ensure each contractor and subcontractor submits a notarized affidavit with each certified payroll that verifies every employee reported on the payroll has completed the OSHA 10-Hour Safety Training course.
- *Workforce Performance Report* (Form RFTE 4) – Ensure the Contractor submits this form within thirty (30) days of completion of work and prior to final payment.

The user department is responsible for forwarding all these documents, upon receipt, to SBD for review.

EMPLOY MIAMI-DADE PROGRAM

The Employ Miami-Dade Program applies to contracts valued in excess of \$1 million, or privately funded projects or leases valued in excess of \$1 million for construction, demolition, alteration or repair of buildings or improvements on County-owned land. The Contractor shall make a good faith effort to fill at least 20% of the labor workforce required per the Contractor's Construction Workforce Plan from the Employ Miami-Dade Register through Career Source South Florida. The following requirements also apply:

- Ensure the Construction Workforce Plan (Form RFTE 2) is submitted and approved by SBD prior to issuance of the Notice to Proceed.
- Ensure the Contractor submits and updates Construction Workforce Plans (Form RFTE 2) monthly.
- Ensure the Contractor submits Workforce Performance Report (Form RFTE 4) prior to final payment.
- The user department is responsible for forwarding all forms that are received, upon receipt, to SBD for review.

POST-AWARD RESPONSIBILITIES OF SMALL BUSINESS DEVELOPMENT (SBD)

- Review CWP, Residents First, and Employ Miami-Dade Workforce Plans prior to issuance of the Notice to Proceed by the user department.
- Attend pre-construction meetings to explain program requirements.
- Obtain and review the subcontract agreements for certified small businesses meeting goals for the project.
- Review Monthly Utilization Reports and Certified Payrolls.
- Conduct on-site interviews of employees to ensure compliance with SBE, wage, and/or workforce requirements.
- Process SBE deviation requests.
- Investigate complaints and administer the complaint process.
- Conduct SBE goal compliance at 50% and 75% of the project.
- Final compliance review for small business and workforce requirements.

PROMPT PAYMENT

For contracts with SBE measures and/or being performed by an SBE, payment must be promptly reviewed, processed and issued on those amounts not in dispute within **14 calendar days** of receipt of such billing by the County or the Trust. Failure to do so will result in a forfeiture of 1% of the amount of the invoice, in accordance with Section 2-8.1.4. of the Code of Miami-Dade County. .

CONTACT(S):

Department/Division

Internal Services Department/Small Business Development Division

REFERENCE DOCUMENT(S):

Code of Miami-Dade County, Section 10-33.02 and Implementing Order 3-22 (SBE Program for Construction Services Program)

Code of Miami-Dade County, Section 2-10.4.01 and Implementing Order 3-32 (SBE Program for Architectural and Engineering Services)

Code of Miami-Dade County, Section 2-8.1.1.1.1 and Implementing Order 3-41 (SBE Program for Services)

Code of Miami-Dade County, Section 2-8.1.1.1.2 and Implementing Order 3-41 (SBE Program for Goods)

Code of Miami-Dade County, Section 2-8.1.4. (Prompt Payment)

Code of Miami-Dade County, Section 2-11.16 and Implementing Order 3-24 (Responsible Wages and Benefits on Miami-Dade County Contracts)

Code of Miami-Dade County, Section 2-1701 and Implementing Order 3-37 (Community Workforce Program)

Code of Miami-Dade County, Section 2-11.17 and Implementing Order 3-61 (Residents First Training and Employment Program)

Administrative Order No. 3-63 (Employ Miami-Dade Program)

Code of Miami-Dade County, Section 2-8.9 and Implementing Order 3-30 (Living Wages for County Service Contracts)