

**SUBJECT:** Small Business Enterprise Program

**APPROVAL:** Rick Baker, Mayor

**EFFECTIVE DATE:** October 22, 2007

**REPLACES POLICY DATED:** \_\_\_\_\_

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**Synopsis:**

The Small Business Enterprise (SBE) Program is a race/gender neutral program intended to enhance procurement and construction contracting opportunities for certified Small Business Enterprises in Pinellas, Pasco, Hillsborough, Manatee and Polk counties. The procurement opportunities include contracts for supplies, services, construction and professional services. This policy sets forth the criteria for participation in the SBE program.

**Policy:**

**Program**

**1. Business Assistance Division**

The Business Assistance Division is responsible for the administration of the City's Small Business Enterprise Program. The division processes certification applications and provides technical assistance, outreach and advocacy for small SBEs seeking to do business with the City.

**2. SBE Committee**

An SBE Committee shall be established with membership consisting of City staff members. The SBE Committee shall establish annually a recommended City-wide SBE goal, based on readiness, willingness and availability of prime contractors and subcontractors. The annual City-wide goal shall be achieved through the utilization of participation percentages and/or the sheltered market program.

**3. Certification**

- a. To qualify as a certified SBE, a company must be an independently owned, operated and controlled business which is not dominant in its field of operation and is a provider of supplies, services or construction. The business must have been in operation for at least one (1) year and must serve a commercially useful function. The Deputy Mayor for Midtown Economic Development, or designee, shall establish a procedure to certify that a small business has met the requirements of this division to qualify as an SBE. All certifications are effective for a period of two years from the date of notification of certification followed by a re-certification procedure. If during the certification period, the SBE experiences changes in ownership, employment, control, or location, it is the company's responsibility to report such changes to the Business Assistance Division. Failure to report changes shall give the Business Assistance Division just cause to deny registration and/or recertification for a period of one year.

- b. To be eligible for certification the SBE must meet the criteria established and set forth under the SBE definition described above, in addition to meeting the following criteria:
- (1) The business must have a current occupational license/tax receipt from and be domiciled in Pinellas, Pasco, Polk, Hillsborough or Manatee County. A post office box will not be acceptable as a business address.
  - (2) The business must, together with affiliates, be a provider of supplies, services or construction.
  - (3) The number of employees averaged over the previous three (3) years must not exceed twenty-five full-time permanent employees and the annual sales volume averaged over the previous three (3) years must not exceed \$3,000,000 for Services and Supplies and \$5,000,000 for Construction. If the annual sales volume is less than 98% of the maximum sales volume, then the number of full-time, permanent employees may exceed the employee maximum by 6%\*. If the number of full-time permanent employees is less than 6% of the maximum number of employees, then the annual sales volume may exceed the maximum sales volume by 2%\*\*.
- \*6% of 25 equal 1.5 (this allows an exception of up to 2 people)  
\*\*2% of \$3 million is \$60,000 and 2% of \$5 million is \$100,000.
- c. The Business Assistance Division will recognize certification by other governmental units utilizing similar certification criteria. Existing certified small business enterprises and disadvantaged business enterprises will continue to be certified until their current certification expires, at which time these enterprises must be certified pursuant to this policy.
- d. Applications for certification must be accompanied by the following:
- 1) A copy of the business' entire federal tax return covering the three (3) most recently completed tax years. The submitted tax returns must include all schedules, forms, and support statements as required by and filed with the IRS. Tax returns under any previous ownership type(s) within the same current 3-year period must also be submitted. If the company has been in business for less than three years, all available tax returns must be provided. If the company has yet to file a tax return, it must provide information sufficient to demonstrate the annual sales volume and number of employees employed by the company. If a company does not file a federal tax return at the time of application for certification, a copy of the return must be filed within 6 months of certification.
  - 2) Articles of incorporation and by-laws.
  - 3) Business occupational tax license.
  - 4) A copy of the state "Quarterly Wage and Withholding Report" (Form 941) or other format accepted by the IRS, covering the four most recently completed quarters.
  - 5) Job references.
  - 6) Contractor's license or competency card as required.
  - 7) Copies of owners' driver's licenses.

- 8) SBE Affidavit duly notarized.
  - 9) Verification that the business has been in existence and operation for at least one year.
  - 10) Any other pertinent information requested by the Business Assistance Division to properly evaluate the application.
- e. Any application which does not meet the requirements for filing will be rejected. The application review process may include an on-site inspection.
  - f. The Business Assistance Center will maintain a current directory of certified Small Business Enterprises. This directory will be available to all bidders and prospective contractors to assist them in their efforts. The directory shall be updated monthly and placed electronically on the city's website.

#### **4. Annual Goal**

The SBE Committee shall establish an annual goal for citywide SBE participation.

#### **Construction Projects**

**1. Construction Participation Percentages** -- The SBE Committee shall establish SBE participation percentages for each City construction project in the amount of \$50,000 or more. The percentages are not to exceed 50 percent of the total contract amount for each project. The participation percentages shall be based on the availability of SBE contractors on a contract-by-contract basis and shall be included in bid specifications and bid advertisements for those City construction contracts.

