

MEMORANDUM

Agenda Item No. 7(E)

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

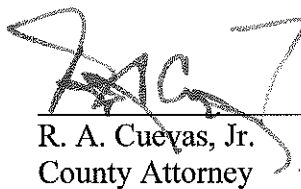
DATE: April 8, 2014

(Public Hearing 6-3-14)

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

SUBJECT: Ordinance amending Section
2-8.2.7.01 of the Code pertaining
to the Miscellaneous
Construction Contracts Program;
removing the requirement that
the Miscellaneous Construction
Contracts Program be subject to
an overall program expenditure
limit as all expenditures under
the program are subject to annual
appropriation by the Board

The accompanying ordinance was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Finance Committee.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: June 3, 2014

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

From: Carlos A. Gimenez
Mayor 

Subject: Amendment to Section 2-8.2.7.01 Miscellaneous Construction Contracts Program

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached amendment to Section 2-8.2.7.01 of the County Code relating to the County's Miscellaneous Construction Contracts (MCC) Program. Specifically, this amendment removes the requirement that the MCC Program be subject to an Overall Program Expenditure Limit (OPEL).

The OPEL provision was included in the original ordinance establishing the MCC Program as an overall expenditure level limit that would require approval from the Board to exceed or replenish. The use of the OPEL was included in the early development of the MCC Program; however, it is not relevant to the day-to-day oversight of the MCC Program as all expenditures under the MCC Program are already subject to annual appropriation by the Board, and the Request for Price Quotations are subject to the Office of Management and Budget's approval.

Scope

The scope of the MCC Program is Countywide in nature.

Fiscal Impact/Funding Source

MCC projects are budgeted in each department's annual budget, and, the Office of Management and Budget also approves projects prior to issuance of Requests for Price Quotations to confirm funding availability.

Track Record/Monitor

Miriam Singer, Assistant Director in the Internal Services Department, Procurement Management Services Division administers and monitors the MCC Program. The Board is currently provided with quarterly reports detailing the contracting activities of the MCC Program, which includes reporting of small business measures on each project as applicable.

Delegation of Authority

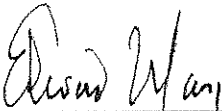
No delegated authority is requested as part of this item.

Background

In November of 2009, the Board approved Ordinance 09-101 establishing the MCC Program. The Ordinance included a provision that required Board approval, via Resolution, of an OPEL. To date, the Board has approved the OPEL through R-597-08 and R-352-11. Staff has reviewed and evaluated the relevance of the OPEL, as well as the controls in place to ensure continued proper management and oversight of the program. As such, and given that funding for MCC projects are already approved by the Board through the annual Budget process, as well as funding availability re-confirmed by OMB prior to issuance of Requests for Price Quotations for MCC projects, it is recommended that the OPEL provision within the existing Ordinance be removed.

The MCC process is a consistent and effective means of awarding construction work for projects including new construction, renovations, repairs and maintenance. The program is administered using two separate Plans (MCC 7040 and MCC 7360). The 7040 Plan is set-aside for firms certified as Community Small Business Enterprises (CSBEs) and contractors are selected on a rotational basis (depending on threshold values). The 7360 Plan is open to all vendors and is only used only when federal funding is involved or when 100 percent CSBE goal is not attainable. Since 2003, when this information began being captured, there have been 7,578 contract awards, totaling \$667.5 million, to CSBE firms, as compared to 551 contract awards totaling \$293.1 million to non-CSBE firms.

The amendment being proposed reflects the County's continued commitment to developing and nurturing a competitive local construction industry in which contractors for publicly-financed projects provide high-quality services, the best value to taxpayers and provide opportunities to the community's workforce and small business programs.



Edward Marquez
Deputy Mayor




MEMORANDUM

(Revised)

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

DATE: June 3, 2014

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

SUBJECT: 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 _____

Agenda Item No. 7(E)

6-3-14

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 2-8.2.7.01 PERTAINING TO THE MISCELLANEOUS CONSTRUCTION CONTRACTS PROGRAM; THIS AMENDMENT REMOVES THE REQUIREMENT THAT THE MCC PROGRAM BE SUBJECT TO AN OVERALL PROGRAM EXPENDITURE LIMIT (OPEL) AS ALL EXPENDITURES UNDER THE PROGRAM ARE SUBJECT TO ANNUAL APPROPRIATION BY THE BOARD; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 2-8.2.7.01(3) is hereby amended to read as follows:¹

(1) Policy: This ordinance, to be known as the Miscellaneous Construction Contracts Program ("MCC"), is intended to enhance the contracting opportunities of Community Small Business Enterprises ("CSBE") as defined in Section 10-33.02 and to facilitate and expedite the award of construction contracts to small businesses.

