

40E-7.669 Definitions.

(1) - (5) No change.

(6) "Non SBE Prime" means a business not currently certified by the District as a small business enterprise which submits a bid or proposal for the purpose of being awarded a legally binding agreement as a Prime Contractor for the performance of work at a mutually agreed upon price in accordance with agreed upon terms and conditions with the District.

(7) ~~(6)~~ "Prime Contractor" means any individual or contracting entity with whom the District has entered into a legally binding agreement for performance of ~~or~~ work at a mutually agreed upon price in accordance with agreed upon terms and conditions.

(8) ~~(7)~~ "Responsible" means a business that is capable in all respects of fully performing the contract requirements and which has the integrity and reliability that will assure good faith performance.

(9) ~~(8)~~ "Responsive" means a business's bid or proposal conforms in all material respects to the invitation to bid or request for proposal.

(10) ~~(9)~~ "District Small Business Enterprise (SBE)" means a business certified by the District, whose three (3) year average gross receipts including affiliates shall not exceed \$13 million if the business provides construction, \$5 million if the business provides commodities, and \$6 million if the business provides services. Additionally, a District Small Business Enterprise is licensed to do business in the State of Florida if the business requires a license.

(11) "SBE Prime" means a business certified by the District as a small business that submits a bid or proposal for the purpose of being awarded a legally binding agreement as a SBE Prime Contractor for the performance of work at a mutually agreed upon price in accordance with agreed upon terms and conditions with the District.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History–New 8-3-06, Amended _____.

40E-7.670 Competitive Solicitation Preferences.

The Small Business Enterprise Contracting Rule in this part provides for three types of Competitive Solicitation Preferences designed to assist small businesses. The Bid Equalization, Sheltered Market and Subcontracting Requirements as outlined below.

(1) Bid Equalization. This process enables the District to award a contract to a SBE Prime even though the SBE Prime was not the low bidder as long as the SBE Prime's bid was within a predetermined percentage of the lowest Non-SBE Prime's responsive, and responsible bid. Bid Equalization preferences are used only in construction solicitations.

Prior to solicitation, the District must determine whether to use the Bid Equalization preference. Should the District choose to use this preference, the District must first obtain the District engineer's estimate for the construction work being contemplated in the solicitation. Based on the estimate, the District will establish the percentage preference to apply in the solicitation. A process that enables the District to place SBE's on a more level playing field when bids are

~~submitted to the District. Often large businesses are able to submit bids at a lower cost than smaller businesses. When bids are submitted SBEs may receive up to a 10% downward adjustment on its bid for evaluation purposes only. For Solicitations where it is determined by the District to use a bid equalizations the District shall implement a one percent (1%), five percent (5%), and ten percent (10%) maximum bid adjustment. This bid adjustment will increase the likelihood that certified SBE's may be awarded the contract even though they are not the low bidder so long as the difference in the amount of the bids does not exceed the bid equalization percentage see TABLE 7.6-1.~~

The percentages will be applied as follows:

~~(a) The maximum Bid Equalization percent shall be determined by the estimated contract value and the dollar ranges as stated in sections b, c and d.~~

(a) ~~(b) For contracts with an estimated value of \$2,000,000 or more, the District shall implement a maximum bid adjustment of one percent (1%). If the adjusted lowest SBEs firms bid does not exceed the lowest non SBE firms unadjusted responsive and responsible bid by one percent (1%) then the award shall be made to the lowest responsive and responsible SBE firm.~~

(b) ~~(c) For contracts with an estimated value of more than \$500,001 but less than \$2,000,000, the District shall implement a maximum bid adjustment of five percent (5%). If the adjusted lowest certified SBE's firms bid does not exceed the lowest non SBE firms unadjusted responsive and responsible bid by five percent (5%) then the award shall be made to the lowest certified responsive and responsible SBE firm.~~

~~(c) (d)~~ For contracts valued at \$500,000 or less, the District shall implement a maximum bid adjustment of ten percent (10%). ~~If the adjusted lowest certified SBE's firms bid does not exceed the lowest non SBE firms unadjusted responsive and responsible bid by ten percent (10%) then the award shall be made to the lowest certified responsive and responsible SBE firm.~~

(d) The solicitation language shall clearly state that based on the District's estimate, a certain percentage preference will be applied to an SBE Prime, if the SBE Prime meets all of the requirements for the preference. For example, if the District engineer's estimate for a construction project is \$100,000, the District shall establish a 10% preference for a SBE Prime. If a Non-SBE Prime is the lowest responsive and responsible bidder at \$100,000 and the next lowest responsive and responsible bid is by an SBE Prime at \$103,000, the SBE would be provided the ten percent preference and be awarded the contract at \$103,000. The SBE Prime's bid was only \$3,000 greater than the Non-SBE Prime. Therefore the SBE Prime was within 10% of the lowest Non-SBE Prime's responsive and responsible bid and able to take advantage of the preference to obtain the contract award. The above example is illustrated below in the table.

(e) The Bid Equalization does not apply to bids let under the Sheltered Market Program or when all bids received are from SBE Primes firms.

TABLE 7.6-1
Bid Equalization Example using 10% as Incentive Bonus

Bid Incentive example	Lowest Non-SBE Prime Certified Firm	Lowest Certified SBE Prime Firm
Bid	\$100,000	\$103,000 *
Bid Equalization (10%)	-0-	<10,300>
Tabulation	\$100,000	\$92,700

Note:

*In this example, the District will pay the \$103,000 award, with the difference between the 100,000 bid and the 103,000 bid, being the cost the District is willing to incur to advance the SBE Program commitment.

