



**PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY**

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I. Purpose

To ensure the administration of the Small Business Enterprise (SBE) Participation Program, including the coordination of the program among various County departments, is in accordance with the Pima County Code, Board Policies and Procurement Procedures.

II. Scope

This policy applies to all eligible contract, purchase and project procurements performed by and for Pima County, except those specifically exempted in the Small Business Enterprise Ordinance, Title 20, which include but are not limited to; sole source contracts, petty cash purchases, emergency purchases, non-competitive purchases and medical and legal services.

III. Policy

- A. The Pima County Procurement Department has approved the SBE Certification process from the City of Tucson.
- B. In accordance with Pima County Code Title 11.12.040, the Departments shall contact at least one SBE vendor, if available and practicable, for eligible Goods and General non-professional service procurements over \$1,000.00. A bid preference of 5% for local, certified SBEs, will be applied for all goods and general services informal solicitations exceeding \$4999.99.
 - 1. Department buyers can search for available SBE vendors online at <http://www.pima.gov/procure/sbe/sbedir.pdf>
- C. In accordance with Pima County Code Title 20.16.010(B), the Procurement Department may reserve up to 10% of the annual dollar value of selected goods and general (non-professional) services procurement opportunities for competition only among County certified SBE's. Such limited competition will not provide for a 5% preference as specified in III.B above.
- D. Architectural or Engineering professional services shall be procured in accordance with Title 34 of the Arizona Revised Statutes and applicable county policies and procedures. The Procurement Department may assign up to 10% of the total evaluation points for the participation of certified small business enterprises (SBE), joint ventures of SBE and non-SBE firms, and equal opportunity compliance.
- E. The Procurement Department shall review all Public Works construction projects except those that require a Disadvantaged Business Enterprise (DBE) goal pursuant to State and Federal law, estimated to cost in excess of \$50,000.00 to determine if subcontracting goals are feasible.

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- F. The Procurement Department shall ensure that construction contracts are in compliance with the set SBE goals pursuant to the SBE Ordinance No 2008-265, 1997-44, Section 20.28.050 and 20.28.060.

IV. Responsibility

A. Vendor Relations

1. The Vendor Relations/ SBE Division is responsible for maintaining the Pima County Vendor Database to identify ready, willing and able SBEs that can be notified or utilized to meet the requirements of this policy.
2. The Vendor Relations/ SBE Division is responsible for ensuring that the link to the City of Tucson Certified List of SBEs is available to search for ready, willing and able SBEs.

B. Materials and Services

Solicitation and Bid Preference

1. The assigned Commodity Contracts Officer or the Department Buyer is responsible for soliciting at least one Certified SBE vendor if available and practicable for every eligible solicitation over \$1,000 when SBE firms are available.
2. The assigned Commodity Contracts Officer is responsible for allocating a five percent bid preference on bids received from local certified SBEs, for every eligible solicitation over \$4999.99. As defined in Policy III.C. above, the five percent bid preference does not apply to reserve contract solicitations.

Reserve Contracts

1. The Vendor Relations/ SBE Division is responsible for conducting outreach to all certified SBEs to inform them of the reserve contracts program and shall notify the SBEs that in order to be considered for any reserve contracts, their firm must register as a vendor with Pima County.
2. The assigned Commodity Contracts Officer may reserve competition of materials and general non-professional services to local certified SBEs, when the requisition and SBE availability meet the criteria set forth below in items 4(a) through 4(c).
 - a. Requisition estimated annual total value does not exceed the bid threshold of \$50,000.
 - b. Requisition will be processed through an informal solicitation
 - c. There must be three (3) or more certified SBEs available to provide the requested materials and/or general services. SBE firms must be registered with Pima County at the time of the informal solicitation in order to be considered for reserve contract.

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3. The Vendor Relations/ SBE Division will audit the Materials and Services requisitions and awards to ensure compliance with the SBE Ordinance.

C. Architectural and Engineering Services

1. The assigned Commodity Contracts Officer is responsible for providing the SBE Division with copies of the Affirmative Action Statements and the Team Utilization Forms in response to each Solicitation for Qualifications (SFQ).
2. The Vendor Relations/ SBE Division shall review the Affirmative Action Statements and the Team Utilization Forms and shall assign up to 10% of the total evaluation points for the equal opportunity statement and SBE participation for each submittal.
3. Vendor Relations/SBE Division is responsible for obtaining Annual Statements of Team Utilization to ensure that SBE firms are being utilized as listed on the Project Team Member Utilization Forms, submitted with proposals for all Architectural and Engineering Contracts.

D. Construction Projects

1. The Departments are responsible for submitting a detailed cost or engineer's estimate for construction projects to the Procurement Department for review to determine if an SBE Goal should be established.
 - a. Job Order Contracts (JOC) SBE Goals will be determined prior to solicitation using reasonable estimates provided by the requesting Department's Project Manager. (See Item IV.C.5(a) through (f) for goal setting process). Each Job Order Contract with an established SBE goal will be reviewed annually, prior to renewal of contract, to re-determine SBE Goals using reasonable estimates from each prime contractor. Compliance with SBE goals shall be a factor in determining whether to renew.
 - b. Construction Manager at Risk (CMAR) SBE Goals shall be determined prior to approval of the guaranteed maximum price (GMP) using the estimate provided by the Construction Manager/Prime. (See Item IV.C.5(a) through (f) for goal setting process)
 - c. Competitive Bid Construction Projects SBE Goals will be determined prior to solicitation using the engineer's estimate or reasonable estimate provided by requesting Department's Project Manager. (See Item IV.C.5(a) through (f) for goal setting process)
2. The assigned Commodity Contracts Officer is responsible to submit a copy of the cost or engineer's estimate to the SBE Program Coordinator to determine if an SBE Goal should be established for all competitive bid construction projects greater than \$50,000.
3. The assigned Commodity Contracts Officer is responsible to ensure that all contractors with Construction Manager at Risk (CMAR) contracts contact the SBE Program for determination of a goal prior to submittal of GMP for construction.

