



Community Business Development Partners

MILWAUKEE COUNTY

Rick Norris, PE, Director, DBE Liaison Officer, ACDBE Liaison Officer

COUNTY OF MILWAUKEE

INTEROFFICE COMMUNICATION

Date: June 30, 2014

To: Supervisor Theodore Lipscomb Sr., Chair, Judiciary, Safety and General Services Committee

From: Rick Norris, PE, Director, Community Business Development Partners (CBDP)

Subject: Update on the Minority Impact Statement

Background:

The Milwaukee County Board passed an ordinance on "Minority Impact Statement" for all County projects and contracts of \$300,000 or more. The measure, sponsored by Supervisor Khalif Rainey, is designed to assess, measure and report the efforts to engage minority populations and businesses when contracts are issued by Milwaukee County. Additionally, the ordinance is meant to identify and modify policies and procedures that may restrict fair access to contracting opportunities. The implementation of the measure will be a quantitative data-driven analysis in an effort to identify the financial impact of the Milwaukee County program and how it affects minority populations in the County.

Update:

DAS is working with Corporation Counsel and other departments to develop a more robust system that creates more meaningful and greater DBE participation. Individuals from DAS-CBDP, DAS-Economic Development, and Corporation Counsel have met to discuss policies and procedures that affect contracting opportunities for minority owned businesses. CBDP has identified protocols and procedures that may be implemented to improve participation. The following list of recommendations will minimize the impediments to contracting opportunities, and will increase participation levels. Some of the recommendations are in place, while others will require Board approval.

1. **Modification of the Fiscal Note:** Working with Supervisor Rainey and the Comptroller's Office, CBDP will further the feasibility and benefit of modifying the Fiscal Note form requiring Departments to report the impact the action item would have on the MBE, WBE and SBE community. The requirement would be relatively simple and straightforward, a check mark reflecting positive, neutral or negative impact with the opportunity to elaborate.
2. **Modification of Department Budget Narrative:** In an effort to elevate the importance of Milwaukee County's mission to support and empower MBE, WBE and SBE communities, CBDP will work with Performance, Strategy and Budget to determine the value and feasibility of incorporating a metric or specific narrative related to the MIS.
3. **Eliminate Proposal & Bid Shopping Conditions:** Currently the identification of Disadvantaged Business Enterprise (DBE) and related contract amounts are oftentimes not required in the initial proposal/bid submittal. The successful proposer/bidder is required to secure participation only after the award is given. If a proposer/bidder is not able to secure a DBE firm, a Good Faith Effort is then submitted. This practice is

inadvertently creating a “Bid Shopping” condition. The successful Prime, based in part on their fee proposal must seek subs that will agree to work within the budget. If the Prime cannot find a sub, the contract might be awarded without participation.

The remedy is to require the identification DBE firms in submittal of proposals and bids. Specifically, this includes the name of the DBE firms, proposed contract amount, and participation percentage. The benefit of this approach is two-fold: first, it assures DBE participation, eliminating the possibility of accepting a bid on a Good Faith Effort basis; second, the DBE is able to provide an economically viable bid during the bid process rather than having to accept a “take it or leave it” offer from the Prime.

4. **DBE Participation as a winning strategy:** Currently for contracts awarded through an RFP process, there is little or no qualitative analysis of an RFP submitted by a Proposer based on meaningful DBE participation; it’s a simple quantitative measure based on meeting the goal.

Going forward, proposals will be evaluated on two measures; quantitative analysis (meeting the goals percentages) and qualitative analysis (meaningful participation). As part of the proposal evaluation process, points will be given to a Proposer that has meaningful DBE participation. Knowing that meaningful participation will be part of the scoring process, Proposers will view the quality of participation as a means for gaining evaluation points in the selection process.

5. **Upfront Involvement:** In the initial development of the scope of work, CBDP will become more involved in the initial RFP/BID development stage to achieve better outcomes. For instance, in certain cases unbundling bid solicitations may increase participation in both sub and prime contraction with little or no impact.