(2) Sheltered Market Program. The District shall provide for sheltered markets for only SBE's to bid on designated solicitations. The District shall be guided in designating a selecting sheltered market ~~solicitations~~ by selecting industries in which small businesses have usually not had an opportunity to compete for awards against larger businesses. ~~Additionally~~ in order to designate award a ~~contract in a~~ sheltered market the District must identify ~~receive responses from~~ at least 3 SBE's available to perform work within the industry identified in the solicitation. ~~If no bid or response is received for a contract that has been designated for the Sheltered Market, the contract shall be competed pursuant to the District's Procurement Policy.~~

(3) Subcontracting Requirements.

(a) Bids – The District shall set subcontracting goals for all bids based on availability. Availability refers to vendors registered ~~vendors~~ with the District, including ~~certified Small Business Enterprise (SBE)~~ firms able to perform work within specific commodity codes. The formula for setting a goal is expressed as the total number of ~~District-certified (SBE)~~ firms within specific commodity codes in a scope of work divided by the total number of vendors registered ~~vendors~~ with the District's Procurement Department within the same commodity codes at the time of the preparation of the solicitation. Numerically, this is expressed as:

$$\frac{\text{Total Number of District Certified SBE's}}{\text{Total Number of District Registered Vendors}} = \text{Subcontracting Goal Percentage}$$

The maximum goal that will be applied to any solicitation will be 25%. When an SBE goal is set bidders shall may provide work to one or more District SBE's in order to meet the goal. At the time of submittal of its bid, the bidder shall identify all SBE firms which will be utilized as subcontractors, by using Form No. 0956, "SBE Subcontractor Participation Schedule" effective (August 3, 2006), which is hereby incorporated by reference and which can be obtained from the District upon request. All bids submitted where SBE participation is required, shall include Form No. 0957, "Statement of Intent to Perform as a SBE Subcontractor" effective (August 3, 2006), which is hereby incorporated by reference and can be obtained from the District upon request. This form shall be signed by both the SBE subcontractor and the bidder and the form shall reflect the parties' intent to establish a business relationship as well as the type of work and percentage of work that the SBE subcontractor will perform. Failure to submit any of the information as required herein shall lead to the bid being deemed non-responsive.

Any bidder failing to meet the established goal shall be deemed non-responsive. If an SBE Prime intends to subcontract work to an SBE subcontractor, the SBE Prime must submit the aforementioned forms at the time of submitting its bid or be deemed non-responsive. If the SBE Prime intends to perform 100% of the work, the SBE Prime does not have to submit the aforementioned forms.

(b) Proposals – For contracts awarded based on an evaluation criteria, the District shall award points as reflected in Table 7.6-2. The maximum points will be awarded to the proposer if 25% or more of the total project work is performed by SBE firms. Percentages reflect the amount of the total contract value proposed to be assigned to SBE firms.

TABLE 7.6-2
EVALUATION POINT TABLE

10 POINTS FOR SBE PARTICIPATION	
≥ 25% =	10 points
≥ 23% =	9 points
≥ 21% =	8 points
≥ 19% =	7 points
≥ 17% =	6 points
≥ 15% =	5 points
≥ 13% =	4 points
≥ 11% =	3 points
≥ 9% =	2 points
≥ 7% =	1 points

(c) At the time ~~the~~ proposal is submitted ~~at of its bid or proposal~~ the proposer ~~bidder or proposal~~ shall identify all SBE firms (if any) which will be utilized as subcontractors, by using Form No. 0956, “SBE Subcontractor Participation Schedule” effective (August 3, 2006), which is hereby incorporated by reference and which can be obtained from the District upon request. All ~~bids or proposals~~ with SBE subcontractor participation shall include Form No. 0957, “Statement of Intent to Perform as a SBE Subcontractor” effective (August 3, 2006), which is hereby incorporated by reference and can be obtained from the District upon

request. This form shall be signed by the SBE subcontractor and the bidder or proposer and the form shall reflect the parties' which confirms their intent to establish a business relationship as well as the type of work and percentage of work that the SBE subcontractor will perform. If a SBE Prime intends to subcontract work to an SBE subcontractor, the SBE Prime must submit the aforementioned forms at the time of submitting its proposal. Non SBE Primes will not receive points if they choose not to use SBE subcontractors. The District will not provide SBE points to a proposer if the District can not establish the proposer's intent. and confirms the SBE participation percentages. The proof of certification for all SBE's must be submitted to the District at the time of bid or proposal. Failure to submit any of the information required herein shall lead to the bid or proposal being deemed non-responsive.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History--New 8-3-06, Amended_____.

40E-7.674 Certification Review Procedures.

(1) Upon receipt by the District, all applications for SBE certification shall be screened to ensure appropriate signature and completeness. The application must be signed by the individual with the authority to bind the applicant. ~~If the application is submitted by means of a facsimile machine, the signature page of the application, with the original signature of the owner, must be submitted to the District within thirty (30) days of facsimile submission.~~

(2) Within thirty (30) days following receipt of the application, the District will request the applicant business to furnish omitted items or additional information,

if any. If all requested information is not received by the District within thirty (30) days from the date of the request, the District will return the unprocessed application to the applicant business.

(3) Applicants determined eligible shall receive certification as an SBE from District staff. Once certified, an applicant shall remain certified for a period of three (3) years unless the applicant fails to follow this rule and is sanctioned pursuant to the Rule. The District retains the right to re-evaluate the certification of any business at any time.

(4) Applicants determined ineligible shall receive a notification from District staff. Applicants receiving this notification of ineligibility shall not be eligible to submit new applications until 180 days after the date of the notice denying certification.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History–New 8-3-06, Amended_____.