

Financial Services
Richard H. Hinds, Chief Financial Officer

**SUBJECT: SMALL/MICRO BUSINESS ENTERPRISE PROGRAM AND
MINORITY/WOMEN BUSINESS ENTERPRISE CERTIFICATION
PROCEDURES MANUAL**

COMMITTEE: INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS

**LINK TO STRATEGIC
FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY**

The School Board of Miami-Dade County, Florida, voted to amend Board Policy 6320.02, Small/Micro Business Enterprise Program and Minority/Women Business Enterprise Certification. In an effort to allow for greater small business participation, the amendment to the policy adjusted the thresholds under the Small/Micro Business Enterprise Program. To supplement the current School Board Policy, procedures provide the details on the implementation of the program.

The purpose of the SBE Program Procedures Manual provides step-by-step procedures for implementation of the SBE Program including outlining the objectives of the program, detailing the small and micro business certification and recertification process, identifying small business assistance opportunities and other affirmative procurement initiatives.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve the Small/Micro Business Enterprise Program and Minority/Women Business Enterprise Certification Procedures Manual.

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Small/Micro Business Enterprise Program & Minority/Women Business Enterprise Certification Procedures Manual

I. PURPOSE

The procedures stated in this document constitute Miami-Dade County Public Schools ("M-DCPS") procedures ("the Procedures") for implementing the goals and objectives set forth in the School Board of Miami-Dade County, Florida's ("BOARD") adopted policy 6320.02 (Small/Micro Business Enterprise Program).

These procedures establish rules and guidelines for the application of various affirmative procurement initiatives by expanding the availability of contracting opportunities for Small and Micro Business Enterprises and removing barriers to doing business with M-DCPS. These Affirmative Procurement Initiatives ("APIs") include but are not limited to sheltered markets, mandatory subcontracting goals, evaluation preferences, bonding assistance, and mentor-protégé programs.

The purpose of the Program is: (1) to stimulate the local economy by providing equitable and expanded contracting opportunities for local businesses within the area served by M-DCPS; (2) to increase the capacity of Small and Micro Businesses in the community to grow in size and become more competitive with larger, more established businesses; and to remove the effects of any barriers that may be adversely affecting the formation, growth, and participation of minority and women business enterprises in BOARD contracts in a race- and gender- neutral manner.

The Office of Economic Opportunity may amend this Procedures Manual annually or issue additional Procedure Manuals to provide rules for the implementation of other programs and policies authorized under School Board policy 6320.02 and must be approved by the Board.

II. APPLICABILITY

Unless precluded by applicable law or the dollar thresholds identified herein, the provisions of the Program shall apply to the procurement of construction, construction related services, goods and services, professional architectural, engineering, landscape architectural, or surveying and mapping services, and general procurement by the BOARD. Procurements subject to a Small/Micro Business Enterprise sheltered market (set-aside) are not exempt from the other requirements of School Board policy 6320.02.

III. OBJECTIVES

To meet the objectives of this Program, the BOARD is committed to:

- A. Increasing the participation of Small/Micro Business Enterprises in contracting, and, to the extent possible, on M-DCPS contracts.

- B. Annually evaluating the progress and effectiveness of the Program using accumulated availability and utilization data to identify specific program provisions and Affirmative Procurement Incentives that require modification, expansion, and/or curtailment.
- C. Establishing a Goal Setting Committee ("GSC") to create Small and Micro Business Program goals and apply appropriate Affirmative Procurement Initiatives to specific Board contracts based upon industry categories, vendor availability, and other project-specific characteristics identified under these Procedures. The Superintendent shall approve the size and composition of the GSC, not to exceed nine persons. The GSC is to be chaired by the OEO. Members of the GSC may include staff from the Board's Procurement department, Capital Construction department, A/E Selection department, Maintenance department, Business Operations department, Audit Department and personnel from other Board departments affected by this program.
- D. Establishing a Small Business Enterprise Advisory Committee ("SBEAC") to provide guidance on the implementation of the Small and Micro Business Program and to promote participation and use of these businesses in the procurement activities of M-DCPS. The SBEAC shall have representation from local small, micro, and majority business interest organizations, community based organizations and local government entities which may include professional construction and trade businesses and socio-economic organizations.

IV. ADMINISTRATION OF THE PROGRAM

A. The School Board of Miami-Dade County, Florida

The Board shall consider the recommendations of the Goal Setting Committee, comprised of district staff, in adopting annual goals for the Program at the beginning of each fiscal year or as needed.

The Board shall also consider written advisory opinions and formal actions from the Small Business Enterprise Advisory Committee regarding implementation of the Small and Micro Business Enterprise Program, participation and use of Small, Micro and M.WBE firms in the procurement activities, and recommendations to improve the Small and Micro Business Enterprise Program,

B. Office of Economic Opportunity

The Economic Development Officer in the Office of Economic Opportunity is the Superintendent's designee to administer the Small Business Enterprise Program and shall serve as the Program Administrator. The responsibilities of the Program Administrator in administering the Program shall be in accordance with Board Policy 6320.02.

V. SMALL/MICRO BUSINESS ENTERPRISE PROGRAM ELIGIBILITY

In addition to being certified Small or Micro business enterprise by Miami-Dade County Public Schools (M-DCPS), vendors may apply to M-DCPS for inclusion in the as a Minority/Women Business Enterprise (M/WBE) Certification Program.

