

# COMMUNITY SMALL BUSINESS ENTERPRISE (CSBE)

## New Amendments

### Summary

#### Definitions

##### Expands the definition of MCC

- Miscellaneous Construction Contracts are open contracts designed to consolidate an indeterminate number of individual small construction repair or alteration activities which may be needed over a fixed period of time, or open contracts that are work order based where no specific item quantities have been determined prior to bid (unit price contracts) (Ordinance and I.O)

##### Clarifies the definition of Trade Set-aside to include all contracts and exclude MCC definition

- Trade Set-Aside means that an entire Specialty Trade component(s) of a County contract or a miscellaneous construction contract is reserved for first tier subcontracting among certified CSBEs (for example, the entire plumbing, roofing or electrical component of a specified contract is reserved for limited competition among certified CSBEs). (Ordinance and I.O)

- Adds definition for Construction Services and clarifies the Program's application to only construction services and not goods and services

##### Adds language to allow the Mayor to adjust the CSBE size limits every 5 years

The County Mayor or designee shall be authorized to adjust the CSBE-size limits every five (5) years based on the **local Consumer Price Index for All Urban Consumers (CPI-U) or other appropriate inflation measures as may be applied across all industries** calculated by the U.S. Department of Commerce as applied to Miami-Dade County for the preceding five (5) years. (Ordinance)

#### Certification

##### Modifies period of certification & clarifies Certification language and requirements

- The County Mayor or designee shall establish the frequency and administrative procedures for certification renewal by Implementing Order approved by the Board of County Commissioners. (Ordinance)
- Adds 3 Year Certification with yearly submittal of affidavit and minimal documents (I.O.)
- Clarifies the Program's application to only construction services and not goods and services. (Ordinance and I.O)

#### Graduation

- Amend Graduation language to allow graduated firms to remain eligible to be awarded contracts as prime or subcontractors for bids submitted prior to notice of graduation; (Ordinance and I.O.)
- Firms denied certification may reapply for certification 12 months from the time of denial of certification (providing a definitive time period); graduated firms may reapply for certification after filing and submitting their most recent corporate tax returns subsequent to the notice of graduation. (Ordinance and I.O.)
- Amend the Graduation language by deleting "recertification" and "immediately" and replace with "upon notification by SBD and may no longer be eligible for participation in the CSBE Program" "...and remain eligible to be awarded contracts as primes or subcontractors for bids submitted prior to notice of graduation"

#### Appeals

##### Defines filing fee

- Appeal of certification denials, decertification and noncompliance determinations will be heard by Administration Hearing Officers with filing fee defined (\$250) (I.O)

**The Appeals section has been changed to provide for a Hearing Officer to make findings and recommendations, and the Mayor to make a final decision, which is appealable to Circuit Court. This change makes the appellate remedy the same, irrespective of the party appealing the final decision.**

#### Additional Penalty

- It is proposed that language be added that allows penalties and sanctions to be imposed by the County Mayor or designee upon contractors that fail to comply with approved small business measures. In the case of a goal deficit, the County Mayor or designee may order a penalty amount to be withheld from the contractor for such noncompliance as follows: for the first deficit, a penalty in an amount equal to 10% of the amount thereof; for the

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second deficit, a penalty in an amount equal to 20% thereof; for the third and successive deficits, a penalty in an amount equal to 30% thereof. A fourth violation and finding of noncompliance, shall constitute a default of the subject contract and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized solely to defray SBD's costs of administering Section 10-33.02 of the Code of Miami-Dade County.

**The substitute properly places modifications to the Administrative Penalties to include all penalties for violations of or noncompliance with this section and its implementing order, proposals(s), and/or competitive selection documents.**

**Review Committee**

**Modify RC process to mirror ESP**

- Amends definition of Review Committee or RC - the committee established by the County Mayor or designee to review proposed contracts for the application of contract measures where SBD and the contracting department have not established consensus. (Ordinance and I.O.)
- Amends the existing Review Committee process to model the Expedited Review Committee process established to review projects under the Economic Stimulus Plan (ESP). The proposed process will establish a standing Review Committee that will only meet to review contracts where disagreements exist regarding the appropriate contract measure between SBD and the contracting departments. (I.O.)

**Subcontractor Goals**

**Modifies CSBE participation to allow utilization of 1<sup>st</sup> tier participation on 2<sup>nd</sup> – 4<sup>th</sup> tier goals**

- The CSBE Ordinance currently provides that in the case of construction manager-at-risk contracts, if a construction manager-at-risk exceeds the first tier subcontractor goal, the amount by which the first tier CSBE subcontractor goal is exceeded shall count toward fulfillment of the second, third and fourth tier subcontractor goal on the contract. This requirement applies solely to construction manager-at-risk contracts. It is proposed that the amount by which the first tier goal is exceeded by a prime contractor count toward fulfillment of the second, third and fourth tier subcontractor goal on any contract with a CSBE subcontractor goal. (Ordinance and I.O.)

**Findings of Non-Compliance**

- Add language to allow SBD to make non-compliance determinations, violations, and corresponding sanctions after contract is completed

**CSBE Advisory Board**

**Amends the organizations that make up the CSBE Advisory Board and the number of members**

- Two organizations no longer have active incorporations in the State of Florida; the following replacements are being recommended: Association of Women Architects and Engineers to be replaced by BAC Funding Corp.; Black Business Association to be replaced by Miami-Dade Chamber of Commerce; and add the National Association of Women in Construction
- Remove the Air Conditioning and Refrigeration Association, Inc. and the Association of Black Architects and Engineers which no longer exist as corporations (Ordinance and I.O.)
- Authorizes the County Mayor or designee to replace delineated organizations for failure to comply, upon recommendations from the current CSBE Advisory Board.