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4. The Vendor Relations/ SBE Division is responsible to ensure that all contractors with Job Order Contracts (JOC), with SBE goals, submit a reasonable estimate for a job selected by the SBE Program Coordinator to re-determine the SBE goal prior to the annual renewal of the Job Order Contract.
 - a. The assigned Commodity Contracts Officer is responsible to ensure that all Job Oder Contracts (JOC) with assigned SBE goals have been reviewed for re-determination of the SBE goal prior to processing the annual renewal of the contract.

5. The Vendor Relations/ SBE Division is responsible for determining if an SBE Goal should be established for every job order contract and construction project \$50,000 or greater that does not have a DBE goal. The Vendor Relations/ SBE Division shall:
 - a. Review the project estimate trade detail and categories and may contact the Project Manager or the Commodity Contracts Officer to clarify subcontracting opportunities.
 - b. Match the present availability of qualified SBE firms to the relevant subcontracting trades, using the current City of Tucson SBE Certification List.
 - c. Any category trade that does not have at least two (2) ready, willing and available SBEs will not be utilized in the goal setting process due to insufficient competition and limited SBE availability.
 - d. SBE subcontractors must be properly licensed for the trades identified to be utilized in the goal setting process.
 - e. Determine the SBE Goal by multiplying the total number of SBE subcontractors available by the percent (%) total value of overall SBE subcontracting opportunities. (Percentage of subcontractors available is calculated by dividing the total dollar amount of SBE opportunities by the total construction cost, which may include design omissions, general conditions, contractor's fees, bonds and insurance and tax. It does not include alternates.)
 - f. Goals less than 4% or greater than 15% shall be reviewed and approved by the Procurement Director.

6. The Vendor Relations/ SBE Division shall evaluate all bid submittals on projects with SBE goals to ensure that the SBE goals are met and that all of the required documentation has been submitted. All requests for full or partial waivers will be reviewed for approval or denial.
 - a. In accordance with Title 20.040.030(B), SBEs certified through a government agency process approved by Pima County will be considered eligible to meet the Pima County SBE goal.
 - b. All bid submittals requesting Good Faith Effort/Request for Partial or Complete Waiver of the established goal shall meet the requirements of Title 20.24.030.

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7. The Vendor Relations/ SBE Division is responsible for maintaining records for SBE utilization to ensure compliance with the SBE requirements pursuant to the Small Business Enterprise Ordinance No 2008-265, 1997-44, Section 20.28.050 and 20.28.060, for each construction project that has an SBE goal.

V. Procedure

- A. Specific procedures that detail a uniform process and consistent standards for development, execution, and monitoring of all contracts to ensure compliance with Small Business Enterprise Title 20 pursuant to this Policy shall be the responsibility of the Procurement Director.

Effective Date: April 1, 2011

Title 20 - THE SMALL BUSINESS ENTERPRISE PARTICIPATION PROGRAM

Chapters:

- Chapter 20.04 - GENERAL PROVISIONS
- Chapter 20.08 - DEFINITIONS
- Chapter 20.12 - EQUAL OPPORTUNITY CLAUSE
- Chapter 20.16 - GOODS AND GENERAL SERVICES
- Chapter 20.20 - PROFESSIONAL SERVICES CONTRACTS
- Chapter 20.24 - CONSTRUCTION CONTRACTS
- Chapter 20.28 - ENFORCEMENT AND REPORTING
- Chapter 20.32 - ELIGIBILITY, CERTIFICATION, GRADUATION, AND APPEAL PROCESS
- Chapter 20.36 - MAINTENANCE AND RETENTION OF RECORDS
- Chapter 20.40 - SEVERABILITY
- Chapter 20.44 - SUNSET DATE

Chapter 20.04 - GENERAL PROVISIONS

Sections:

- 20.04.010 - Adoption of findings.
- 20.04.020 - Declaration of policy.
- 20.04.030 - Scope.
- 20.04.040 - Individual contract or project goals for construction or A&E contracts.

20.04.010 - Adoption of findings.

The Pima County board of supervisors has reviewed and adopted the factual predicate established by the disparity study conducted by BBC Research & Consulting, the findings report, transcripts, and exhibits produced as a result of post-disparity study public hearings and other evidence of record.

Upon completion of the updated disparity study conducted for the period from January 1, 2002 through December 31, 2006, on October 7, 2008 the Board of Supervisors reviewed and adopted the factual predicate established by the study conducted by D. Wilson Consulting Group, LLC., dated September 22, 2008, including Section 10.0 "Findings and Recommendations."

Upon the passage of Proposition 107, which amends the Arizona Constitution by adding Section 36 to Article II, Pima County's Minority, Woman and Small Business Enterprise Program is hereby revised to a solely Race and Gender Neutral Small Business Enterprise Program.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.04.020 - Declaration of policy.

It is the policy of Pima County government to ensure full and equitable economic opportunities to persons or businesses that compete for business with Pima County government, including small business enterprises (SBE). The goal of the race and gender neutral small business enterprise (SBE) program is to expand employment opportunities and promote the local economy by fostering the formation and growth of local small businesses and to encourage contracting with all small local businesses.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.04.030 - Scope.

The race and gender-neutral measures of this title shall be afforded only to local, qualified and available SBEs.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.04.040 - Individual contract or project goals for construction or A&E contracts.

A. When applicable, as described in the divisions of this title, the procurement director shall add a requirement to the bid or proposal instructions that a percentage of the dollar value of all work on such contracts or projects shall be assigned, as a goal, to SBEs. The goal percentage assigned to each such contract is flexible and will vary from contract to contract, according to the availability of qualified and willing SBEs. Where there is no SBE availability, or insufficient availability to ensure competition, the procurement director will recommend that no goal be set on an individual contract or project. Individual goals are subject to the good faith and waiver provisions of this title. The procurement director shall recommend the establishment of a methodology for the setting of individual contract or project goals, which shall include but not be limited to the following conditions:

1. The present availability of qualified SBE firms in the relevant trade or line of business;
2. The ability of qualified SBE firms to readily expand capacity to meet additional demand;
3. The adverse impact upon non-SBE firms;
4. A forecast of all eligible contracts to be awarded within the fiscal year;
5. Review and analysis of the reports generated by the procurement department.

B. These specific goals are to be clearly stated as part of the contract specifications put out for bid.

C. Individual project or contract goals shall apply not only to the initial contract award amounts, but also to subsequent contract modification and change orders that serve to increase the dollar value of the initial contract.