VI. Small and Micro Business Enterprise Eligibility & Certification

A. Revenue Size Requirements

The requirements for Small and Micro business enterprise Program eligibility are based on Board Policy 6320.02.

B. Eligibility Requirements

To be eligible to participate in the Program, a small or micro business enterprise, at the time of its response to a M-DCPS Solicitation, must meet the following eligibility requirements and be certified pursuant to Board Policy 6320.02.

Non-affiliation Rule: In addition, ownership of the Small and Micro business enterprise must be direct, independent, and by individuals only. Any license or permit required for the business must be held personally by an owner of the company and/or qualifier of the company. The Small/Micro firm cannot be a subsidiary of another firm. The day-to-day management of the Small/Micro firm must be direct and independent of the influence of any other business that cannot itself qualify under the Small/Micro eligibility requirements.

VII. Small and Micro Business Certification & Recertification

A. Certification Process

To be eligible to participate in the Program as a Small and Micro business enterprise, a business must submit a completed Small and Micro business enterprise application and affidavit certifying that it meets the eligibility requirements for a Small and Micro business enterprise pursuant to Board Policy 6320.02 to the OEO. Applications and affidavits should be submitted using the form attached as Appendix A. A copy of the certification application and an explanation of the certification process are also available on the OEO's Web Page through the District's Internet Portal at www.oeo.dadeschools.net. A copy of the certification application is also attached to these procedures in Appendix A.

Applicants shall complete the certification application and submit it with all requested documentation to the OEO. Until all such documentation is submitted, the certification or re-certification application shall be considered by OEO to be "incomplete," and the OEO shall promptly notify the applicant in writing of any requested documentation or incomplete items contained in the application. No action shall be taken on the certification or re-certification

application until such time as it is complete. Once complete, the OEO shall render a determination within 30 calendar days as to whether the applicant firm should be certified or re-certified, or denied such certification. If the certification or re-certification application remains incomplete sixty days after written notice from the OEO states that it is incomplete, the OEO shall discard the application and notify the applicant that the certification or re-certification application has been denied due to an incomplete submission. In addition to Small and Micro business enterprise certification application, the applicant firm must also complete vendor registration with the District and receive a vendor ID number. A copy of the vendor application is available on the Procurement Department's Web Page through the District's Internet Portal at <http://procurement.dadeschools.net/pdf/3921.pdf>.

The OEO shall verify the accuracy and authenticity of the information and documentation submitted by Program applicants as part of the certification or re-certification process. Applicants for small/micro business enterprise certification and re-certification must submit such additional information and records as the OEO deems necessary to substantiate each application. If requested, applicants shall attend an Eligibility Review Meeting (ERM) to clarify information that was submitted in the application and accompanying documents or to gain additional information regarding the applicant's eligibility for certification.

B. Certification Reviews

The OEO may conduct an eligibility review including but not limited to: audits and review the company, on-site job review, records, and documents of any firm having claimed Small and Micro business enterprise status, and may interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the Program is maintained. All applicants, including Small and Micro business enterprise seeking continued eligibility, shall allow site visits by the OEO staff to gain additional information regarding compliance with eligibility requirements. An Eligibility Review Meeting may be requested by the OEO to clarify information regarding the SBE/MBE's eligibility for certification.

C. Changes in SBE/MBE Status

Certified Small and Micro business enterprise shall provide written notice to the OEO of any change(s) that affect its eligibility as a Small/Micro, including, but not limited to, changes that affect address change, ownership, management, or control of the Small/Micro. Within fifteen (15) calendar days of the effective date of such changes, Small and Micro business enterprise shall provide notice to the OEO by written correspondence via U.S. Mail and/or electronic mail, including any supporting documentation, that describes the nature of the change(s) and that states the effective date of the change(s).

A Small and Micro business enterprise must have a valid certification in effect at the time of proposal submittal to be eligible to claim Small/Micro status for purposes of contract award. For successful bidders, certification must be maintained throughout the selection process and contract award. With the exception of the provisions described in the Small and Micro business enterprise policy for graduation from the Small and Micro business enterprise program,

temporary lapse of Small/Micro certification status may lead to removal of the firm from continued participation in the Small and Micro business enterprise program. After contract award, but prior to completion of its scope of work under the contract, if an Small/Micro firm loses its certification status for reasons other than fraud or misrepresentation, for the duration of that contract only, the Small and Micro business enterprise certification status shall be deemed valid. In the event an Small/Micro firm loses its certification for reasons of fraud or misrepresentation, the firm shall not be entitled to Small and Micro business enterprise status for any portion of the current contract or any subsequent contracts. Any Small/Micro, who misrepresents its status as an Small and Micro business enterprise or is a party to such misrepresentation to obtain business or contracts with M-DCPS, may be suspended from doing business with M-DCPS.

VIII. Terms of Recertification

Once certified as a Small/Micro by the OEO, the certification is valid for a period of two (2) years from the date MDCPS certified the applicant as a SBE/MBE.

1. **Recertification:** Prior to the expiration of the two year period, a business that desires to be recertified by M-DCPS shall:
 - a. Submit a Small/Micro Certification/Re-certification Application (Small/Micro Form R) and any additional supporting documentation required by the OEO to verify eligibility at least 30 days before the expiration date of certification.
 - b. Meet the requirements specified in this section for certification as a Small and Micro business enterprise.