CBDP will work with Milwaukee County Departments to identify opportunities to construct RFPs that provide easier access to DBEs without impacting efficiency or cost.

6. **Prime Consultants and Contractors Collaboration:** Currently there is limited outreach to prime contractors to explain the RFP/BID process as it relates to DBE participation.

Going forward CBDP will develop an outreach program to primes consultants and contractors to explain the RFP/BID solicitation as it relates to DBE participation and how potential Primes can utilize the CBDP department to find qualified DBE firms prior to submittal. Additionally, CBDP plans to host an Annual Consultant & Contractor meeting that identifies potential projects listed in the County budget report.

7. **Increase the pool of participants:** There may be unintentional impacts of policies that restrict access or limit participation opportunities for DBEs. For federally funded projects, the regulations restrict participation to DBE certified companies. A DBE firm graduates when the owner’s personal net worth is greater than \$1.3 million.

Under Chapter 42 for non-federally funded projects, Milwaukee County limits participation to only DBEs to satisfy participation goals. Minority Business Enterprises (MBE), Women-owned Business Enterprises (WBE) and Small Business Administration (SBE) firms are disadvantaged if they happen to have “graduated” from DBE status. As a result adopting the federal definition of DBE for our contracts creates an impediment to capacity building.

By changing Chapter 42 to include MBE, WBE (MBE & WBE, which has no personal net worth restrictions) or DBE firms for consideration on solicitation will increase participation. Milwaukee County would not certify MBE and WBE firm, but would accept the State of Wisconsin list of certified MBE and WBE firms as an option. CBDP currently certifies companies as both DBE and SBE. By including MBE, WBE and SBE, our goal is to

reduce the number of waivers reported each month, and increase the numbers of S/W/MBE firms as primes. A change in Chapter 42 requires Board approval.

8. **Good Faith Effort Language:** The existing Good Faith Effort language in solicitations needs to be clear and understandable. CBDP will provide written “uniform” procedures to ensure that Proposers/Bidders are submitting Good Faith Effort documentation that demonstrates a sincere effort to solicit DBE firms. A major procedural change is that Proposers/Bidders must contact the CBDP department for assistance for identifying certified firms. This procedure will ensure that the Proposer is using the maximum resources available to increase participation.

9. **Transformation from Information:** Currently CBDP is simply tracking and reporting on DBE waivers.

Going forward, CBDP will create a waiver database for the purpose of transforming waived contracts into future contracting opportunities. CBDP will use the database to publish the type of contracts and their related scope of services to do the following:

- a. Outreach to the DBE and S/W/MBE communities to encourage companies to consider modifying their business strategy to provide services listed on the Waiver Report. In other words to expand their business to match Milwaukee County needs.
- b. Reducing contracts without participation by expanding the pool of potential companies. CBDP will routinely perform a market analysis by cross referencing waived contracts against potential MBE, WBE and SBE firms capable of providing the service.

10. **Outreach to Milwaukee County Departments:** CBDP and Procurement departments will schedule an informational meeting to explain the new RFP/BID document preparation and selection process. The current DocuSign program is an excellent tool for contract development and management. Building off the success of DocuSign, the submittal of DBE participation forms will be mandatory in order to complete the online process.

11. **B2GNow:** A three year plan is to have departments require prime contractors to input payment information into B2GNow. B2GNow is a web-based program that tracks and monitors compliance associated with payment to certified companies. This will assist in tracking payments to firms, which should improve the cash flow position of certified firms. See attached graph.

Next Steps:

CBDP will continue to work with Supervisors, Corporation Counsel and other Departments to formulate create and implement a plan that will allow the County to pursue a shared goal of more meaningful DBE participation.

Approved by:



Rick Norris, PE
Director, CBDP

cc: Chris Abele, County Executive
Khalif Rainey, County Supervisor
Don Tyler, Director of Administrative Services

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