D. As an aid to the determination of individual contract or project goals, the procurement director may consider the advice of a compliance officer, may establish goals committees, and/or at his or her discretion, may recommend contracting with an independent consultant.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

Chapter 20.08 - DEFINITIONS

Sections:

20.08.010 - Definitions.

20.08.010 - Definitions.

For the purposes of this title and policies related to the SBE program, the following terms shall have the following meanings:

A. "Affiliate" shall mean any business enterprise which is affiliated with the SBE or with the individual(s) upon which certification is based. Business enterprises are affiliates of each other when:

1. One either directly or indirectly controls or has the power to control the other;
2. A third business enterprise controls or has the power to control both; or
3. An "identity of interest" between or among business enterprises exists (including family relationships) such that affiliation may be found. In determining whether affiliation exists, consideration shall be given to all appropriate factors, including but not limited to common ownership, common management, contractual relationships, and shared facilities.

B. "Bid" shall mean and include a quotation, proposal, solicitation or offer by a bidder or contractor to perform or provide labor, materials, supplies, or services to Pima County government for a price.

C. "Bidder" shall mean any business that submits a quotation, bid, or proposal to provide labor, materials, supplies or services to Pima County government.

D. "Business enterprise" shall mean a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, professional association, or any other legal entity, operated for profit that is properly licensed and/or otherwise authorized to do business.

E. "Certification" shall mean completion by a business enterprise of an application procedure to be developed and maintained by the procurement director, and formal authorization by the procurement director to participate as an SBE.

F. "Certified SBE" shall mean: an SBE which meets the requirements of this title, and has been granted status as a certified small business enterprise by the procurement director.

G. "Commercially useful function" shall mean: the performance of real and actual services in the discharge of any contractual endeavor. An SBE subcontractor is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work under a contract and carries out its responsibilities by actually performing, managing and supervising the work involved with its own resources. In determining whether an SBE subcontractor is performing a commercially useful function, factors including but not limited to the following will be considered:

1. The amount of work subcontracted;
2. Whether the amount the SBE is to be paid is commensurate with the work it will actually perform;
3. Whether the business will perform work in the trade area where experience and expertise has been demonstrated and for which it is seeking to be or has been certified;
4. Whether the business actually performs, manages and supervises the work for which it has been contracted to perform;
5. Whether the business purchases goods and/or services from a non-SBE and simply resells goods to the county, county contractor, or other person doing business with the county for the purpose of allowing those goods to be counted towards fulfillment of SBE utilization goals; and
6. Standard industry practices.

H. "Controlled" for purposes of determining whether a business is a an SBE shall mean: the small business owner(s) shall possess and exercise the legal authority and power to manage business assets, good will and daily operations in the primary trade area for which certification is sought apart from administrative functions and they shall actively and continuously exercise this managerial authority and power in determining the policies of and directing the day-to-day operations of, the business. If the owners who are not a small business owner are disproportionately responsible for the operation of the business, then the business is not controlled by a small business owner.

I. "County" shall mean Pima County government.

J. "Eligible contract" shall mean any contract for goods and services unless otherwise precluded by law; except that eligible contract does not mean sole source contracts, petty cash purchases, emergency purchases, contracts for professional services, contracts for architectural and engineering services, construction projects, or contracts for noncompetitive purchases, including business with hospitals, insurance companies, churches, governments, professional associations, publishing companies, and utilities.

K. "Eligible project" shall mean any construction contract undertaken by the county unless otherwise precluded by law. Eligible project does not include any construction project in which the estimated contract value is below fifty thousand dollars or any construction project that requires a disadvantaged business enterprise or other goal pursuant to federal law.

L. "Fixed office" shall mean a fixed and established place where work is carried on of a clerical, administrative, professional or production nature directly pertaining to the business being certified. A temporary location, or movable property, or one that is established to oversee a county project does not qualify as an office.

M. "Joint venture" shall mean: an association of two or more persons, partnerships, corporations or any combination of these entities, established to carry on a single business activity limited in scope and duration to a specific contract with the county. The degree to which a joint venture may satisfy relevant SBE participation goals cannot exceed the proportionate interest held by the SBE as a member of the joint venture as demonstrated in the written agreement establishing the joint venture. Further, SBE economic interest in the joint venture shall be based on sharing of real economic interest in the joint venture and shall include proportionate control over management, interest in capital acquired by the

joint venture, and participation in the joint venture's profit or loss.

N. "Local" shall mean that the principal place of business of the enterprise is physically located within the Tucson Metropolitan Statistical Area (MSA) (corresponding with the geographic boundaries of Pima County), with a fixed office, as defined by this title, located within the Tucson MSA. Post office box numbers shall not suffice to establish an enterprise as a local business. Residential addresses are rebuttably presumed not to establish the requirements of this provision.

O. "Owned" for purposes of determining whether a business is an SBE shall mean that: (1) the small business owner(s) as the context requires, shall possess an ownership interest of at least fifty-one percent of the business; (2) this ownership shall be real and continuing, and shall go beyond mere indicia of ownership of the business reflected in ownership documents; and (3) the small business owner(s) shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance, rather than the form, of ownership arrangements.

P. "Race/gender neutral measure or activity or program" is one that is, or can be, used to assist all small businesses.

Q. "Small business" shall mean: a business whose annual gross receipts are less than or equal to the gross receipts size standard adopted by the county for purposes of qualifying for SBE certification.

R. "Small business enterprise (SBE)" shall mean: a small business which is eligible for certification, is certified by the county, is an independent and continuing business for profit, performs a commercially useful function, and is owned and controlled by one or more persons each of whose personal net worth does not exceed seven hundred fifty thousand dollars.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

Chapter 20.12 - EQUAL OPPORTUNITY CLAUSE

Sections:

20.12.010 - Equal opportunity clause.

20.12.010 - Equal opportunity clause.

A. All eligible contracts, contracts for professional services and the services of architects and engineers, and contracts resulting from eligible projects entered into by Pima County government shall incorporate an equal opportunity clause. The requirements contained in this clause will be considered by the procurement director in determining whether a contractor is in compliance with this article. The clause shall read as follows:

Equal Opportunity Clause:

1. The contractor shall not discriminate against any employee because of race, color, religion,

sex, national origin, age, or disability. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include, but not be limited to, the following: employment up-grading, demotion, or termination; rates of pay or other forms of compensation; and selection for training.

2. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this equal opportunity clause.

3. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal opportunity employer.

4. The contractor understands that it is the policy of Pima County government to ensure full and equitable economic opportunities to persons or businesses that compete for business with Pima County government.

5. The contractor shall permit access to any relevant and pertinent reports and documents by the procurement director for the sole purpose of verifying compliance with this title and its related policy and regulations. All such materials provided to the county by the contractor shall be kept confidential to the extent possible.

6. The contractor shall not obstruct or hinder the county in the fulfillment of duties and responsibilities imposed by this title and its related policy and regulations.

7. The contractor and each subcontractor shall include a summary of this equal opportunity clause in every subcontract. The contractor will take such action with respect to any subcontractor as is necessary as a means of enforcing the provisions of the equal opportunity clause.

B. The inclusion of this clause may be waived by the procurement director where it is appropriate due to a similar clause requirement by state or federal law.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

Chapter 20.16 - GOODS AND GENERAL SERVICES

Sections:

20.16.010 - Goods and general services.

20.16.010 - Goods and general services.

Declaration of Specific Measures Adopted.

A. The county may allocate up to a five percent competitive bid incentive to available SBEs who bid on eligible contracts in the amount of five hundred thousand dollars or less. If the cost of the bid incentive reaches thirty-five thousand dollars during any fiscal year, the county administrator

shall notify the county board of supervisors so that the board may consider whether or not to continue the incentive during the remainder of that fiscal year. Notice of any bid incentive shall appear in county solicitation documents.

1. Bid Incentive Percentage. Unless otherwise indicated, all eligible contracts shall be subject to the bid incentives of this article. In determining the lowest responsive and responsible bid on all eligible contracts, the bid submitted by a certified SBE shall be adjusted by reducing the bid price(s) of such business by up to five percent. This adjustment shall be solely for the purpose of establishing the apparent low bidder. The actual value of the contract awarded shall be the amount of the actual bid submitted by the SBE.

2. Bid Incentive for Joint Ventures. A joint venture shall receive a bid incentive for an eligible contract in accordance with this section if SBE participation equals or exceeds thirty-five percent of the joint venture. The non-SBE partner must be responsible for a clearly defined portion of the work to be performed and shared in the joint venture's ownership, control, management responsibilities, risks and profits. The portion of the SBE joint venture's work shall be set forth in detail separately from the work to be performed by the non-SBE joint venture partner. The SBE joint venture's portion of the contract must be assigned a commercially reasonable dollar value. The bidder shall permit the county to review all records pertaining to joint venture agreements before and after the contract award, to the extent reasonably necessary to assess compliance with this title.

B. The county may reserve up to ten percent of the solicitation of all goods, supplies and general services procurements for competition exclusively among certified SBEs. For these procurements, there shall be no bid incentive. Before the county may reserve goods, supplies and general services procurements for competition exclusively among certified SBEs, the county shall consider the availability of certified SBEs who are qualified, willing and able to provide materials or services in connection with the particular procurement.

C. Exemptions from bid incentive requirements on eligible contracts. The applicable bid incentive shall not apply to the following contracts with the county:

1. Contracts that exceed five hundred thousand dollars in total annual value;
2. Contracts with nonprofit agencies;
3. Contracts for the provision of services that are paid for directly by citizens of the county and not from county funds;
4. Contracts, if any, reserved for competition exclusively between SBEs.

D. Subcontracting Goals for Certain Goods and General Services Purchases. Where subcontracting opportunities arise in the area of goods and general services, the county may set subcontracting goals on such contracts on a project by project basis, according to availability. The provisions of this title related to construction contracts, which establish the terms of setting goals, of determining whether there has been "good faith effort," or "nonresponsiveness," of allowing the waiver of goals, and other relevant provisions, shall apply.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 2003-63, 2003; Ord. 1997-44, 1997)

Chapter 20.20 - PROFESSIONAL SERVICES CONTRACTS

Sections:

20.20.010 - Professional Services Contracts.

20.20.010 - Professional Services Contracts.

Declaration of Specific Measures Adopted.

A. SBE Participation Assigned Weight in the Evaluation Criteria. In selecting architects and engineers and other professional services, not including the medical and legal fields, the county shall:

1. Develop a consistent method of evaluating and selecting professional services contractors across county departments; and
2. Award points (up to ten percent of the available points) as part of the evaluation criteria for the participation of certified SBEs and joint ventures of SBE and non-SBE firms, and/or equal opportunity compliance.
 - a. A&E professional service participation points shall be awarded for any certified local SBE;
 - b. Non-A&E professional service participation points shall be awarded for any certified local SBE.

3. Make county guidelines available to firms in advance of submitting proposals.

B. Waiver. The award of points as part of professional service evaluation criteria is a narrowly tailored, flexible, and responsive measure, which allows for waiver upon recommendation of the procurement director to the county administrator for enforcement, when less restrictive, equally effective remedial measures are available and utilized.

C. Subcontracting Goals for Certain A&E Professional Design Contracts. Where subcontracting opportunities arise in the area of professional design contracts, the county may set subcontracting goals on such contracts on a project by project basis, according to availability. The provisions of this title related to construction contracts, which establish the terms of setting goals, of determining whether there has been "good faith effort," or "non-responsiveness," of allowing the waiver of goals, and other relevant provisions, shall apply.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 2003-63, 2003; Ord. 1997-44, 1997)

Chapter 20.24 - CONSTRUCTION CONTRACTS

Sections:

20.24.010 - Declaration of specific measures adopted.

20.24.020 - Compliance with individual project subcontracting goals.

20.24.030 - Good faith efforts and waiver.

20.24.010 - Declaration of specific measures adopted.

A. Individual Project Subcontracting Goals. The procurement director shall review each eligible project for potential SBE subcontracting participation. Where there is sufficient availability of qualified and willing SBEs, the procurement director shall recommend individual project subcontracting goals to the county administrator for approval and enforcement.

B. Any construction project procurement which does not exceed the aggregate dollar amount of fifty thousand dollars may be restricted, if practicable, to small businesses as defined in rules adopted by the procurement director.

C. Procurement requirements shall not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by A.R.S. Title 34 or the Pima County Procurement Code or be artificially combined to circumvent this section.