In addition, the OEO shall take the following action prior to the Anniversary Date of a certified Small and Micro business enterprise:

- a. The OEO shall prepare a Notice of Certification Expiration.
- b. At least 60 days prior to the Anniversary Date of certification, the OEO shall issue the Notice of Certification Expiration to the Small and Micro business enterprise via electronic correspondence and/or written correspondence to the address currently on file for the Small and Micro business enterprise.
- c. If the Small and Micro business enterprise firm does not provide the Small/Micro Certification/Re-Certification Application (Small/Micro Form R) and supporting documentation prior to the expiration date of the current certification, the OEO shall decertify or remove the firm from the database. In the event the Small and Micro business enterprise firm submits the application prior to the certification expiration date, but fails to submit the Certification/Recertification Application (Small/Micro Form R) with requested documentation at least 30 calendar days prior to the expiration date of the certification, the certification may temporarily lapse pending review by the OEO until such time as OEO can issue a determination regarding recertification.

2. Decertification of a SBE/MBE: The OEO may decertify a Small and Micro business enterprise for any of the following reasons:

- a. Changes in the Small and Micro business enterprise firm's circumstances that render the firm unable to meet the eligibility standards;
- b. Information or evidence that was not available to the OEO at the time the firm was certified that, if available, would have resulted in the denial of certification;
- c. Information that was concealed or misrepresented by the firm in connection with the certification application or review conducted by the OEO; and / or
- d. A change in the certification standards or requirements of M-DCPS since the certification of the firm.

Prior to taking formal action to decertify a Small and Micro business enterprise, M-DCPS shall provide the business with written notice (via U.S. mail and/or email notification) of the proposed decertification that summarizes the reasons and facts leading to the proposed decertification. The Small and Micro business enterprise firm shall then have thirty days after issuance of the Notice of Intent to Decertify to request a hearing and / or to present such evidence and arguments in opposition to the Notice to Decertify. Following any requested hearing, and upon completion of its review of all such evidence and arguments presented, the OEO may either rescind the Notice of Intent to Decertify, or issue a Final Notice of Decertification to the Small and Micro business enterprise owner by certified mail.

If the OEO decertifies a Small and Micro business enterprise proposed to work, or currently working on a M-DCPS contract, the decertified Small and Micro business enterprise participation on the contract will be counted toward the fulfillment of M-DCPS' Small and Micro business enterprise goals for the duration of the contract and future contracts may be impacted. The OEO shall maintain a list of all decertified firms with the facts leading to decertification and shall provide internal departments notification of this action within 5 business days.

The OEO shall deny certification and re-certification to any applicant, and shall decertify any previously certified Small and Micro business enterprise, that fails to comply with the eligibility criteria or procedures of the Small and Micro business enterprise policy as amended. The OEO shall consider other consequences including debarment and the OEO shall communicate these actions to internal departments.

3. Appeals

- a. Denial of Certification as a Small and Micro business enterprise — upon denial of certification as an Small and Micro business enterprise, the OEO shall notify the affected party in writing, via certified mail, setting forth the reasons for the denial of certification.
- b. Time for filing a Notice of Appeal— a Small and Micro business enterprise may appeal a Denial of Certification and/or a Notice of Decertification to the

Superintendent's identified designee within fourteen (14) business days of receipt of the Denial of Certification and/or Notice of Decertification. If the Small/Micro business owner fails to appeal the Denial of Certification and/or Notice of Decertification within the time period set forth in this section, the decertification shall be final and take effect immediately. Upon receipt of a timely notice of appeal, the Superintendent's identified designee shall schedule and conduct an informal hearing within business 30 days. At the hearing, all parties including staff and the business owner(s) shall be provided an opportunity to produce any and all evidence in either party's possession concerning the denial of certification and/or decertification as a Small and Micro business enterprise.

Decision regarding Appeal—within fourteen (14) business days after the conclusion of the hearing regarding an appeal, the OEO shall issue a written notice of the decision on the appeal. The notice of the decision shall be sent to the all parties by certified U.S. mail and shall set forth the reasons for the decision. The decision of the Superintendent's identified designee, serving as the hearing officer shall be binding and final.

IV. Suspension

The OEO shall have the authority to suspend certification of a Small/Micro firm during any appeal of a certification decision. The OEO shall consider a variety of options if the matter is not curable including impacts on future contracts. All decisions made by the OEO shall be communicated to the business owner(s) and internal departments will also be notified.

V. SMALL BUSINESSES ASSISTANCE:

The Office of Economic Opportunity (OEO) shall act as a resource for information on Small and Micro business enterprises. The OEO shall provide the following assistance to these businesses:

1. **Community Outreach-** the OEO will conduct targeted outreach programs and events to communicate M-DCPS' procurement opportunities and increase and maximize participation in the Program. The OEO may use the services and expertise of Third Party Consultants to conduct the community outreach and perform the services described below.

- a. Outreach efforts will include publishing in print and electronic media regarding upcoming small business events, forums, workshops, trainings and special events.
- b. The OEO website and online directory will be used for outreach. Upcoming events as well as other useful Small and Micro business

enterprise information will be posted on the OEO's website for access by vendors.

- c. The OEO will work closely with Community/Trade Organizations to identify and promote procurement opportunities with M-DCPS and provide this information to Small and Micro business enterprises.
- d. The OEO will collaborate with other municipal agencies to sponsor events ensuring maximum outreach to Small and Micro business enterprises.
- e. Sponsor matchmaking conferences to connect Small and Micro business enterprises with buyers and procurement officials that are seeking to purchase the specific kinds of goods and services offered by these businesses.

