

1 [Local Business Enterprise and Non-Discrimination in Contracting Ordinance.]

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3 **Ordinance amending the San Francisco Administrative Code by amending Section**
4 **14B.8 to direct the Human Rights Commission to assign numeric point values to the**
5 **good faith outreach steps that bidders must undertake for all public work/construction,**
6 **architect/engineering, professional service and general service contracts that exceed**
7 **the minimum competitive amount or threshold amount.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
11 Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The San Francisco Administrative Code is hereby amended by amending
14 Section 14B.8, to read as follows:

15 **SECTION 14B.8. SUBCONTRACTING.**

16 (A) LBE Participation Goals. Prior to soliciting bids or proposals, contract awarding
17 authorities shall provide the Director with a proposed job scope for all public
18 work/construction, and for all architect/engineering, professional service and general service
19 contracts that exceed the minimum competitive amount *or threshold amount*. The contract
20 awarding authority may ask the Director to waive subcontracting goals where it anticipates
21 that there are no subcontracting opportunities or there are not sufficient LBEs available to
22 perform the subcontracting work available on the contract.

23 The Director shall set LBE participation goals for each such contract, where
24 appropriate, based on the following factors:

- 25 (1) The extent of subcontracting opportunities presented by the contract; and

1 (2) The availability of LBE subcontractors capable of providing goods and services on
2 the contract.

3 (B) Bids or proposals that do not meet the LBE participation goal set under 14B.8(A)
4 will be rejected as non-responsive unless the Director finds that the bidder diligently undertook
5 all the good faith efforts required by this Ordinance and that the failure to meet the goal
6 resulted from an excusable error. The contract awarding authority shall require bidders or
7 proposers on the contracts to contact a LBE before listing that LBE as a subcontractor in the
8 bid or proposal. A bid or proposal that fails to comply with this requirement will be rejected as
9 non-responsive. In addition only LBEs that have been contacted and agreed to be listed as
10 subcontractors shall be credited toward meeting the LBE participation goal.

11 (C) Good Faith Outreach. In addition to meeting the LBE participation goal, All bidders
12 shall undertake good faith outreach as set forth in this Section 14B.8(C) to select
13 subcontractors to meet LBE goals, except that bidders on public works/construction contracts
14 for less than the threshold amount are not required to undertake the good faith efforts steps
15 set forth in Sections 14B.8(C)(3) when it is impracticable to do so. Bids or proposals from
16 bidders who fail to undertake ~~the required~~ adequate good faith outreach ~~steps~~ and/or who fail to
17 submit the applicable documentation of such good faith outreach required in Section 14B.8(D)
18 shall be declared nonresponsive. The Human Rights Commission shall by Rule and Regulation
19 assign a numeric value to each of the good faith outreach steps listed below. Adequate good faith
20 outreach shall be a minimum of 80 points with a total of 100 points possible.

21 (1) Attending any presolicitation, ~~or~~ prebid, or pre-proposal meetings scheduled by the
22 City to inform all bidders of LBE program requirements for the project for which the contract is
23 awarded;

24 (2) Identifying and selecting subcontracting opportunities to meet LBE goals;

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1 (3) Advertising for LBE subcontractors by posting the opportunity in an accessible
2 location, specified by the City, not less than 10 calendar days before the date the bids can first
3 be submitted. The advertisement must include information where bidders may obtain adequate
4 information about the plans, specifications, requirements for the work. This paragraph applies only
5 if the City gave public notice of the project not less than 15 calendar days prior to the date the
6 bids can first be submitted;

7 (4) Not less than 10 calendar days before the date the bids can first be submitted, Contacting
8 at least the requisite number of LBEs by trade certified to perform the identified work required by
9 the 14B Rules and Regulations; and

10 ~~(5) Providing LBEs that have notified the bidder of their interest with adequate information~~
11 ~~about the plans, specifications, and requirements for the work, provided that the Director may cap the~~
12 ~~number of contacts required;~~

13 ~~(56) Performing follow-up contact on the initial solicitation with interested subcontractors or~~
14 ~~subconsultants and N~~egotiating in good faith with LBEs, as set forth in the 14B Rules and
15 Regulations, and not unjustifiably rejecting their bids or proposals; ~~and~~

16 ~~(76)~~ Advising and assisting interested LBEs that are bidding on and performing City
17 public work and construction contracts with the City's bonding and financial assistance programs to
18 obtain bonds, lines of credit, or insurance required by the City or the bidder.

19 (D) Each bid and proposal shall document good faith outreach and include the
20 documentation with the bid. Such documentation shall include: (a) the dollar amount of each
21 subcontract and a statement of the scope of work to be performed under the subcontract; (b)
22 the identification of each subcontract awarded to an LBE and, (c) for each subcontract, copies
23 of the subcontractor bids submitted. Such documentation shall contain at least the bid
24 amount, ~~and~~ a description of the scope of work, and separately, for each subcontract, a full and
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1 complete statement of the reason(s) for selection of the subcontractor. If the reason is based on
2 relative qualifications, the statement must address the particular qualifications at issue. If the reason is
3 the respective dollar amounts bid, the statement must state the amounts and describe the similarities
4 and/or dissimilarities in the scope of work covered by the bids. If no written bids were submitted by
5 some or all of the subcontractors who bid the job, the bidder shall submit a written statement
6 containing (i) the amount of each oral bid; and (ii) separately, for each subcontract, a full and
7 complete statement of the reason(s) for selection of the subcontractor. *If the reason is based on*
8 *relative qualifications, the statement must address the particular qualifications at issue. If the reason is*
9 *the respective dollar amounts bid, the statement must state the amounts and describe the similarities*
10 *and/or dissimilarities in the scope of work covered by the bids.* Bidders also shall maintain the
11 documentation described in this paragraph for three years following submission of the bid or
12 completion of the contract, whichever is later.

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14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: _____
17 Alicia Cabrera
18 Deputy City Attorney

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