

RESOLUTION NO. 82-2009

Adopted July 21, 2009

AMENDING THE AGENCY'S SMALL BUSINESS ENTERPRISE ("SBE") POLICY TO INCREASE THE THREE-YEAR AVERAGE ANNUAL GROSS RECEIPTS LIMIT FOR SUPPLIERS FROM \$2 MILLION TO \$7 MILLION, TO SEPARATE THE SBE POLICY FROM THE AGENCY'S PURCHASING POLICY AND TO MAKE OTHER MINOR ADMINISTRATIVE CHANGES

BASIS FOR RESOLUTION

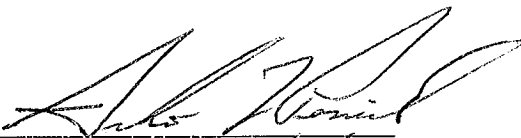
1. On November 16, 2004, by Resolution No. 133-2004, the Agency Commission adopted the Agency's Interim Purchasing Policy and Procedures ("Interim Purchasing Policy") which included, for the first time, a Small Business Enterprise ("SBE") Policy.
2. The SBE Policy sets a 50% goal for SBE participation in contracts for construction, personal / professional services, and supplies. This means that the Agency and Agency-assisted contractors and developers shall use their best efforts to award at least 50% of all contracts covered by the SBE Policy to SBEs. The SBE Policy applies to Agency contracts, usually a personal services contract, where the Agency is directly contracting with a vendor, consultant, contractor or supplier for goods and services. The SBE Policy also applies to "Agency-Assisted Contracts" usually a development and disposition agreement, land disposition agreement, lease, loan, grant or operations agreement, where the Agency has provided funding or discretionary approvals for a project and the developer (not the Agency) is contracting with the vendor, consultant, contractor or supplier for goods and services.
3. On July 6, 1993, by Resolution No. 127-93, the Agency Commission formed a Subcontracting Working Group ("Working Group"). Since its inception, the Working Group has consisted of Agency Commissioners, civil rights advocates, business representatives, community representatives, and appropriate Agency staff. The Working Group provides valuable advice and feedback on Agency policies regarding outreach to minority-owned businesses, woman-owned businesses, and now small business enterprises.
4. The Working Group met on January 28, 2009 and again on April 22, 2009 to discuss proposed changes to the Interim Purchasing Policy. As it relates to the SBE Policy, the Working Group recommended that the three-year average annual gross receipts limit for suppliers be increased from \$2 million to \$7 million. The limit helps determine which companies are eligible to qualify as Agency certified SBEs. The Working Group strongly felt that the \$2 million limit was too small and required SBE suppliers to "graduate" from the SBE Program before they were ready to compete on their own. The Working Group decided that the limits for construction and personal / professional services at \$14 million and \$2 million, respectively, were still appropriate.

5. In addition to increasing the limit for suppliers, the Working Group discussed and recommended, for the Agency Commission's consideration, the following additional changes:
 - a. Separating the SBE Policy from the Agency's Purchasing Policy.
 - b. Adding language which would allow the Agency to enforce the Prompt Payment Statute.
 - c. Adding a requirement that contractors submit payroll information electronically using the Elations System.
 - d. Applying the SBE Policy to construction contracts over \$5,000 (Public Contract Code threshold for competitive bids) instead of \$10,000 (Community Redevelopment Law threshold for low- and moderate-income assistance).
 - e. Adding definitions for "Affiliates" and "Annual Receipts."
 - f. Adding language clarifying that the SBE Policy applies to all sub-tier contractors and clarifying that Good Faith Efforts includes making written solicitations directly to Agency certified SBEs.
 - g. Cleaning up typographical errors.
6. Staff desires to amend the Agency's SBE Policy to incorporate the changes recommended by the Working Group. Accordingly, staff has prepared an a Small Business Enterprise Policy, as amended, which is attached to this Resolution as Attachment A and made a part of it.
7. Agency adoption of the SBE Policy, as amended, is an administrative activity that is not a Project as defined by the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(5), will not independently result in a physical change in the environment, and is not subject to environmental review under CEQA.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Small Business Enterprise Policy, as amended, and attached as Attachment A is hereby adopted.

APPROVED AS TO FORM:



for James B. Morales 7/16/09
Agency General Counsel

Attachment A: Small Business Enterprise Policy (clean copy)