2. Technical Assistance- the OEO shall also undertake special measures to assist Small and Micro business enterprises in overcoming barriers to participation on M-DCPS contracts. This assistance will be offered by M-DCPS, as well as by other assistance agencies and entities within OEO's technical assistance referral network that provide assistance with participation in similarly established Small and Micro business enterprise developmental programs in other jurisdictions including the Florida Small Business Development Center Network and U.S. Small Business Administration. In addition, the OEO will maintain and distribute information regarding available technical assistance providers in the Miami-Dade County market area. The Office of Economic Opportunity may use the services and expertise of Third Party Consultants to assess technical assistance needs of Small and Micro business enterprises, to refer such firms to appropriate resources, or to provide the technical assistance and other services, including, but not limited, to those described below.

- a. Host small business networking forums where small businesses are able to obtain information about how to do business with M-DCPS.
- b. Provide counseling and training sessions for Small and Micro business enterprises. M-DCPS staff will be available to explain instructions for preparation of bid specifications, M-DCPS' procurement policies, procedures and general bid requirements.
- c. Sponsor intensive group workshops and one-on-one training sessions on identified Small and Micro business enterprise problem areas, such as bookkeeping, bonding and insurance requirements, selecting and appropriately using legal and accounting services professionals, commercial lines of credit,

marketing, bid and proposal preparation, project management, payment requisitions, payroll management and billing and collections.

- d. Collaborate with construction industry trade associations, small business development centers, community colleges, and others to establish low-cost intensive "contractor college" programs to train M-DCPS Small and Micro business enterprise contractors on all aspects of estimating, bidding, licenses and permits, accounting, financing, bonding, contract terms, payroll management, tax requirements, project management, OSHA and EEO compliance, billing, collections, and other aspects required for performing construction contracts on behalf of M-DCPS.

3. Small and Minority Business Enterprise Directory – M-DCPS will create and maintain an online Small and Micro business enterprise Directory that lists these businesses by types of firms and trade codes to facilitate identifying businesses with capabilities relevant to a particular specification. Each business listing will contain the business name, contact person, mailing address, email address, website address, and phone number. The National Institute of Government Purchasing (NIGP) Commodity Codes will be identified for each Small and Micro business enterprise. The OEO will continuously update and maintain the directory on its website at www.oeo.dadeschools.net. In compiling this directory, the OEO will identify and certify as many Small and Micro business enterprise firms as possible that perform the types of work and/or supplies needed by M-DCPS.

4. Subcontractor Payment: Upon award of the prime contract to a vendor, the Prime Contractor shall be required to submit accurate progress payment information with each invoice on a designated OEO form regarding each of its Subcontractors, including Small and Micro business enterprise Subcontractors. The OEO shall monitor and/or verify 100% of the reported payments to Subcontractors, on a designated OEO Form, to ensure that the Prime Contractor's reported subcontract participation is accurate.

5. Prompt Payment: District Contracts shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida Statutes § 218 (Prompt Payment Act), and such clauses shall mandate that in the event of Prime Contractor non-compliance regarding such payments, no final retainage on the Prime Contract shall be released to the Prime Contractor, and no new District Contracts will be issued to the Prime Contractor until the audit of previous subcontract payments is complete and payments are verified in accordance with the specifications of the contract.

The M-DCPS shall pay the prime contractor in accordance with the Prompt Payment Act and shall also require prime contractors to pay subcontractors in compliance with the Prompt Payment Act.

6. Mentor-Protégé Program:

The OEO shall establish a workgroup which will include selected members of M-DCPS staff, the SBE Advisory Committee, representatives of the surety industry, government officials and representatives of local construction trade associations to research "best practices" in Mentor-

Protégé Program models and to then recommend to the OEO the establishment of a Small and Micro business enterprise Mentor Protégé Program and, at a minimum, this workgroup shall consider inclusion of the following elements for this program:

i. Establishment of program guidelines and a final process for teaming of more-established and successful construction firm owners and managers with less-established Small and Micro business enterprise construction firms to provide management guidance and training in such areas as office procedures, estimating and bidding, bookkeeping and accounting, management of funds, project management, supplier relationships, bonding and insurance, etc.;

ii. Submission of written Mentor-Protégé team plans outlining the expectations and responsibilities of each team member;

iii. Consideration of Solicitation Incentives for OEO-approved Mentor-Protégé teams.

IV. Periodic reports from Mentors and Protégés regarding progress in achieving objectives and elements of Mentor-Protégé plans.

VI. Goal Setting Committee

The Goal Setting Committee ("GSC"), as described in School Board policy 6320.02 will recommend annual aspirational goals for Small/Micro Business Enterprise utilization, consistent with Board policy 6320.02 based on the availability of Small/Micro Business Enterprises that can participate in projected subcontracting opportunities.

The Superintendent shall determine the size of the GSC that is to be chaired by the Director of the Office of Economic Opportunity who shall serve as a voting member. The Superintendent shall also appoint the remaining members of the GSC from the Board's procurement personnel and other Board departments affected by this Program. The GSC shall meet as often as it determines necessary, but not less than twice annually, to develop the Small and Micro Business Enterprise goal-setting methodology to be implemented by the Office of Economic Opportunity on a contract-by-contract basis, and to monitor and support the overall implementation of this policy.