(2) Scope: This section, and the processes set forth herein, shall be applicable to the pre-qualifying, registration, award and construction of miscellaneous construction contracts designed to provide opportunities for Community Small Business Enterprises.

(3) MCC participants ~~[[shall be]]~~ >>are<< allowed to participate in two different contracting plans, ~~[[with]]~~ >>in accordance with the<< contracting procedures and specifications to be developed, maintained and amended by the ~~[[Office of Capital Improvements ("OCI")]]~~ >>Internal Services Department ("ISD")<< specifically for these purposes, ~~[[all]]~~ in ~~[[accordance with an]]~~ Implementing Order ("IO") >>3-53<< ~~[[to be approved by the Board]]~~:

Section 2. Section 2-8.2.7.01(3)(a) is hereby amended to read as follows:

(a) 7040 Plan ("CSBE Rotational Set Aside Plan")

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.

1. The Set Aside Plan shall be a 100% CSBE set aside. To qualify participants must be certified by the ~~[[Department of Small Business Development]]~~ >>Internal Services Department, Small Business Development Division<< ("SBD") in their contracting trade.
2. ~~[[OCI]]~~ >>ISD<< shall establish and administer a rotational pools, subject to trades and values, to distribute work among program participants in an equitable manner through competitive bids >>depending on threshold values<<. The pools shall be designed to effect the maximum distribution of work among qualified firms, established in accordance with the contractor's license and abilities to do the work, all in accordance with the provisions of ~~[[the]]~~ IO >>3-53<<.
3. The SBD Review Committee shall establish an annual Community Workforce Program ("CWF") goal applicable to all contracts with construction costs of more than one hundred thousand dollars (\$100,000.00).

Section 3. Section 2-8.2.7.01(3)(b) is hereby amended to read as follows:

(b) 7360 Plan ("Open Competitive Plan")

1. Bidders under this plan shall be prequalified prior to award >>in accordance with<< forms ~~[[to be]]~~ developed for this purpose by IO >>3-53<<.
2. This plan shall be used whenever the funding source prohibits the use of CSBE set asides or when SBD determines that there is insufficient availability for a CSBE set aside within the 7040 Plan to accomplish the proposed work.
3. This plan shall provide contract award opportunities to CSBEs through subcontracting
4. CWF goals shall be established for each award under the 7360 Plan by the >>SBD<< Review Committee ~~[[of the Department of Small Business Development]]~~.

Section 4. Section 2-8.2.7.01(4) is hereby amended to read as follows:

- (4) ~~[[The MCC Program shall be subject to an Overall Program Expenditure Limit ("OPEL") which is to be set by the Board of County Commissioners by resolution. OCI shall be authorized to allocate the OPEL among the plans as necessary.]]~~ >>Solicitations under this Program shall be issued consistent with funding in each County department's approved annual budget, subject to the Office of Management and Budget's (OMB) approval of Requests for Price Quotations (RPQ).<< Individual awards within the plans shall be subject to the dollar limitation set forth in Section 2-8.1(b) of this Code. ~~[[The first OPEL shall be the unexpended balance of the amount previously authorized by the Board by Resolution R-597-08.]]~~

Section 5. Section 2-8.2.7.01(5) (d) is hereby amended to read as follows:

- (d) To award or reject bids for construction contracts and issue the Notice to Proceed on each where:
 - 1. Operational considerations, if applicable, have been reviewed and approved by ~~[[the Office of Strategic Business Management]]~~ >>OMB<<; and
 - 2. The base value of a recommended award does not exceed the dollar limitations set forth in Section 2-8.1(b); and
 - 3. The contractor receiving the award is a registered vendor who is licensed, properly insured and in good standing with the County, including, but not limited to: no outstanding debts; demonstrated acceptable past performance; and has submitted required insurance, bonds, affidavits and documentation provided for by the solicitation; and
 - 4. Participants have submitted a program participation application form.

Section 6. If any section, subsection, sentence, or clause of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

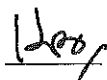
Section 8. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Hugo Benitez