#### **2. Establishing Goals for Construction Projects**

- a. The requesting department director or designated project manager shall break down the project and identify the various components of the project to be constructed. The project manager must submit to the SBE Committee an engineer's estimate which includes the scope of work and specifications required of the contractor and subcontractors to do the work.
- b. The Business Assistance Division will review the certification list and determine the availability of subcontractors qualified to do the work on each possible sub-contractible component and provide a list of certified SBE subcontractors, by trade, to the SBE Committee.
- c. The SBE Committee will set goals based on certified SBEs available, ready, willing and able for participation in accordance with the established percentage goals set forth pursuant to any State or Federal regulations applicable to the project.

#### **3. Bonding**

For public construction contracts of less than \$50,000, the Purchasing Director may waive, reduce the level or change the types of bonding normally required or accept alternative forms of security to the extent reasonably necessary to encourage procurement from SBEs. In reducing for SBEs the level or types of bonding normally

required, precautions should be taken to ensure that the City and any third parties will be adequately protected. The provision contained herein for waiver of a performance and payment bond for a public construction contract shall be effective only for so long as state law allows for such a waiver.

#### **4. Construction Sheltered Market**

- a. The SBE Committee may also administer a construction sheltered market program. Only certified SBEs are eligible to participate in the sheltered market program.
- b. The sheltered market program shall be utilized only where it is determined that there are sufficient SBEs to ensure effective competition and it is necessary to meet the annual city-wide goals for SBE participation. For sheltered market contracts, SBE prime contractors or subcontractors collectively shall perform at least 20 percent of the contracting effort, including the cost of labor, equipment, materials and supplies, with their own organizations and resources.
- c. Construction projects appropriate for the sheltered market program shall be designated on a contract-by-contract basis. For projects less than \$50,000, the Purchasing Director, or designee, has the authority to implement a sheltered market without the approval of the SBE Committee. For projects in the amount of \$50,000 or more, the SBE Committee will review projects and costs and will identify those projects which are appropriate for including in the sheltered market program.
- d. The percentage of the total dollars placed in the sheltered market program shall be reviewed annually by the Purchasing Department, and an evaluation performed to determine whether continuation of the sheltered market is in the best interest of the City.

### **Supplies and Services**

#### **1. Supplies and Services Participation**

In order to be eligible to participate in the SBE program for the procurement of supplies and services, a certified SBE must submit to the Purchasing Director proof of SBE certification.

#### **2. Supplies and Services Sheltered Market**

The Purchasing Director may target or set aside for SBE participation the following types of purchasing and/or contracts:

- a. Small purchases as defined in the Procurement Code Sec. 2-232(c) Methods of Source Selection and Contracting, Small Purchases for which the Purchasing Director has made a determination that there exists three or more eligible SBEs which are capable of providing the needed supplies or services. The Purchasing Director must document such determination in the procurement records.
- b. For other than small purchases, in addition to the requirements of subsection (a),

the Purchasing Director must also determine in writing that limiting the purchase and/or contract to SBEs is not detrimental to the interests of the City. In making this determination, the Purchasing Director shall at least consider the likelihood that price competition will occur between eligible businesses and the degree to which such target or set aside for the purchase and/or contract will contribute to the achievement of the established goal.

### **3. Discounts for Bids and Quotes Submitted by SBEs**

- a. For bid and quote evaluation purposes only, the Purchasing Director may include in the Invitations to Bid (IFB) and Requests for Proposals (RFP) for supplies and services objectively measurable discounts for bids and proposals submitted by certified SBEs as defined in the St. Petersburg City Code, Sec. 2-242 (h) Bid Evaluations. Bids and proposals in excess of the percentages shall be deemed financially unreasonable.
- b. When a discount is to be applied in an IFB in which “line item” is the stated basis of award and it is contemplated that awards may be made to two or more bidders, the Purchasing Director may select from the table the discount that would apply were a single contract to be awarded. The discount rate to be applied in the award of indefinite quantity contracts shall be stated in the IFB for such contracts.

### **4. Verification of SBE Status and Participation**

When an IFB provides incentives to bidders to maximize the participation of SBEs as subcontractors, the SBE status of each subcontractor claimed by a bidder as a SBE must be verified by the Purchasing Director prior to award. Moreover, following award based on the use of incentives for SBE participation, the Purchasing Director must require the contractor to provide periodic reports of actual SBE subcontractor participation in the contract. If the actual SBE subcontractor participation is less than that committed to at award, the Purchasing Director may terminate the contract for cause and/or invoke other penalties as provided for in the Invitation to Bid.

### **Report to the City Council**

The Business Assistance Division shall provide information to the City Council, annually, concerning the awarding of contracts to small businesses. To the extent practicable, the information provided should include the total dollar value of awards made in the fiscal year to small businesses.

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**Resource Documents:** Purchasing and Materials Management Policy and Procedures Manual

**Contact:** Small Business Assistance Division