1. To determine overall availability, the GSC will review the database to identify contractors in the local market who are prequalified, certified and available small/micro firms at the prime level and certified and available small/micro firms at the subcontractor level to perform on projects for which the District expects to solicit contractors or vendors in the coming year.
2. The GSC will have the discretion on a contract-by-contract basis to apply appropriate APIs, including, but not limited to, mandatory subcontracting goals for the participation of certified Small and Micro Business Enterprise subcontractors on those general procurement contracts, nonprofessional services contracts, professional services contracts and construction contracts.

3. The GSC shall be responsible for recommending to the Superintendent new Affirmative Procurement Initiative methods by which annual aspirational goals for Small and Micro Business Enterprise contract participation may be achieved.
4. The GSC shall monitor and support the implementation of the policy and procedures of the Program.
5. All recommendations made by the GSC pursuant to this Policy shall be decided by simple majority vote. Any appeals of the decision of the GSC regarding application of any Affirmative Procurement Initiative to any contract shall be addressed by the Office of Economic Opportunity to the Superintendent for final determination.
6. A quorum for conducting any official business of the GSC shall be a simple majority of the full membership of the GSC. A simple majority shall be 3 members of the Goal Setting Committee.

VII. Small Business Enterprise Advisory Committee

Consistent with School Board Policy 6320.02, the Small Business Enterprise Advisory Committee (SBEAC) shall:

- A. provide guidance on the implementation of the Small and Micro Business Enterprise Program and to promote the participation and use of small and micro in the procurement activities of the Board;
- B. identify and evaluate issues related to economic opportunities within the Board for small, micro and minority/women owned businesses;
- C. provide recommendations to the Board to improve the Small and Micro Business Enterprise program;
- D. annually evaluate and report to the Board on the effectiveness of the Small and Micro Business Enterprise program in increasing minority and women owned business participation in the Board's procurement process;
- E. monitor any disparity study that may be conducted by the Board and make recommendations based on the results of any such

study.

The Board and Superintendent shall each appoint a community member who is not employed by the Board and does not have any direct or indirect business relationship with the Board. The committee shall have representation from local small, micro, minority, women, and majority business interest organizations, community based organizations and local government entities which may include professional, construction and trade, business, and socio-economic organizations. The Board and Superintendent shall approve a list of representative organizations and the Superintendent shall appoint a member nominated by each recommended organization from their membership. The term of each Board appointee shall be coterminous with the appointing Board member and the term of the Superintendent's appointees shall be at the will and discretion of the Superintendent. In no event shall any Board member serve more than four (4) consecutive years. All appointments must comply with Policy 9140, Citizen Advisory Committees. The Committee shall annually elect a chair and vice-chair, meet at least six (6) times per year, and be governed by the latest edition of *Robert's Rules of Order*. The committee may adopt bylaws, to be recommended by the Superintendent to the Board for approval, to facilitate the operation of the committee.

VIII. SBE/MBE AFFIRMATIVE PROCUREMENT INITIATIVES:

A. Construction

The Goal Setting Committee ("GSC") shall consider the application of one or more of the following Race-Neutral Affirmative Procurement Initiatives for each formal solicitation for a District Construction, good and services, and/or professional services contract:

1. **Small Business Enterprise Prime Contract Program:** For Construction contracts that are estimated by the District to be \$1,000,000 or less in value, the District may establish an Small Business Enterprise Prime Contractor capacity-building initiative to enhance long-term competition. Each Small Business Enterprise Prime Contractor that participates in this program may also be actively enrolled in the Small and Micro Business Enterprise Mentor-Protégé Program (once established by the District). In determining whether the Small Business Enterprise Prime Contract Program should be applied to a particular contract, the GSC shall consider: a) whether there are at least three Small Business Enterprises that are available and capable to perform as Prime Contractors for the contract; and b) the degree of underutilization of the Small Business Enterprise Prime Contractors in the specific Industry Categories.
2. **Micro Business Enterprise Prime Contract Program:** For Construction contracts that are estimated by the District to be \$200,000 or less in value, the District may establish an Micro Business Enterprise Prime Contractor capacity-building initiative to enhance long-term competition. Each micro business enterprise Prime Contractor that participates in this program may also be actively enrolled in the Small and Micro business enterprise Mentor Protégé Program (once established by the District). In determining whether the micro business enterprise Prime Contract Program should be applied to a particular contract, the GSC shall consider: a) whether there are at least three micro business enterprises that are available and capable to perform as Prime Contractors for the contract; and b) the degree of underutilization of the micro business enterprise Prime Contractors in the specific Industry Categories.

3. Small Business Enterprise Subcontracting Program: The GSC may, at its discretion and on a contract-by-contract basis, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible small business enterprises. Factors to be considered by the GSC in making this determination shall include the relative availability of small business enterprise firms to perform Commercially Useful Functions on the specific contract.

A prospective vendor, to a District solicitation for which price and scope are defined, shall submit at the time of bid response such documentation as required by the District that provides:

- A. The name(s) of the Small and Micro business enterprise Subcontractor(s) it intends to use on the project;
- B. The percentage of prime contract dollars and the projected absolute dollar value of subcontracting services to be performed by each Small and Micro business enterprise;
- C. A description of the work that each Small and Micro business enterprise Subcontractor shall perform; and
- D. Verification confirming each Subcontractor's intent to perform the work under such terms and conditions.

After selection and during the price proposal negotiation phase, vendors shall be required to submit:

- E. The name(s) of the Small and Micro business enterprise Subcontractor(s) it intends to use on the project;
- F. The percentage of prime contract dollars and the projected absolute dollar value of subcontracting services to be performed by each Small and Micro business enterprise;
- G. A description of the work that each Small and Micro business enterprise Subcontractor shall perform; and
- H. Documentation confirming Subcontractor commitment to perform the work.

