

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 7, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to Small Business Enterprise programs; amending sections 2-10.4.01, 2-8.1.1.1.1, 2.8.1.1.1.2, 10-33.02 of the Code; amending certification requirements, increasing personal net worth threshold to \$3,500,000.00

This item was amended at the April 8, 2024 Chairman's Policy Council and Intergovernmental Affairs Committee to change the personal net worth threshold in sections 2-10.4.01, 2-8.1.1.1.1, 2-8.1.1.1.2, and 2-10.33.02, on pages MDC 006, MDC 008, MDC 009, and MDC 011, respectively, to \$3,500,000.00 and make conforming changes to the title.

Rule 5.06(h) of the Board's Rules of Procedure provides that differences between an original item and an item amended at committee should be uniquely identified by double underlining and double strike-through, or where such approach would not clearly show the committee amendments or is not practical, by providing footnotes or comments on the item. Based on Rule 5.06(h), the preceding comprehensive description of the differences between the original item and the amended item is provided in lieu of double underlining and double strike-through.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001

Memorandum



Date: May 7, 2024

To: Honorable Chairman Oliver G. Gilbert III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Increasing Personal Net Worth Threshold

The implementation of this Ordinance will not have a fiscal impact on the County.

A handwritten signature in blue ink that reads "Carladenise Edwards".


Carladenise Edwards
Chief Administrative Officer

Memorandum



Date: May 7, 2024

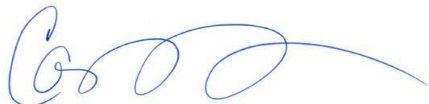
To: Honorable Chairman Oliver G. Gilbert III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Increasing Personal Net Worth Threshold

The proposed ordinance seeks to increase the personal net worth threshold from \$1,500,000 to \$2,500,000 for business owners, which will further extend the ability of firms to become certified SBEs and participate in SBE programs.

The implementation of this Ordinance will improve the existing Small Business Enterprise Programs (SBE) by expanding the pool of firms eligible to participate in the program, through this increase in the personal net worth threshold of the business owner. This Ordinance change could provide a social benefit because of the potential increased opportunities for SBE competition on County contracts.

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

Carladenise Edwards
Chief Administrative Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 7, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(B)

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
- Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(B)
5-7-24

ORDINANCE NO. _____

ORDINANCE RELATING TO SMALL BUSINESS ENTERPRISE PROGRAMS; AMENDING SECTIONS 2-10.4.01, 2-8.1.1.1.1, 2.8.1.1.1.2, 10-33.02 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AMENDING CERTIFICATION REQUIREMENTS, INCREASING PERSONAL NET WORTH THRESHOLD TO \$3,500,000.00; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade County (“County”) Small Business Enterprise (“SBE”) programs provide business opportunities to certified small businesses, to aid in their growth, development, and contribution to the County and South Florida economies; and

WHEREAS, pursuant to sections 2-10.4.01, 2-8.1.1.1.1, and 2-8.1.1.1.2 of the Code of Miami-Dade County, Fla. (the “Code”), no firm shall be certified under the Small Business Enterprise Architecture & Engineering (CB-A/E), Small Business Enterprise Services (SBE-Services), or the Small Business Enterprise Goods (SBE-Goods) Programs, respectively, where the personal net worth of any of such firm’s owners is more than \$1,500,000.00, 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; and

WHEREAS, pursuant to section 2-10.33.02 of the Code, no firm shall be certified in the Small Business Enterprise Construction Services ("CSBE") Program where the individual net worth of any of its owners is more than \$1,500,000.00; and

WHEREAS, on October 18, 2022, this Board adopted Ordinance No. 22-133, amending sections 2-8.1.1.1.1, 2-8.1.1.1.2, 2-10.4.01, and 10-33.02 of the Code, to among other things, create an additional tier to retain mid-level firms from program graduation; and

WHEREAS, this Board wishes to amend sections 2-10.4.01, 2-8.1.1.1.1, 2-8.1.1.1.2, and 2-10.33.02 of the Code to increase the personal net worth threshold to \$3,500,000.00; and

WHEREAS, the County will benefit from an increase to the personal net worth threshold which will further extend the ability of firms to become certified SBEs and participate in SBE programs as applicable,

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

Section 1. Section 2-10.4.01 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-10.4.01. Small Business Enterprise Architecture and Engineering Program.

- (1) *Title.* This Section shall be referred to as the Miami-Dade County Small Business Enterprise Architecture & Engineering ("CBE" or "CBE-A/E") Program.
- (2) *Definitions.* For purposes of this section:

* * *

P. *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 ~~[[(+)]]~~ 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)]]>>~~ \$3,500,000.00<<, exclusive of: (a) the value of the

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.

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.

* * *

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

Sec. 2-8.1.1.1.1. Small Business Enterprise Services Program.

- (1) *Title.* This section shall be referred to as the Small Business Enterprise Services Program.
- (2) *Definitions.* The following definitions shall apply in this section.

* * *

21. *Small Business Enterprise ("SBE" or "SBE-Services")* means a business entity certified by SBD, providing services, which has a valid business tax receipt issued by Miami-Dade County at least one ~~[[+]]~~ year prior to certification, an actual place of business in Miami-Dade County, not a Virtual Office, and whose three year average gross revenues does not exceed the following contracting participation levels:

- (i) Tier 1 — \$0 to \$750,000;
- (ii) Tier 2 — \$750,000.01 to \$2,000,000;
- (iii) Tier 3 — \$2,000,000.01 to \$5,000,000; or
- (iv) Tier 4 — \$5,000,000.01 to \$8,000,000.