D. For construction projects that require a disadvantaged business enterprise or other goal pursuant to federal law, the county shall follow the requirements of the relevant federal or state agency.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.24.020 - Compliance with individual project subcontracting goals.

A. Procedure.

1. When the county has established subcontracting goals for a project, such goals will be published in the project specifications and the call for bids.

2. All bidders are required to submit a subcontractor equity packet with their bid packet. The subcontractor equity packet will contain either:

a. The information necessary to show that the prime contractor will comply with the subcontracting goals, including a complete listing of SBE subcontractors to be used and the proposed SBE dollar percentage of each subcontract; or

b. A request for waiver of the goals.

3. SBE prime contractors may not count their own participation towards fulfillment of the project's subcontracting goals.

B. Subcontractor Equity Packets. Each bidder shall submit a subcontractor equity packet which includes the names, addresses, and contact persons of the SBEs to be used on the project; the type of work or services to be performed; the value of the commercially useful function to be performed by the SBEs; the percentage of the value of the commercially useful function to be performed by the SBEs as compared to the total contract amount; a verified statement from the bidder that the dollar amount of

work to be performed by named SBEs was furnished to the bidder prior to bid opening; documentation reflecting the bidder's equal opportunity employment practices; and other relevant information as required. Project goals may be met in the following ways, unless otherwise specified:

1. The bidder may use a certified SBE or SBEs as subcontractors, and the value of the commercially useful function to be performed by such SBE(s) shall count toward satisfaction of the applicable goal. The named SBE subcontractor(s) may enter into second tier subcontracts, consistent with industry practices; however, if the named SBE subcontracts work to a non-SBE in proportions outside standard industry practice, the SBE shall be presumed not to be performing a commercially useful function; or
2. The bidder may contract with a certified SBE supplier(s) and obtain credit towards participation goals as follows:
 - a. If the SBE supplier manufactures the goods supplied, then the total dollar amount of the subcontract is credited towards the established SBE goal; or
 - b. If the SBE supplier is a wholesaler warehousing the goods supplied, or is a manufacturer's representative, then the total contract amount is credited towards the established SBE goal; however, only twenty-five percent of the project SBE goal may be met in this manner; or
3. The bidder may engage in a joint venture to satisfy the established SBE goal. The degree of SBE participation credited towards the goal will be determined according to a consistent methodology developed by the procurement director.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.24.030 - Good faith efforts and waiver.

A. Individual Waiver of Project Subcontracting Goals. If a bidder has not met the established individual project subcontracting goals, such goals may be waived by the county administrator upon recommendation of the procurement director, if there is a timely request for waiver and sufficient demonstration that good faith efforts were made to meet the goal. The kinds of efforts, as well as the quantity and intensity of effort to meet established goals, will be considered. The statement of good faith efforts submitted with the subcontracting equity packet may contain any information the bidder deems relevant and shall include each of the following:

1. Verification of advertisements soliciting bids from SBEs for three consecutive days in an approved publication or copies of written notifications sent to all SBEs currently certified with the county within identified subcontracting categories, that interest in the subcontract is solicited. Such advertisements or notices must expressly describe a given project and state that SBE participation is sought; incidental reference to the project or listing of the bidder as a plan holder is not sufficient. Such advertisements or notices shall be published or sent so that there is adequate time to respond prior to bid opening.
2. Verification that the procurement department was contacted in order to obtain assistance in identifying available qualified SBEs.
3. Verification of efforts to subcontract, consistent with industry practice, with SBEs that the bidder has contacted or who have contacted the bidder, including the names, addresses, and

telephone numbers of all SBEs contacted and date of contact; a description of efforts made to subcontract; a description of the information provided to the SBEs regarding plans and specifications, and if attempts to subcontract actually occurred, the dates and places of such process and a description of the outcome.

4. Verification that the bidder gave SBEs necessary access to and adequate time to review all necessary plans, drawings, specifications, and other documents, as well as adequate time to prepare subcontract bids and/or negotiate joint venture agreements.

5. Verification that, reasonably consistent with industry practice or the bidder's past practices on similar projects, the bidder made efforts to attract SBEs in order to achieve the project goals, including consideration of dividing the work into economically feasible units.

6. A statement describing the reasons why the bidder and SBE did not succeed in reaching a subcontracting or joint venture agreement for each SBE which contacted the bidder or which the bidder contacted.

7. Verification that the bidder rejected available SBEs because they submitted bids which were unreasonably high, or they were not qualified. Such verification shall include a statement of the amounts of all bids received from potential subcontractors and all relevant dates.

B. The county may waive a project goal, at least in part, if the SBE subcontractor quotes received by the contractor in one trade exceed the quote(s) of the lowest non-SBE competing for the same work by the lesser of fifteen percent or two hundred fifty thousand dollars and no other trade area is available to meet the established SBE goal. A contractor may not compare self-performed costs against an SBE subcontractor quote as justification for the rejection of a bid.

C. General Waiver or Reduction of Project Goal. The county administrator, upon recommendation of the procurement director, may waive or reduce the established project goal where it is determined that SBE availability is less than projected upon establishing the goal. In such circumstances, the county administrator shall certify that SBEs are in fact not available to provide the needed labor and materials at competitive prices.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

Chapter 20.28 - ENFORCEMENT AND REPORTING

Sections:

20.28.010 - Powers and duties.

20.28.020 - Determination of non-responsiveness and opportunity to clarify.

20.28.030 - Reporting and maintenance of records by contractors.

20.28.040 - Compliance by county departments required.

20.28.050 - Continued compliance for the duration of the project.

20.28.060 - Investigations of compliance, burden of proof, and findings of noncompliance.

20.28.070 - Sanctions upon a finding of noncompliance by a contractor.

20.28.080 - Nonretaliation.

20.28.010 - Powers and duties.

A. In addition to all powers and duties described in this title, the county administrator has the authority and duty to recommend the implementation of all new policies and establish procedures, and recommend changes in existing policies and make changes to existing procedures which are necessary to effectuate the provisions of this title and which comply with existing state and federal law.