Forms to be used when providing the above-referenced subcontractor information are attached to these Procedures in Appendix B (Mandatory Subcontracting Forms).

Bids and/or Proposals shall be considered non-responsive and shall be rejected by the District that do not contain information required by this section for contracts designated by the District for mandatory subcontracting requirements.

The Goal Setting Committee may set aside solicitations for construction services with an estimated cost of \$200,000 or less for competition exclusively among certified micro business enterprises. The Goal Setting Committee may set aside solicitations with an estimated cost of

\$1,000,000 or less for competition exclusively among certified small business enterprises. Such sheltered markets shall be economically feasible contracts that Small and Micro business enterprise are capable of performing. In order to assure necessary competition, at least three (3) certified Small and Micro business enterprise must be available and capable of providing the construction, good and services, and/or professional services or the contracts may not be set aside.

A. The OEO Director shall determine and advise the Goal Setting Committee whether at least three (3) certified Small and Micro business enterprises are available and capable of providing the respective construction, good and services, and/or professional services for each proposed solicitation.

B. Following a review and the OEO Director's determinations regarding the availability and capability of at least three (3) certified Small and Micro business enterprise, the GSC shall determine which solicitations will be set aside for certified Small and Micro business enterprise, and whether the solicitations set aside will be subject to payment and/or performance bond requirements.

C. If, in the judgment of the Chief Facilities Officer bids received for construction, good and services, and/or professional services, set asides pursuant to this subsection are deemed to be non-responsive, excessive, or unreasonable based upon the nature or purchase price of similar procurements. All bids may be rejected and a new invitation for bids open to all bidders may be issued by the District. The Chief Facilities Officer shall notify the OEO Director of such rejection.

The Goal Setting Committee in conjunction with the Chief Facilities Officer shall review the nature, scope, and complexity of each construction project over \$200,000 to determine the appropriateness of waiving payment and performance bond requirements. Construction projects of \$200,000 or less payment and performance bonds may be waived pursuant to Florida Statutes 255.05(1)(A). The factors to be considered include, but are not limited to:

1. The complexity of the construction project;
2. School Board experience with the type of construction project under review;
3. The risk of loss to the School District in the event of default, and exceptional risk factors; and
4. The recommendations of the soliciting department.

A. Goods and Services

The Goal Setting Committee ("GSC") shall consider the application of one or more of the following Race-Neutral Affirmative Procurement Initiatives for each formal solicitation for District Goods and Services contracts:

- 1. Bid Preferences:** Specific goals for each project or contract may be adopted on a project-by-project or contract-by-contract basis prior to the bid, wherein (to the extent allowed by Florida

law) the contract award shall be made to the lowest responsive, responsible bidder meeting the small business enterprise subcontracting goals for the contract/project.

2. Internal Matchmaking: The OEO shall review upcoming bids for viable opportunities for Small and Micro business enterprise participation and then inform small/micro firms in a timely fashion of those specific opportunities that they are likely to be interested in. The OEO shall establish mechanisms to ensure timely notification of Small and Micro business enterprise of such opportunities such that they have ample opportunity to prepare to bid on them.

3. Sheltered Markets (Set-asides) for Procurement and Non-Professional Services: Sheltered Market (Set-asides) are purchases or contracts that are selected exclusively for competition among certified Small and Micro business enterprise. Solicitations for purchases or contracts that have been set aside under this initiative must be identified in the solicitation as reserved for bidding only by certified Small and Micro business enterprises.

The Goal Setting Committee may set aside procurement of commodities and non-professional services with an estimated cost under \$50,000 for competition exclusively among certified Small and Micro business enterprise. Such sheltered markets shall be economically feasible contracts that small business enterprises are capable of performing. In order to assure necessary competition, at least three (3) certified Small and Micro business enterprise must be available and capable of providing the goods or non-professional services, or the contracts may not be set aside.

A. The OEO Director shall determine and advise the Goal Setting Committee whether at least three (3) certified Small and Micro business enterprises are available and capable of providing the respective goods or non-professional services for each proposed procurement.

B. Following a review and the OEO Director's determinations regarding the availability and capability of at least three (3) certified Small and Micro business enterprises, the GSC shall determine which procurements will be set aside for certified Small and Micro business enterprises, and whether the procurements set aside will be subject to payment and/or performance bond requirements. (The GSC shall also determine whether any proposed modifications to previously approved set-asides of procurements of commodities and non-professional services are appropriate, and make any necessary modifications to such previously approved set-asides).

C. If, in the judgment of the Director of Procurement and Office of Economic Opportunity, bids received for procurement set aside pursuant to this subsection are deemed to be non-responsive, excessive, or unreasonable based upon the nature or purchase price of similar procurements in the market area, all bids shall be rejected and a new invitation for bids open to all bidders will be issued by the District. The Director of Procurement shall notify the OEO Director of such rejection.

4. De-Bundling: The OEO in conjunction with the Procurement Department will preview proposed contract bids in advance to suggest ways in which contracts may be de-bundled or segmented into smaller units to provide for greater competition and opportunities for greater participation by Small and Micro business enterprise firms.