No firm shall be certified as a SBE where the personal net worth of any of its owners is more than ~~[[one million five~~

~~hundred thousand dollars (\$1,500,000)]>>~~
\$3,500,000.00<<, 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 a business entity's average gross revenues, personal net worth of owners and payroll shall be subject to audit.

* * *

Section 3. Section 2-8.1.1.1.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 2-8.1.1.1.2. Small Business Enterprise Goods Program.

- (1) *Title.* This section shall be referred to as the Small Business Enterprise Goods Program.
- (2) *Definitions.* The following definitions shall apply in this section:

* * *

22. *Small Business Enterprise ("SBE" or "SBE-Goods")* means a business entity certified by SBD, providing services, which has a valid business tax receipt issued by Miami-Dade County at least one ~~[[(+)]]~~ year prior to certification, an actual place of business in Miami-Dade County, not a Virtual Office, and whose three year average gross revenues does not exceed the following contracting participation levels:

- (i) Tier 1 — \$0 to \$750,000;
- (ii) Tier 2 — \$750,000.01 to \$2,000,000;
- (iii) Tier 3 — \$2,000,000.01 to \$5,000,000; or
- (iv) Tier 4 — \$5,000,000.01 to \$8,000,000.

The term Small Business Enterprise shall also include a (x) manufacturer with ~~[[one hundred (100)]]>>~~100<< employees or less, or (y) wholesaler with ~~[[fifty (50)]]>>~~50<< employees or less, without regard to

gross revenues. A wholesaler or manufacturer must comply with all other requirements of this section to be a certified SBE.

No firm shall be certified as a SBE where the personal net worth of any of its owners is more than ~~[[one million five hundred thousand dollars (\$1,500,000)]]~~ >> \$3,500,000.00 <<, 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 a business entity's average gross revenues, personal net worth of owners and payroll shall be subject to audit.

* * *

Section 4. Section 10-33.02 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 10-33.02. Small Business Enterprise Construction Services Program.

- (1) Title. This section shall be referred to as the Miami-Dade County Small Business Enterprise Construction Services ("CSBE") Program.
- (2) Definitions. The following definitions shall apply in this section:

* * *

Small Business Enterprise for Construction Services (CSBE) means a construction related enterprise, including a design-build firm, and any firm providing trades and/or services for the completion of a construction project, as defined in Chapter 10 of the Code of Miami-Dade County, which has an actual place of business in Miami-Dade County and whose average annual gross revenues for the last three ~~[[3]]~~ years do not exceed: ~~[[fifteen million dollars (\$15,000,000.00)]]~~ >> \$15,000,000.00 << for SIC 15 - Building Construction, General Contractors and Operative Builders; ~~[[twelve~~

~~million dollars (\$12,000,000.00)] >>\$12,000,000.00<<~~ for SIC 16 - Heavy Construction, other than Building Construction; or ~~[[eight million dollars (\$8,000,000.00)] >>\$8,000,000.00<<~~ for SIC 17 - Specialty Trade Contractors. CSBEs shall be categorized by the type of construction they perform in accordance with the two-digit Standard Industrial Classification (SIC) code, or the six-digit North American Industry Classification System (NAICS), of the Census applicable to such type of construction. A CSBE will graduate out of the program upon notification by SBD that it has exceeded these size limits based on its three-year average annual gross revenues. A certified CSBE that graduates out of the program shall continue to submit financial information as to cumulative gross revenue and bonding capacity to SBD annually for 3 years thereafter in order to further the County's ability to assess the effectiveness of the program.

CSBEs must be certified by SIC or NAICS code, and classified into one ~~[[1]]~~ of the four ~~[[4]]~~ contracting participation levels. The lack of bonding capacity shall not preclude an applicant from being certified as a CSBE. As part of the certification process, CSBEs must go through a prequalification process which will be used to determine which of the four ~~[[4]]~~ contracting participation levels the CSBE will be placed in based on the firm's four ~~[[4]]~~ year average gross revenues. The contracting participation levels are as follows:

1. Level I—Three-year average gross revenues of \$0.00—\$2,000,000.00;
2. Level II—Three-year average gross revenues above \$2,000,000.00 but not exceeding \$5,000,000.00;
3. Level III—Three-year average gross revenues above \$5,000,000.00 but not exceeding \$10,000,000.00, or
4. Level IV—Three-year average gross revenues above \$10,000,000.00 but not exceeding \$15,000,000.00.

A firm's eligibility to participate in the CSBE program and the contracting participation level at which it will participate shall be determined based on the three-year average gross revenues of the applicant firm in combination with that of all of the firm's affiliates as provided in Appendix A [which can be found in the County Clerk's office attached to Ordinance Number 97-52]. No firm shall be certified as a CSBE where the individual net worth of any of its

owners is more than [~~one million five hundred thousand dollars (\$1,500,000)] >> \$3,500,000.00, 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 <<. Representations as to average gross revenues, personal net worth of owners and payroll shall be subject to audit.~~

* * *

Section 5. 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 6. 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 a 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 7. 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:

GKS for GBK

Prepared by:

D.P.C

Dale P. Clarke

Prime Sponsor: Commissioner Danielle Cohen Higgins