B. In addition to all powers and duties described in this title, the procurement director has the authority and duty to recommend procedures to the county administrator, and monitor, report, and conduct all necessary investigations to effectuate the provisions of this title. The procurement director shall have access to all relevant information. Further, the procurement director shall receive notice of and have the opportunity to speak at all prebid, preproposal, and preconstruction meetings held by the departments and divisions of Pima County. The procurement director has the authority to delegate his or her duties.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009)

20.28.020 - Determination of non-responsiveness and opportunity to clarify.

A. The county, after investigation and recommendation by the procurement director, shall declare a bid nonresponsive if the bidder fails to meet SBE subcontracting goals or if the bidder fails to make sufficient good faith efforts which would lead to the waiver of applicable goals.

B. Upon receiving notice of a potential determination of non-responsiveness, a bidder may request a hearing in accordance with procedures developed consistent with this title for the purpose of clarifying aspects of the bidder's subcontractor's equity packet.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.28.030 - Reporting and maintenance of records by contractors.

Unless otherwise specified in the solicitation, contractors awarded construction contracts without an SBE goal shall submit a participation report which summarizes the number and dollar amount of all subcontract awards during the contract term, which includes the names of and dollar value for all subcontracts. The contractors must submit the reports through the procurement director no later than one month after the contract has been awarded and with the final payment request. If the awarded contract completion time is over one year, the contractor shall submit a participation report annually through the procurement director until the completion of the project.

Contractors awarded contracts incorporating goals shall submit a monthly participation report to the county administrator through the procurement director which summarizes the number and dollar amounts of subcontract awards made during the term of the contract. The report shall be submitted to the procurement department on the last day of each month following the award of the eligible contract or project.

Consultants with A&E contracts must submit a participation report which summarizes the number and dollar amount of all subcontract awards through the procurement director no later than one month after the contract has been awarded and annually throughout the life of the contract.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.28.040 - Compliance by county departments required.

Whenever the county administrator finds after investigation by the procurement director that a contract awarding department or division of Pima County government has willfully failed to comply with the provisions of this title, a written finding of noncompliance shall be issued. The county administrator has the authority and duty to take steps necessary to ensure compliance.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.28.050 - Continued compliance for the duration of the project.

A contractor who has been awarded a contract based upon a given level of SBE participation must remain in compliance for the duration of the project and shall not:

- A. Terminate or fail to utilize a certified SBE which was originally listed at bid opening, without substituting another certified SBE, and giving notice of such substitution to the procurement director, to perform the same or county approved alternate commercially useful function and dollar amount, or without showing good faith attempts to replace such SBE;
- B. Fail to allow an SBE to perform the commercially useful function, the value of which was originally counted for SBE in awarding the contract;
- C. Unilaterally modify or eliminate all or a portion of the scope of work attributable to an SBE upon which the contract was awarded; or
- D. Submit false or misleading documentation, or interfere or fail to cooperate with any monitoring or investigations carried out by the procurement director.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.28.060 - Investigations of compliance, burden of proof, and findings of noncompliance.

- A. The procurement department is empowered to:
 1. Receive and investigate complaints and allegations by SBEs, third parties, or county personnel; and
 2. Initiate its own investigations regarding compliance with the requirements and obligations of this title.
- B. In the event that the procurement department conducts an investigation, upon written notice of such investigation the affected party:
 1. Must cooperate fully with the investigation;
 2. Has the burden of proving its compliance with the requirements of this title.
- C. When a compliance review by the procurement department indicates grounds for finding that a contractor awarded any covered contract, or a subcontractor and subcontract thereunder, is not in compliance with applicable terms of this title:
 1. The procurement department shall issue a notice of noncompliance to the county administrator;

2. The county administrator shall then give the contractor written notice to correct deficiencies within a reasonable time period;

3. Then, if the contractor who has received a written notice from the county administrator to correct deficiencies fails to comply with requirements within the time allowed, the procurement department shall issue a finding of noncompliance to the county administrator for enforcement of sanctions.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.28.070 - Sanctions upon a finding of noncompliance by a contractor.

The county administrator shall have the authority to impose any or all of the following sanctions on parties found by the procurement director to be in noncompliance with the terms of this title:

A. Withholding from the contractor in violation ten percent of all future payments on the project until it is determined that the contractor is in compliance;

B. Withholding from the contractor in violation all future payments on the project until it is determined that the contractor is in compliance;

C. Subjecting the contractor to the terms of suspension and debarment provisions of the Pima County code.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.28.080 - Nonretaliation.

This title prohibits retaliation against anyone who participates or has participated in the hearing or study process related to the establishment of the SBE program, or against anyone who initiates or assists in investigations brought under this title. Such parties will not be adversely affected in the terms or conditions of conducting business. Any employee of Pima County who engages in retaliatory action will be subject to discipline, up to and including termination. Any contractor who engages in retaliatory action shall be subject to the sanctions of this title, up to and including debarment.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 2003-63, 2003; Ord. 1997-44, 1997)

Chapter 20.32 - ELIGIBILITY, CERTIFICATION, GRADUATION, AND APPEAL PROCESS

Sections:

20.32.010 - Declaration of purpose.

20.32.020 - Administrative provisions.

20.32.030 - Eligibility.

20.32.040 - Certification.

20.32.050 - Graduation.

20.32.060 - Interviews, investigations, site visits, monitoring.

20.32.070 - Appeal process.
20.32.080 - Noninterference.

20.32.010 - Declaration of purpose.

The SBE program within the procurement department establishes certification and related provisions of the Pima County small business enterprise (SBE) program.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009)

20.32.020 - Administrative provisions.

The procurement department has the following authority and duties:

- A. The authority to accept the certification of another qualifying certification entity.
- B. Administration and enforcement of SBE certification.
- C. The development and recommendation of written guidelines to effectuate this chapter.
- D. Certification of enterprises, including contractors, subcontractors, professional or other service providers, vendors, or suppliers as bona fide SBEs, in accordance with the standards set forth.
- E. The development and upkeep of a database and directory of certified SBEs to be maintained as public record.
- F. The maintenance of statistical data on the availability of SBEs.
- G. The monitoring and reporting of county utilization of SBEs.
- H. Notification, as provided within this division, of an affected party by certified mail that it has the right to appeal:
 1. A denial of eligibility, certification, or recertification as an SBE.
 2. The enforcement of the decertification or graduation provisions.
- I. Notification to the affected county department of any lapse in certification, denial of recertification, decertification, or graduation of a previously certified SBE.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 2000-24 § 3, 2000; Ord. 1997-44, 1997)

20.32.030 - Eligibility.