B. Professional Services

The Goal Setting Committee ("GSC") shall consider the application of one or more of the following Race-Neutral Affirmative Procurement Initiatives for each formal solicitation for a District Professional Services contract:

1. Evaluation Preferences: In the selection process for the award of certain professional services contracts, the GSC may include as one of its evaluation criteria the level and/or percentage of Small and Micro business enterprise participation on the team or in subcontract participation.

2. Sheltered Markets (Set-asides) for Professional Services: Sheltered Market (Set-asides) are purchases or contracts that are selected exclusively for competition among Small and Micro business enterprises. Solicitations for professional services contracts that have been set aside under this initiative must be identified in the solicitation as reserved for Small and Micro business enterprises.

The Goal Setting Committee may set aside professional services solicitations for competition exclusively among certified Small and Micro business enterprises. Such sheltered markets shall be economically feasible contracts that small business enterprises are capable of performing. In order to assure necessary competition, at least three (3) certified Small and Micro business enterprises must be available and capable of providing the professional services, or the contracts may not be set aside.

A. The OEO Director shall determine and advise the Goal Setting Committee whether at least three (3) certified Small or Micro business enterprise are available and capable of providing the respective professional services for each proposed solicitation contained in such reports.

B. Following a review of such reports and the OEO Director's determinations regarding the availability and capability of at least three (3) certified Small and Micro business enterprise, the GSC shall determine which solicitations will be set aside for certified Small and Micro business enterprise.

C. If, in the judgment of the Chief Facilities Officer, proposals received for professional services set aside pursuant to this subsection are deemed to be non-responsive, excessive, or unreasonable based upon the nature or purchase price of similar procurements. All bids shall be rejected and a new invitation for bids open to all bidders will be issued by the District. The Chief Facilities Officer shall notify the OEO Director of such rejection.

3. Joint Venture and/or Associations: For Professional Services contracts, the GSC may, at its discretion and on a contract-by-contract basis, apply criteria from the selection procedures process. Allocation of Points for Small and Micro business enterprise Joint Venture and/or associations Incentives shall be as follows:

A. Up to 6% of total score for Small and Micro business prime contractors;

B. Up to 2% of total score for Small and Micro business sub-contractors

A factor to be considered by the GSC in selecting this API shall include the relative availability of Small and Micro business enterprise firms to perform Commercially Useful Functions on the specific contract.

IX. Affirmative Procurement Initiatives (Procedures)

A. Bonding Waiver Requirements

Pursuant to Florida Statutes § 255.05(1)(a), payment and performance bonds for District construction projects of \$200,000 or less may be waived on a contract-by-contract basis, and the Board or the District and its officers or officials shall not be personally liable to any person suffering loss because of the granting of such exemption.

Bonding/Insurance Assistance- the OEO will maintain and provide Small/Micro Business Enterprises with information regarding bonding and insurance programs including, providing a list of qualified service providers that supply bonding and insurance services. In addition, the OEO may assist Small and Micro business enterprises in obtaining insurance and surety bonds in the performance of contracts working with the Small Business Administration, Florida Small Business Development Center Network and other organizations identified by the OEO.

B. Mandatory Subcontracting

Pre-Award Waivers: A Prime Contractor may request a full or partial waiver of the mandatory subcontracting requirements for good cause by submitting the appropriate forms(s) and documentation to the OEO no less than 7 calendar days prior to the solicitation closing date. Under no circumstances shall waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the vendor and careful review by the OEO. The OEO shall base its determination of a waiver request on the following criteria:

- A. Whether the request of the waiver has made Good Faith Efforts to subcontract with qualified and available SBEs. Proof of Good Faith Efforts can be established through completion of the OEO designated form including the following factors:
 1. Pre-Bid Meeting Attendance- Prime Contractor attended pre-bid meeting scheduled by the District to inform all bidders of requirements for subject project;
 2. Identification of sufficient subcontracting work- Prime Contractor identified and selected specific work items in subject project to be performed by sub-contractors. Prime Contractor subdivided total contract work requirements into smaller portions or quantities to permit maximum active participation (Content of advertisements and written notices to subcontractors will demonstrate compliance with this objective);
 3. Broad-based advertisement- Prime Contractor conducted an advertising campaign designed to reach all segments of Miami-Dade County by advertising in newspapers, trade association publications, special interest publications, trade journals, community papers or other media.

Advertisements must be specific to the project and not generic. Advertisements must be worded to ensure it does not exclude or limit the number of potential respondents and must include: project name, name of Prime Contractor, areas of work available for subcontracting, contact person's name and phone number, information on availability of plans and specifications; vendor's policy concerning and assistance to subcontractors in obtaining bonds and credit lines and/or insurance. (Copies of advertisements and proof of publication dates will demonstrate compliance with this objective);

4. Written notice to subcontractors- Prime Contractor provided written notice of its interest in receiving sub-bids on subject contract from Small and Micro business enterprises with an interest in performance of identified work items. Content of correspondence must include: project name, name of Prime Contractor, areas of work available for subcontracting, contact person's name and phone number, information on availability of plans and specifications; vendor's policy concerning and assistance to subcontractors in obtaining bonds and credit lines and/or insurance. (Copies of correspondence to each subcontractor for each item of work to be performed will demonstrate compliance with this objective. If only one master notification, vendor must submit a list of recipients.);
5. Follow-up to initial solicitations- Prime Contractor followed up initial solicitations of written notice to subcontractors to determine interest in specific portions of project work, answered questions, recorded phone quotes, and recorded subcontractor's interest in bidding on any portion of subject project. (Copies of telephone logs including name of caller, company called, phone number, contact person, date and time, and result of conversation will demonstrate compliance with this objective.);
6. Request for assistance from recruitment/placement agencies (i.e. state, federal and municipal databases and/or business centers having lists of Small and Micro business enterprises.) (Copies of correspondence sent to outreach agencies requesting assistance in recruiting subcontractors will demonstrate compliance with this objective.)
7. Documentation of subcontractor negotiation- Prime Contractor negotiated in good faith with interested subcontractors and has rejected no bid for other than legitimate business reasons. (Written documentation of all subcontractor bids or quotes received, including the bid or quote amount, the date obtained and the name and telephone number of the person providing the bid or quote amount will demonstrate compliance with this objective. If Prime Contractor elects to use own forces to perform a work type, include bid to show own costs for the work.)

