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TO: BOARD OF SUPERVISORS
FROM: 1999 INTERNAL OPERATIONS COMMITTEE
DATE: December 13, 1999
SUBJECT: **SMALL BUSINESS ENTERPRISE PROGRAM**

IOC-01



Contra
Costa
County

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATIONS:

1. APPROVE the attached Small Business Enterprise Program.
2. DIRECT the County Administrator to provide appropriate instructions to County Departments on the implementation of the Small Business Enterprise Program.
3. REMOVE this subject as a referral to the 1999 Internal Operations Committee and instead REFER it to the 2000 Internal Operations Committee for continuing policy oversight, as is provided for on the last page of the attached.

BACKGROUND:

This subject was referred to our Committee nearly a year ago and we have met on it with staff on several occasions throughout the year. Our goal was to put together a program that would provide small businesses with a fair share of the County's businesses. We believe we have done that. To briefly summarize the content of the attached report:

- The program covers construction contracts of \$25,000 or less and purchasing transactions of \$50,000 or less and professional/personal services contracts of \$50,000 or less.

CONTINUED ON ATTACHMENT: YES

SIGNATURE:

RECOMMENDATION OF COUNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

APPROVE

OTHER

Gayle B. Uilkema *John Gioia*
GAYLE B. UILKEMA JOHN GIOIA

SIGNATURE(S):

January 25, 2000

APPROVED AS RECOMMENDED

OTHER

The following people offered public comment on this matter:

Oren Sellshorn, 301 Mission Street, #400, Lawyer's Committee for Civil Rights; and Jonathan Dumas, 41 Carter Court, Equal Employment Opportunity Advisory, El Sobrante;

The Board discussed the issues and took the following action:

ACCEPTED staff's Recommendations Nos. 1 and 2; and DIRECTED No. 3 include the language "and for potential broadening of the Program as the Committee determines".

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT _____)

AYES: I, IV, V & III

NOES: _____

ABSENT: II

ABSTAIN: _____

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED January 25, 2000

PHIL BATCHELOR, CLERK OF THE BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR

Contact:
CC:

County Administrator
Julie Enea, Staff to the Internal Operations Committee
Affirmative Action Officer

BY *Barbara Bryant*, DEPUTY

1/4

24
1-25-08

IOC-01

- For those contracts and transactions that are not exempt from the program, 50% of the dollar amount will be awarded to small businesses, as a small business is defined. Businesses which do not qualify as a small business will not be able to bid on the contract or transaction.
- All other factors being substantially the same, contracts are to be awarded to a local small business.
- The County Administrator is to make a report to the Board annually by March 30 on the success of the program.

2/14

D4
1-25-00

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**Contra Costa County
Small Business Enterprise Program**

- I. Scope of Program
 - A. Contra Costa County values the contributions of small businesses in County contracting and will assist in the development, solicitation, and contract awards to small businesses.
 - B. The Small Business Enterprise (SBE) Program applies to:
 - construction contracts of \$25,000 or less;
 - purchasing transactions of \$50,000 or less;
 - professional/personal service contracts of \$50,000 or less;at the time of contract award.
 - C. The program would not apply to any contracts or purchasing funded in whole or in part by the federal government to which Disadvantaged Business Enterprise (DBE) requirements apply as a condition of federal funding.
 - D. The County Administrator may exempt emergency construction projects, purchasing transactions, professional/personal service contracts, and other

3/4

24
1-25-00

particular projects or contracts, such as sole source contracts, from the SBE Program requirements, where the County Administrator is satisfied that: (1) the exemption is required to avoid unreasonable expense or delay to the County; (2) the project(s), transaction(s), or contract(s) in question cannot reasonably be performed by an SBE; (3) no valid purpose would be served by applying the SBE Program requirements; or (4) the exemption is justified by special or unique circumstances. Whenever the County Administrator decides to exempt a project or class of projects, that decision shall be reported to the Board of Supervisors' Internal Operations Committee or, if appropriate, to the Board.

E. Departments with purchasing source discretion ("PSD") will:

- identify those contracts under the threshold amount for each SBE Program area (i.e., construction, purchasing transactions, and professional and personal service contracts) and set-aside contracts for only SBEs to submit bids, proposals or enter into negotiated contracts;
- determine if contracts will be informal bids/proposals, formal bids/proposals, or negotiated contracts;
- will review all construction contracts, purchasing transactions, and professional and personal services contracts under the threshold amounts

4/4

D4
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for the SBE program on a reasonable basis to ensure that the County meets the goal of this program; and

- make every effort to maintain a large base for SBE contracting.

F. The SBE Program does not apply to the following, which are exempt from the SBE Program base amount:

- Association dues and membership fees;
- Postage, Federal Express, and UPS;
- Lodging;
- Registration and conference booths;
- Bus fares, Bay Area Rapid Transit District (BART) tickets, fares for other forms of public transportation, and bridge tolls;
- Permits, fees, and licenses paid to governmental agencies;
- Utility installation fees;
- Pre-employment screening and fitness for duty exams;
- Legal notices;
- Purchases or contracts with other public (local, state, or federal) agencies such as the State of California and the Los Angeles County Joint Purchasing Group;

5/14

24
1-25-00

- Contracts between divisions in a department or contracts between two different departments;
- Contract consultants who answer "yes" to any of the questions on the Questionnaire for Determining Independent Contractor Payment Method form; unless it is determined and certified that they are SBEs, as defined in Section D of Part III of this Program; and
- Contracts with private non profit organizations and agencies.