In addition to the standards encompassed by the certification requirements, SBEs are subject to eligibility standards, including:

- A. The Pima County SBE program is limited in its effective scope to the jurisdictional boundaries of Pima County. An SBE:
 1. Shall establish that it is a local enterprise as defined by this title and is an active

participant in the Pima County marketplace.

B. An SBE may not be certified until after the satisfaction of all of the following:

1. Formation of the business enterprise;
2. Commencement of sustained business activity with revenues generated in the trade or profession described on the certification application; and
3. Commencement of small business ownership, management, and control of daily business operations.

C. No enterprise shall be eligible to be certified as an SBE if ownership and/or control of the enterprise is held by a current employee of Pima County.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.32.040 - Certification.

A. The procurement director shall develop and implement a procedure for the certification of bona fide SBEs in order to effectuate the purposes of the Pima County SBE program. This procedure shall provide that the procurement director may issue county certification to eligible SBEs with current certification from the small business administration, state and local governments, and entities that certify SBEs in accordance with an established SBE program. Criteria for certification shall include, but is not limited to, the following considerations:

1. Ownership: small business owner(s) shall be deemed to be owner(s) of all or a portion of a business enterprise if they:
 - a. Own, in his or her own name(s), at least fifty-one percent in the enterprise;
 - b. Acquired the interest in an arms-length transaction;
 - c. Acquired the interest with his or her own financial resources or has put his or her own financial resources at risk in the operation of the enterprise.
2. Control and management: a small business owner shall be deemed to manage and control daily business operations only if such management and control is real, substantial, and continuing, that is:
 - a. The small business owner shall possess the power to direct and cause the direction of the management and policies of the business enterprise and to make day-to-day as well as major decisions on matters of management, policy, and operations;
 - b. The business enterprise shall not be subject to any formal or informal restrictions which limit the customary discretion of the small business owners;
 - c. Management and control is demonstrated by a showing of at least one of the following factors:
 - 1) The small business owners hold the professional license relied upon by the enterprise;

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Chapter 20.44 - SUNSET DATE

2) The small business owners have substantial experience in the trade or industry which would be necessary to the primary decision maker of the enterprise; or

3) The small business owners regularly make decisions, hold themselves out to the public, and sign important documents and financial instruments in a manner which is indicative of primary management and control of daily business operations.

3. In cases where the management of an SBE is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purpose of this article, be considered as controlling the business.

4. All securities which constitute ownership or control of an entity for purposes of establishing it as an SBE must be held directly by a small business owner. No securities held in trust or by any guardian for a minor shall be considered held by a small business owner in determining the ownership or control of a corporation.

5. Ownership and control shall be measured as though not subject to the community property interest of a spouse.

B. The procurement department shall grant certification to an approved SBE for a period of one year or until the certification accepted under Section 20.32.040(A) expires, whichever time period is shorter.

1. Following initial certification, an SBE which desires to renew its certification shall, thirty days prior to each annual anniversary of the certification, submit a renewal application which shall update and affirm all requirements for recertification. Timely renewal, if approved, shall be effective on the date of the annual anniversary of the certification.

2. A certification shall terminate automatically and without notice upon the failure of the business enterprise to renew certification.

3. If an SBE is denied certification on the basis of information submitted, the enterprise can appeal the denial as described below, but cannot reapply for certification for a period of six months from the date of notice of denial.

C. The procurement department may decertify a business that it finds is no longer a bona fide SBE.

1. Grounds for decertification include, but are not limited to:

a. The enterprise has changed to the extent that it no longer meets initial certification requirements;

b. The enterprise fails to submit information requested by the procurement director or fails to cooperate with the investigation process.

c. There is a change in ownership such that the enterprise fails to qualify for certification in one or more categories.

2. If an SBE is decertified, the enterprise can appeal the denial as described below but cannot reapply for certification for a period of one year from the date of notice of decertification.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 2000-24 § 3, 2000; Ord. 1997-44, 1997)

20.32.050 - Graduation.

A. A certified and otherwise eligible SBE achieving gross receipts that exceed the small business administration size standards in its respective industry or whose personal net worth exceeds seven hundred fifty thousand dollars, shall be presumed to have reached a competitive status in the marketplace. Upon achievement of such status, said firms shall be deemed to have graduated from the program and shall thereafter be ineligible for utilization to fulfill enforceable SBE participation goals.

B. Graduation criteria which reflects local market conditions shall be established according to methodology developed and recommended by the procurement director.

C. If an SBE has an affiliate in a different standard industry code (SIC) major group, the annual receipt level which shall be used as the graduation criteria shall be the highest annual receipt level applicable to the SBE affiliate. If an SBE or any affiliate performs work in more than one SIC major group, the annual receipt level which shall be used as the graduation criteria shall be the highest annual receipt level applicable to the SBE affiliate.

D. Graduation of an SBE shall not affect the contribution made by the SBE toward satisfaction of a project goal if the work was bid or proposed to be performed by the SBE prior to the date of graduation.

E. The graduation criteria shall be deemed to apply to the small business owners upon whom eligibility for certification is based and all affiliates. No business enterprise shall be certified based upon one or more small business owners who owned or who was an affiliate of an SBE which has become ineligible for renewed certification due to achievement of graduation criteria.

F. A graduated SBE may not subsequently reenter the program unless, after the expiration of two calendar years, the firm demonstrates:

1. That its annual gross receipts have declined to levels below those as set forth by specific graduation criteria; and
2. That during said two calendar years, it was unable to meaningfully participate in Pima County contracting or procurement, or in the public and private sectors of the larger local economy despite its good faith efforts to do so.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.32.060 - Interviews, investigations, site visits, monitoring.

The procurement director may require personal interviews with all persons upon whom eligibility, certification, and graduation decisions are based. Additional, non-SBE bidders involved in joint venture relationships shall allow the procurement director to have access to all records pertaining to the joint venture agreements to the extent reasonably necessary to ensure compliance with this title. The procurement director is empowered to interview other such persons and conduct on-site visits and investigations as may be appropriate to ensure continued compliance with program requirements.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.32.070 - Appeal process.

