

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**RESOLUTION NO. 2012-03**

WHEREAS, the continued growth of the Charles County economy will primarily come from its existing small local businesses and be dependent on their successes; and

WHEREAS, according to Dun and Bradstreet, employers with fewer than 25 employees make up the vast majority of all employers in Charles County; and

WHEREAS, the County can have a positive impact on the growth and prosperity of small local firms and the economy of Charles County by appropriately and competitively using its market power in its purchasing of goods and services to benefit these firms; and

WHEREAS, local and national economic studies have demonstrated that every dollar spent with a local firm has a beneficial multiplier effect in the economy over what occurs when the same dollar is spent with a non-local firm; and

WHEREAS, the County Commissioners of Charles County recognize that it is in the best interest of the County to promote purchasing and procurement of goods and services from qualified small vendors who have place of business that is physically located in Charles County; and

WHEREAS, the County Commissioners are also committed to increasing the opportunities available for Charles County local women and minority owned businesses/employers, the overwhelming majority of which have less than 10 employees; and

WHEREAS, the enactment of a Small Local Business Enterprise Program will benefit minority and women owned firms in a race and gender neutral way; and

WHEREAS, County Commissioners have enacted, by law, a Small Local Business Enterprise (SLBE) Program and have delegated the implementation of such program to the Purchasing Division of the Department of Fiscal and Administrative Services for establishment of administrative procedures, policies and regulations necessary to administer the Program;

NOW, THEREFORE, BE IT RESOLVED by the County Commissioners of Charles County, that Attachment "A", the attached Small Local Business Enterprise Program ("SLBE") program parameters, limits, and matrix attached hereto and made a part hereof, is hereby adopted as a companion to Bill No. 2012-\_\_\_ and may be amended, as necessary, from time to time by further resolution of the County Commissioners.

BE IT FURTHER RESOLVED that the Purchasing Division of the Department of Fiscal and Administrative Services is directed to prepare supplementary processes, procedures and guidelines for using agencies and vendors to aid in the implementation and appropriate phasing-in of the Small Local Business Enterprise (SLBE) Program.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

COUNTY COMMISSIONERS  
CHARLES COUNTY, MARYLAND

\_\_\_\_\_  
Candice Quinn Kelly, President

\_\_\_\_\_  
Reuben B. Collins, II, Esq., Vice President

\_\_\_\_\_  
Ken Robinson

\_\_\_\_\_  
Debra M. Davis, Esq.

\_\_\_\_\_  
Bobby Rucci

ATTEST:

\_\_\_\_\_  
Denise Ferguson, Clerk to the Commissioners

**SLBE PROGRAM PREFERENCE PARAMETERS, LIMITS AND MATRIX**

**Section 1. Authority** – In accordance with the requirements of the Charles County Code Section 203-1 (P)(3), this attachment to Resolution 2012\_\_\_\_\_ clarifies certain definitions, preference parameters, and program limits necessary to the effective and efficient implementation of the Small Local Business Enterprise (SLBE) Program.

**Section 2. Definitions** – the definitions outlined below apply to this program unless stated otherwise.

(a) **Broker** – a person that conducts business (other than real estate, investment, or insurance sales) on a pass-through basis) and with respect to:

(i) **Supplies:**

- Does not own, operate or maintain a place of business in which supplies of the general character required under the contract are kept in stock in the regular course of business,
- Does not regularly assume physical custody or possession of supplies of comparable character to those offered to the County, or
- Exclusively acts as a middleman in the provision of supplies offered to the County; or

(ii) **Services:**

- Does not regularly maintain the capability, capacity, training, experience, and applicable regulatory licensing to directly perform the principal tasks of a contract with the County, and acquires the services elsewhere, for the benefit of the County.

(b) **Prime contractor** – refers to a person or business entity obtaining, applying for or has a contract with the Charles County Government.

- (c) Joint Venture – refers to a business agreement when two or more parties come together to form a temporary partnership to take on one project and both exercise a degree of control over the project. In a joint venture, both parties are invested in the project in terms of money, time, and effort.
  