G. The program will be implemented and monitored by the General Services Director (Purchasing Agent), Department Heads with purchasing source discretion ("PSD"), and the County's Affirmative Action Officer. Departments with "PSD" will submit quarterly reports of their "PSD" transactions in a timely manner to the County Administrator or designee, and a draft annual report prepared by the Affirmative Action Officer will be submitted to the County Administrator. On or before March 30 of each year, a final annual report by the County Administrator will be submitted to the Board of Supervisors on the County's SBE Program. Departments with "PSD" who do not meet a 50% SBE participation in the "PSD" transactions applicable to their departments shall report to the County Administrator on this area.

4/14

D4
1-25-00

H. An SBE contractor may appeal to the Department Head or designee within 10 days of the award of a contract. If the complaint is not resolved within the department, the SBE firm may file a complaint with the County's Affirmative Action Officer. If it is not resolved with the Affirmative Action Officer, the County Administrator will review the complaint and take appropriate actions.

II. Program Requirements

A. The total dollar base amount is the number of non-exempt contracts under the SBE Program threshold for construction (total contracts at \$25,000 or less), purchasing (total contracts at \$50,000 or less), professional/personal services (total contracts at \$50,000 or less).

B. At least fifty percent (50%) or more of the total dollar base amount for the calendar year of :

- construction contracts;
- purchasing transactions; and
- professional/personal services contracts

1/24

D4
1-25-00

available to the program should be awarded to SBEs, as provided in Section A above.

- C. Where the purchasing and professional/personal services SBE Program overlap with the purchasing and professional/personal services Outreach Program, the 50% non SBE purchasing transactions and professional/personal services contracts should meet the Outreach Program requirements.

- D. To the extent allowed by law, the General Services Director (Purchasing Agent) and County departments with PSD shall maximize business opportunities for local SBEs to compete and shall give a contracting priority to such local SBEs for County construction contracts, professional/personal service contracts, and purchasing transactions covered by the SBE Program where there is no significant difference between the local SBE's bid, proposal, or price and other bids, proposals, or prices for the contract or purchasing transaction.

III. Program Responsibility

8/4

- A. Board of Supervisors: The Board of Supervisors has adopted a SBE Program to assist in the solicitation and award of contracts to small businesses (particularly those located in Contra Costa County).

- B. County Administrator: The County Administrator is responsible for the development, implementation, monitoring, and evaluation of the SBE Program and may delegate responsibility to the Affirmative Action Officer or other designee.

- C. Department Heads:
 - 1. The County Administrator, General Services Department, Building Inspection Department, Community Development Department, Public Works Department, and any other Department that enters into construction contracts (not performed by another County Department):
 - are responsible for implementing the SBE Program for construction contracts in their respective departments.

 - 2. The General Services Director (Purchasing Agent)

- Is responsible for reporting on all purchasing transactions processed and the source(s) determined by that department, as provided in Section B of Part IV of this Program.

3. All Department Heads

- Are responsible for implementing the SBE Program for "PSD" purchasing transactions of the department and "PSD" professional/personal service contracts for their respective departments.

D. Program Definitions

1. Small Business Enterprise (SBE):

- a. An eligible Small Business Enterprise, as defined by the California Government Code, Section 14837, Chapter 3.5,
 - is an independently owned and operated business, which is not dominant in its field of operation;
 - the principal office of which is located in California;

24
1-25-00

- the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees; and
 - average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, or
 - is a manufacturer with 100 or fewer employees.
2. SBEs certified by the state would qualify for participation in the County's SBE Program. An SBE that is self-certified and claims its status under penalty of perjury, and such self-certification is concurred in by the department, also would qualify.
3. The base for the total dollar amount is the total number of contracts under the SBE Program threshold for construction (total contracts at \$25,000 or less), purchasing (total contracts at \$50,000 or less), and professional/personal services (total contracts at \$50,000 or less) contracts.

11/14

D4
1-25-00

4. A local SBE is an SBE whose main office is located in Contra Costa County.
5. An SBE Directory of Self-Certified firms will be developed and maintained by the Affirmative Action Office.
6. Purchasing Source Discretion ("PSD") means those transactions where a department has sole discretion to determine the source of goods, services or construction without limitation to those vendors or contractors approved by the Purchasing Agent and where the Purchasing Agent processes the transaction without exercising any discretion.

IV. Program Procedures and Implementation

- A. Department Heads with "PSD" are responsible for administration and implementation of the SBE Program (construction, purchasing transaction, and/or professional and personal service contracts) for their "PSD" transactions and shall submit quarterly reports to the County Administrator or designee in a timely manner.

12/4

D4
1-25-20

B. The General Services Department (Purchasing Agent) is responsible for reporting on and implementing the SBE Program for all purchasing transactions and contracts that are processed by that department, except for those transactions where another department exercises "PSD," as defined in Section D. 6 of Part III of this Program. Such reporting will be done on a quarterly basis in a timely manner to the County Administrator or designee by the General Services Department (Purchasing Agent).

V. Conclusion

A. County Administrator will

- On or before March 30 of each year, submit a final annual report to the Board of Supervisors indicating the total dollar amount of qualified contracts and SBE contracts (\$25,000 and less for construction; \$50,000 and less for purchasing; and \$50,000 and less for professional/personal services contracts) for the County.
- Submit SBE recommendations to the Board of Supervisors.

1/2/20

24
1-25-00

- B. The Internal Operations Committee of the Board of Supervisors will have continuing policy oversight and develop any recommendations for program changes.

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12/14