A. Upon denial by the administrator of the procurement director of eligibility, certification, or recertification, or upon decertification, or graduation, the administrator shall notify the affected party in

writing by registered mail, setting forth the reasons for the decision.

B. Any enterprise that has been denied certification status as described above may appeal by filing a Pima County SBE program appeal of denial form with the procurement department within ten working days of receipt of notice of denial.

C. Within five working days of receipt of the appeal of denial form, the procurement director shall forward the notice to a hearing officer.

D. The hearing officer shall:

1. Set the hearing date within twenty working days of receipt of appeal;
2. Give notice by certified mail to all affected parties, which provides the following information:
 - a. The time, place, and date of the hearing,
 - b. The identity of the parties, and
 - c. A copy of the "appeal of denial" form which sets out the charges with particularity;
3. Conduct a fair and impartial hearing;
4. Produce a written decision on the appeal which affirms, alters, or reverses the denial at issue; and
5. Give notice of the decision by certified mail sent within seven working days of the close of the hearing.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

20.32.080 - Noninterference.

The process of determining and appealing eligibility, certification, recertification, decertification, or graduation of the SBE status of enterprises shall not be subject to interference, influence, or coercion of any sort by parties including departmental and elected officials.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

Chapter 20.36 - MAINTENANCE AND RETENTION OF RECORDS

Sections:

20.36.010 - Maintenance and retention of records.

20.36.010 - Maintenance and retention of records.

For purposes of monitoring, analysis, and future disparity studies, all county departments shall maintain

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Chapter 20.44 - SUNSET DATE

and retain complete and accurate records relating to procurement from contracting and sub-contracting with all construction and A&E firms.

(Ord. 2011-15 § 1 (part), 2011: Ord. 2009-47 § 1 (part), 2009: Ord. 1997-44, 1997)

Chapter 20.40 - SEVERABILITY

Sections:

20.40.010 - Severability.

20.40.010 - Severability.

The provisions of the title are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or division, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this title, or the validity of its application to other persons or circumstances.

(Ord. 1997-44, 1997)

Chapter 20.44 - SUNSET DATE

Sections:

20.44.010 - Sunset date.

20.44.010 - Sunset date.

This title shall be subject to regular review and expire no later than five years from the date of adoption, unless the board of supervisors after reviewing a legally acceptable quantum of evidence determines that the narrowly tailored remedial purposes of this title have not been achieved. Upon such determination, the board may extend the title for a reasonable period of time.

(Ord. 1997-44, 1997)

James DeGrood

From: Barbara Johnson [bjohnson@MARANA.COM]
Sent: Monday, October 17, 2011 1:19 PM
To: James DeGrood; Ana Olivares; Civalier, Craig; dgranillo@azdot.gov; Farhad Moghimi; George Caria ; jim.glock@tucsonaz.gov; Priscilla Cornelio; Todd Emery
Cc: ghayes@pagnet.org; John Liosatos
Subject: RE: SBE requirements on RTA projects

Jim,

The Town of Marana has no requirement for an SBE program independent of the color of money. The Town does use the City of Tucson list to do outreach when required or it makes sense. If there are federally appropriated dollars in the project (Twin Peaks is an example), then we would follow the federal procurement regulations. Should Marana ever use Department of Transportation appropriated dollars, the Town would adhere to the procurement guidelines as follows:

"The Department of Transportation (DOT) is dedicated to serving our community, including those businesses contracting with state agencies and recipients of DOT funds. The Department's Disadvantaged Business Enterprise (DBE) program is intended to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, airport, and highway safety financial assistance programs. The goals of the program are to remedy past and current discrimination against disadvantaged business enterprises, ensure a "level playing field" in which DBEs can compete fairly for DOT-assisted contracts, improve the flexibility and efficiency of the DBE program, and reduce burdens on small businesses.

DOT's Operating Administrations distribute substantial funds each year to finance construction projects initiated by state and local governments, and public transit and airport agencies. The Transportation Equity Act for the 21st Century (TEA-21), enacted June 9, 1998, authorized the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period 1998-2003. Section 1101(b) of the act (Disadvantaged Business Enterprises) states except to the extent that the Secretary determines otherwise, not less than 10% of the amounts made available for any program under Titles I, III, and V..."

Historically, the number of qualified SBEs in Southern Arizona is not sufficient to make a local, formal 'SBE Program' viable so the costs to maintain the program are very high. ADOT ran the Twin Peaks procurement so their statewide program was invoked.

Barbara F. Johnson
General Manager Public Services
Town of Marana
11555 W. Civic Center Drive
Marana, AZ 85653
Ph-(520) 382-2602
FX-(520) 382-2641

From: James DeGrood [mailto:jdegrood@pagnet.org]
Sent: Monday, October 03, 2011 3:43 PM
To: Ana Olivares; Barbara Johnson; Civalier, Craig; dgranillo@azdot.gov; Farhad Moghimi; George Caria ; jim.glock@tucsonaz.gov; Priscilla Cornelio; 'Todd Emery'
Cc: ghayes@pagnet.org; 'John Liosatos'
Subject: SBE requirements on RTA projects

Colleagues,

We would like to understand what SBE requirements you use on your major RTA projects. The attached memorandum requests that you forward us information about your recent and ongoing contractor requirements.

Thanks in advance, let me know if the time line is problematic.

Jim

James R. DeGrood, P.E.
Director, Transportation Services
Pima Association of Governments
177 N. Church Ave., Suite 405
Tucson, AZ 85701
(520) 792-1093 Ext. 481



James DeGroot

From: Farhad Moghimi [fmoghimi@ci.sahuarita.az.us]
Sent: Tuesday, October 11, 2011 1:52 PM
To: James DeGroot
Subject: RE: SBE requirements on RTA projects

Jim,

We do not have any SBE requirements. Do you still need a list of project for the last 24 months?

Thanks,
Farhad

From: James DeGroot [mailto:jdegroot@pagnet.org]
Sent: Monday, October 03, 2011 3:43 PM
To: Ana Olivares; Barbara Johnson; Civalier, Craig; dgranillo@azdot.gov; Farhad Moghimi; George Caria ; jim.glock@tucsonaz.gov; Priscilla Cornelio; 'Todd Emery'
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