The OEO shall issue a written decision granting or denying the request for waiver and promptly notifying requesting Prime Contractor. In the absence of a waiver granted by the OEO, failure of a Prime Contractor to commit in its response to satisfying the SBE subcontracting goals shall render its response non-responsive.

X. Additional Non-Industry-Specific Procurement Initiatives

- 1. Debriefing:** Following the posting of a bid award recommendation, Small and Micro business enterprise bidders or proposers not selected on specific projects or contracts may request in writing a debriefing with the OEO to enable them to compete more effectively in the future. The OEO will schedule a meeting with appropriate District personnel to discuss to the Small and Micro business enterprise bidder/proposer's submission that would make the bidder/proposer more competitive in the future. OEO will keep a record of bid-debriefing meetings and attendance.
- 2. Revolving Solicitations for Informal Bids:** For contracts below \$50,000, formal advertising and solicitation of bids, rotate the database of certified Small and Micro business enterprise firms to obtain as many as possible but at least three quotes from certified firms that have the relevant NIGP codes listed in their bidder profiles.

XI. Dispute Resolution

The Board expects all parties involved in the procurement process, including District staff and vendors/contractors, to act in good faith in all aspects of process. If any vendor or contractor has a concern or complaint related to the application of the Small and Micro business enterprise Policy, whether by District staff or a contractor, that party is expected to seek cooperative voluntary resolution with all parties. If the affected parties are unable to resolve their dispute, the offended party shall report their concerns to the contracting department for the project/bid; if the complaint involves the performance of a Small and Micro business enterprise prime or sub-contractor, the contracting department shall immediately notify the Office of Economic Opportunity for appropriate action.

The OEO will initiate an investigation of the complaint. Except in indisputable cases, the parties will be encouraged to mediate their dispute; the OEO may facilitate mediation or recommend mediators.

XII. Small and Micro Business Enterprise Program Records and Monitoring:

Small and Micro Business Enterprise Program Performance Review

The OEO shall monitor the implementation of this policy through on-going compliance and monitoring initiatives as outlined by the OEO. On an annual basis, the OEO shall report to the Superintendent and Board on the progress of achieving the goals and objectives established for awards to certified Small and Micro business enterprise firms, reporting both dollars awarded and expended. In addition, the OEO shall report on the progress in achieving the program objectives, including but not limited to, enhancing competition, establishing and building new business capacity and removing barriers to and eliminating disparities in utilization of available Small and Micro business enterprise firms on Board contracts.

The Board shall annually review the Small and Micro business enterprise program to determine whether the various contracting opportunities used to enhance Small and Micro business enterprise contract participation needs to be adjusted or used more or less aggressively in future years to achieve the state program objectives.

XIII. Compliance Monitoring, Utilization and Penalties

a) **Compliance Monitoring** – The Office of Economic Opportunity shall monitor the level of Small, Micro and M/WBE utilization by vendors with applicable goals as established by the Goal Setting Committee. If a vendor is having difficulties meeting the contractual Small, Micro and M/WBE targets, the OEO shall help the vendor identify additional potential Small, Micro and M/WBE sub-contractors and/or suppliers.

b) **On-Site Monitoring** - The OEO may perform on-site monitoring reviews of Small, Micro and M/WBE utilization on M-DCPS projects. Monitoring may consist of scheduled or unscheduled project site visits. This does not exclude contract monitoring expected by other M-DCPS staff responsible for the project in the performance of their regular duties.

c) **Reporting** –Vendors with Small, Micro and M/WBE participation must submit a monthly report, and in a form and manner prescribed by the OEO's designated forms. The OEO designated forms shall include Professional & Construction Services Monthly Utilization Report, Subcontractor Participation Best Faith Efforts, Participation Letter of Intent, Best Faith Efforts Non-Compliance Supplement, Business Feedback and Business Complaint forms. A penalty of one percent (1%) of the contract amount or one thousand dollars (\$1,000) per day (whichever is less) may be applied if reporting requirements are not provided within the specified time. A financial penalty will not halt construction on a project, unless non-compliance is continuous over a period of time. If non-compliance is not cured in a reasonable amount of time with the OEO, the District may deem non-reporting a breach of contract, in which case the District may terminate the contract.

d) **Breach of Contract** - If a vendor's Small, Micro and M/WBE participation falls below that provided for in their contract, then the vendor could be in breach of their contract. The Board Attorney's Office, in conjunction with the OEO and Chief Auditor may investigate whether it appears a breach of contract has occurred.

e) **Suspension** - Vendors found in breach of their contract may be suspended from bidding on and/or participating in any future M-DCPS contracts for period of six months to five years. Also, this information may be considered by future selection and evaluation committees.