

**Item # 26<sub>(2)</sub>**

**ADDITIONAL MATERIAL**

**10:00 a.m. Regular Meeting**

**APRIL 10, 2018**

**SUBMITTED AT THE REQUEST OF**

**COMMISSIONER STEVE GELLER**

1           (h) Continuing Certification. In order to maintain its certification, a certified CBE  
2 or SBE shall submit an OESBD form affidavit of continuing eligibility, on an annual basis,  
3 on or before the anniversary date on which the entity was first certified as a CBE or SBE,  
4 and shall participate in periodic OESBD certification eligibility reviews. Failure to fully  
5 complete the OESBD form affidavit on or before the anniversary date of the entity's CBE  
6 or SBE certification may result in suspension of certification or decertification, as  
7 applicable.

8           Section 4. Section 1-81.3 of the Broward County Code of Ordinances is hereby  
9 amended to read as follows:

10           **Sec. 1-81.3. CBE goals and reserves.**

11           (a) Establishment of Cumulative Annual CBE Goal. A ~~cumulative annual~~ CBE  
12 goal of at least twenty-five percent (25%) participation by CBEs is hereby established for  
13 the total dollar value of all each County contracts, except those contracts that are subject  
14 to other participation goals other than CBE reserves (e.g., federal DBE program, or SBE  
15 reserves), those contracts that are exempt from the County's Procurement Code, those  
16 contracts that are otherwise ineligible by state or federal law, and those contracts to which  
17 goals are not assigned (e.g., ~~sole source~~ sole source, sole brand, and emergency  
18 contracts). However, a CBE goal of at least twenty-five percent (25%) shall not be  
19 required if, at any time, the Board approves a different goal or approves that no CBE goal  
20 shall be set, based upon a written OESBD determination provided to the Board that  
21 establishes one (1) of the following:

22           (1) With regard to no CBE goal being set:

- 23           a. There ~~is no~~ are fewer than three (3) available certified CBEs that is  
24 are qualified available to participate in a specific project; or

Coding:           Words in ~~struck-through~~ type are proposed deletions from existing text by  
                          Commissioner Geller. Words in underscored type are proposed additions  
                          by Commissioner Geller.

1 create opportunities for CBEs to gain experience as pPrime eContractors. ~~However, no~~  
2 ~~contract shall be reserved for CBEs when the Program Director determines that no CBE~~  
3 ~~or only one (1) CBE is available to perform the work required under the contract.~~  
4 However, no contract shall be reserved for CBEs if the Program Director determines that  
5 there are fewer than three (3) certified CBEs available to perform the work required under  
6 the contract.

7 ~~(e)~~ (f) *Solicitations Involving Reserves.* When a CBE reserve is established in  
8 connection with a County solicitation, CBEs and ~~non-CBEs~~ nonCBEs may respond to the  
9 solicitation. If a CBE ~~is available~~ with capacity to perform the ~~reserved~~ work submits a  
10 responsive and responsible Bid or the highest-ranked responsive and responsible  
11 proposal, the reserved work will be awarded to a the CBE that submits the lowest  
12 responsive and responsible Bid or the highest-ranked responsive and responsible  
13 proposal (consistent with all applicable terms and conditions of the County's Procurement  
14 Code and subject to entering into an agreement acceptable to the County). If no CBE  
15 ~~firm is available~~ with capacity to perform the ~~reserved~~ work submits a responsive and  
16 responsive Bid, a ~~non-CBE firm~~ nonCBE with the lowest responsive and responsible Bid  
17 or the highest-ranked responsive and responsible proposal, as applicable, may be  
18 awarded the contract with at least a twenty-five percent (25%) CBE goal (unless the CBE  
19 goal is waived or otherwise modified by Board action), or the County may reject all bids  
20 and responses submitted.

21 ~~(f)~~ *CDBE Goals in Executory Contracts.* ~~All Community Disadvantaged~~  
22 ~~Business Enterprise (CDBE) goals in effect upon the enactment of this Act shall remain~~  
23 ~~in full force and effect.~~

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1        (g)     Prior to making any determination that no CBE participation goal or reserve  
2 should be set due to there being fewer than three (3) certified CBEs available to perform  
3 the applicable work under the contract, the Program Director shall engage in all  
4 appropriate additional outreach efforts designed to increase the number of certified,  
5 available firms. The Purchasing Director, in consultation with the Program Director and  
6 the Office of the County Attorney, may extend, by up to thirty (30) days, any procurement  
7 deadlines and any other applicable deadlines to provide sufficient time for these additional  
8 outreach efforts to be completed. If additional firms eligible for certification are identified  
9 through these outreach efforts, the Program Director shall, to the greatest extent  
10 practicable, expedite the certification of those firms so as to minimize procurement delays.

11            Section 5.     Section 1-81.4 of the Broward County Code of Ordinances is hereby  
12 amended to read as follows:

13            **Sec. 1-81.4. SBE reserves.**

14            (a)     When the County issues a solicitation that is anticipated to result in a  
15 contract with a value of less than ~~€Two hHundred and fFifty €T~~housand dDollars  
16 (\$250,000), the contract shall be reserved for SBEs, except those contracts that are  
17 otherwise ineligible pursuant to state or federal law. However, no contract shall be  
18 reserved for SBEs when the Program Director determines that no SBE or only one (1)  
19 SBE is certified available to perform the work required under the contract. However, no  
20 contract shall be reserved for SBEs if the Program Director determines that there are  
21 fewer than three (3) certified SBEs available to perform the work required under the  
22 contract.

23            (b)     If an SBE reserve is established, only SBEs will be eligible to bid on the  
24 solicitation. ~~Only an SBE shall be awarded a contract with an SBE reserve, except when~~

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1 ~~(1) no SBE responds to the solicitation; or (2) no SBE is responsive to the terms of the~~  
2 ~~solicitation.~~ In the event that no SBE responds or no SBE is responsive, the Purchasing  
3 Director shall cancel the solicitation, and the using agency shall submit it to OESBD to  
4 determine whether a CBE reserve should be established for any new solicitation.

5 (c) Notwithstanding anything to the contrary in paragraphs (a) and (b) above,  
6 in the event that none of the responses to an SBE reserve solicitation would result in a  
7 contract with a value of less than ~~two hundred and fifty thousand~~ two hundred and fifty thousand dollars  
8 (\$250,000), the Purchasing Director may elect to either accept the response(s) and  
9 proceed to the award stage, or reject the response(s) and request that OESBD determine  
10 whether a CBE reserve should be established for any new solicitation.

11 (d) Prior to making any determination that an otherwise eligible contract shall  
12 not, under this section, be reserved for SBEs due to there being fewer than three (3)  
13 certified SBEs available to perform the applicable work under the contract, the Program  
14 Director shall engage in all appropriate additional outreach efforts designed to increase  
15 the number of certified, available firms. The Purchasing Director, in consultation with the  
16 Program Director and the Office of the County Attorney, may extend, by up to thirty (30)  
17 days, any procurement deadlines and any other applicable deadlines to provide sufficient  
18 time for these additional outreach efforts to be completed. If additional firms eligible for  
19 certification are identified through these outreach efforts, the Program Director shall, to  
20 the greatest extent practicable, expedite the certification of those firms so as to minimize  
21 procurement delays.

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