



Broward County

Legislation Details (With Text)

File #: 20-2112 **Version:** 1

Status: Agenda Ready

In control: PUBLIC HEARING

On agenda: 12/1/2020 **Final action:** 12/1/2020

Title: MOTION TO ENACT Ordinance, the title of which is as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY BUSINESS OPPORTUNITY ACT AND RELATING TO COUNTY BUSINESS ENTERPRISE ("CBE") RESERVE PROCUREMENTS; AMENDING SECTIONS 1-81.1 AND 1-81.3 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") ADDRESSING SOLICITATIONS INVOLVING CBE RESERVE PROCUREMENTS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.
(Sponsored by the Board of County Commissioners)

Sponsors:

Indexes: Established Commission Goals

Code sections:

Attachments: 1. Exhibit 1 - Copy of Proposed Ordinance, 2. Exhibit 2 - Copy of Fiscal Impact Statement, 3. Exhibit 3 - Copy of Commissioner Bogen's Proposed Amendment (Additional Material from the 11/10/2020 Agenda), 4. Additional Material - Information, 5. Additional Material - Information

| Date | Ver. | Action By | Action | Result |
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Broward County Commission Regular Meeting

Director's Name: Andrew J. Meyers

Department: County Attorney

Information

Requested Action

MOTION TO ENACT Ordinance, the title of which is as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY BUSINESS OPPORTUNITY ACT AND RELATING TO COUNTY BUSINESS ENTERPRISE ("CBE") RESERVE PROCUREMENTS; AMENDING SECTIONS 1-81.1 AND 1-81.3 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") ADDRESSING SOLICITATIONS INVOLVING CBE RESERVE PROCUREMENTS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

Why Action is Necessary

A Resolution directing the County Administrator to publish notice of public hearing to consider enactment of the Ordinance was adopted by the Board of County Commissioners at its meeting of November 10, 2020.

What Action Accomplishes

Amends Sections 1-81.1 and 1-81.3 of the Broward County Code of Ordinances addressing solicitations involving CBE Reserve Procurements.

Is this Action Goal Related

Yes

Previous Action Taken

Summary Explanation/Background

This item supports the Commission Value "Ensuring economic opportunities for Broward's diverse population and businesses" and the Commission Goals "Utilize policies and strategies to create employment opportunities and support for economically disadvantaged members of the community" and "Build into every process and service effective checks and balances that do not cause inefficiency, but rather ensure consistency, continuity, and quality."

On August 27, 2019, the Board directed the Office of the County Attorney to coordinate with the Office of Economic and Small Business Development ("OESBD") to draft certain changes to the Business Opportunity Act of 2012 addressing County Business Enterprise ("CBE") reserve procurements to establish a cap on any premium paid in such procurements. NonCBE firms are eligible to bid on CBE reserve procurements. Currently, there is no cap on the premium the County would pay to purchase the goods or services from a CBE, in instances where the pricing from the nonCBE is lower.

Under the proposed amendment, which is based on market analysis conducted and stakeholder input received by OESBD, the CBE with the lowest responsive and responsible bid, or the highest-ranked responsive and responsible proposal, as applicable, would be awarded the contract if the following conditions are met:

- Monetary differential: The bid/proposal price of the CBE must not exceed the bid/proposal price of the lowest responsive and responsible bid or highest-ranked responsive and responsible proposal by a nonCBE by more than ten percent (10%) for projects up to \$3 million or by more than five percent (5%) for projects over \$3 million; and
- Points differential: Additionally, for competitive solicitations in which the proposals are assigned point totals, the total points assigned to the CBE is not more than twenty percent (20%) less than the total points assigned to the highest-ranked responsive and responsible proposal from a nonCBE.

The proposed amendment would also require that if there is no responsive and responsible CBE that meets these conditions, the contract could be awarded to a nonCBE subject to a CBE goal of twenty five percent (25%), unless waived or otherwise modified by Board action. As proposed by OESBD and the Purchasing Division, the contract is not required to be awarded to a nonCBE if there are no CBEs that meet the above conditions. Additionally, as proposed by OESBD and the Purchasing Division, the proposed amendment does not delineate factors that would be considered in

determining, under those circumstances, whether to award the contract to a nonCBE or whether to resolicit.

Attached as Exhibit 3 is a proposed amendment by Commissioner Mark D. Bogen that was distributed as Additional Material prior to the November 10, 2020, County Commission meeting.

Source of Additional Information

Nathaniel A. Klitsberg, Senior Assistant County Attorney, 954-357-7600

Fiscal Impact

Fiscal Impact/Cost Summary

Fiscal Impact Statement by the Office of Management and Budget is attached as Exhibit 2.