

LEGISLATIVE DIGEST

[Administrative Code - Revisions to Local Business Enterprise Ordinance]

Ordinance amending Administrative Code Chapter 14B to set a separate minimum competitive amount applicable to general services contracts; to clarify ownership requirements for certification of local businesses with no single majority owner; to limit the SBA-LBE program to construction and construction-related contracting; to clarify requirements for setting aside contracts under the mandatory Micro-LBE Set-Aside program; to revise subcontracting goals for professional services contracts to apply to contracts that exceed the minimum competitive amount; to revise good faith efforts outreach and documentation requirements to apply to contracts that exceed the threshold amount or minimum competitive amount; to simplify reporting requirements; and to make technical corrections.

Existing Law

Existing law sets the same minimum competitive amount of \$100,000 for professional services, architect/engineering and general services contracts. Under existing law, general services contracts are generally awarded, like construction contracts, to the bidder with the lowest price, whereas professional services and architect/engineering contracts are awarded to the bidder with the highest qualifications.

Existing law requires business to have a single 51% owner to be certified as an LBE. This is an anomaly from prior law which limited certification to businesses that had at least 51% ownership by one or more minority or women owners.

Existing law requires each departments to set aside 25% to 50% of its total contracts under the threshold amount or minimum competitive amount for competition among Micro-LBEs without regard to the overall availability of eligible Micro-LBEs for scope of work contracts to be awarded.

Existing law requires departments to make quarterly reports during 2010, and annual reports thereafter, concerning their compliance with the set-aside requirements.

Existing law allows SBA-LBEs to be certified to provide the same categories of services and goods as LBEs: public works/construction; specialty construction contractors; goods/materials/equipment and general services; professional services and architect/engineering; and trucking.

Existing law requires HRC to set subcontracting goals for professional services contracts valued at \$50,000 or more (50% of the competitive amount).

Existing law requires all bidders to undertake and document good faith outreach for all contracts with subcontracting goals that exceed 50% of the threshold amount or minimum competitive amount, as applicable.

Amendments to Current Law

This Ordinance amends the minimum competitive amount for general services to equal \$400,000, which is the same as the "threshold amount" for public works/construction contracts in Administrative Code Chapter 6.1(M).

This Ordinance amends and clarifies the terms "owns" and "ownership" to correct an unintended exclusion of locally owned and controlled businesses with ownership structures that did not include at least one 51% owner from the LBE program. This Ordinance clarifies that any required licenses for an LBE must be held by a business owner and not simply a business employee.

This Ordinance amends Chapter 14B.2 (Definitions) and 14B.3(K) (Micro-LBE Set-Aside Program) to clarify that the total number of contracts that a department must set aside for competition among Micro-LBEs is based on the total number of department contracts that both are valued between \$10,000 and the minimum competitive amount (or for construction/public works contracts, the threshold amount) AND that have anticipated Micro-LBE availability as determined by HRC based on HRC's statistics.

This Ordinance revises departmental reports to the Board of Supervisors in Sections 14B.7(K)(4) and 14B.15(B)(1)(b) to begin 90 days after the Ordinance becomes effective to enable departments to develop useful data. This Ordinance thereafter requires such reports as part of preexisting annual reporting requirements. This Ordinance also removes the expired reporting requirement in Section 14B.7(M).

This Ordinance revises the SBA-LBE program by limiting certification and bid discounts and LBE subcontracting participation goals for SBA-LBEs to public/works construction, specialty construction and architect/engineering contractors in Sections 14B.3(D) (Criteria for SBA-LBE) and 14B.7(E) (Amount of Discount).

This Ordinance requires subcontracting goals for construction contracts that equal or exceed 50% of the threshold amount; general services and architect/engineering contracts that equal or exceed 50% of the minimum competitive amount; and professional services contracts that exceed the minimum competitive amount (14B.8(A)).

This Ordinance requires bidders on contracts with subcontracting goals to undertake and document good faith outreach ONLY for contracts that equal or exceed the threshold amount or the minimum competitive amount (as applicable).

FILE NO. 101006

This Ordinance makes a technical correction removing the phrase "or proposal" to conform the term "bid" to its definition and makes other similar minor conforming revisions.

Background Information

This Ordinance makes substantive changes to fine-tune Ord 20-10 and also makes certain technical corrections.