- (d) Subcontractor – refers to a person or business entity having a contract with a prime contractor to fulfill a portion of the prime contractor’s contract with the Charles County Government.

**Section 3. Contracts under the Small Local Business Enterprise Program.**

Unless otherwise noted, the following applies to the procurement of commodities, services and construction by the Charles County Government (CCG).

- (a) **SLBE Reserve.** All procurements not subject to formal solicitation (currently up to \$25,000) are reserved exclusively for qualifying small local businesses subject to the following limitations:

- 1. There must be at least 3 SLBE firms in the judgement of the Purchasing Division qualified to submit bids or proposals.
- 2. If fewer than three bids/quotes are received, or if the lowest SLBE bid/quote received is deemed to be 10% or more above the lowest non-SLBE bidder’s bid, then the commodity/service may be procured from a non-SLBE firm.

- (b) **Non-Construction Contracts Obtained by Formal Solicitation** (currently solicitations for amounts greater than \$25,000 and not to exceed an initial award of \$500,000):

- 1. Invitations To Bid – Prime Contractor: A price preference for a registered SLBE of 5% greater than the lowest responsive and responsible non-SLBE bid if the SLBE is a prime contractor.
- 2. Invitations To Bid – Joint Venture or Sub-Contractor: If an SLBE is part of a joint venture or is utilized as a sub-contractor, up to 5% price preference may be awarded based upon only the value of the commodities or services to be provided by the SLBE, not the total contract amount.

3. Requests For Proposals – Prime Contractor: A ten-point preference (out of a possible 100 point technical proposal evaluation) for an SLBE as a prime contractor.
4. Requests For Proposals – Joint Venture or Sub-Contractor: If an SLBE is part of a joint venture or is utilized as a sub-contractor, up to ten (10) preference points may be awarded. The number of points awarded will be prorated, based upon the percentage value of the commodities or services to be provided by the SLBE.

(c) **Construction Contracts Obtained by Formal Solicitation** (Currently solicitations for amounts over \$25,000 and not to exceed an initial award of \$500,000):

1. Invitations To Bid – Prime Contractor: A price preference for a registered SLBE of 5% greater than the lowest responsive and responsible non-SLBE bid if the SLBE is a prime contractor.
2. Invitations To Bid – Joint Venture or Sub-Contractor: If an SLBE is part of a joint venture or utilized as a sub-contractor, a price preference of up to 5% may be awarded based upon only the value of the commodities or services to be provided by the SLBE, not the total contract amount.
3. Requests For Proposals – Prime Contractor: A ten-point preference (out of a possible 100 point technical proposal evaluation) for an SLBE as a prime contractor.
4. Requests For Proposals – Joint Venture or Sub-Contractor: If an SLBE is part of a joint venture or is utilized as a sub-contractor, up to 10 preference points may be awarded. The number of points awarded will be prorated, based upon the percentage of the value of commodities or services to be provided by the SLBE.

(d) When several distinct services and/or commodities are required for a procurement project (e.g., task order contract with several Architectural or Engineering related disciplines), two or more contracts may issued by the Purchasing Division to encourage SLBE competitiveness as prime contractors, if such multiple contracts are compatible with the needs of the CCG Department requesting the contract(s) and not contrary to the best interests of the County.

(e) **Exemptions and Exclusions from the SLBE Program** are as follows:

1. Any single procurement over \$500,000.
2. Contracts which conflict with state or federal laws or grant requirements.
3. Pre-existing contracts or extensions of pre-existing, multiyear contracts executed by the County.
4. Procurements already in process prior to the effective date of the ordinance adopting the SLBE program or, for certain elements of the program, the phase-in date established by the Purchasing Division as approved by the County Administrator.
5. Sole source and piggyback contracts.
6. Intergovernmental agreements, emergency procurements, and memoranda of understanding/agreements.
7. Joint/cooperative procurement conducted with other jurisdictions
8. Any procurement for which there are not at least three (3) local SLBE's qualified or able to perform the contract
9. Contracts or solicitations granted a waiver by the President of the Charles County Commissioners as being in the best interests of the County. (Any such waivers will be reported to the full board of commissioners, which may decide, at its discretion, to review the waiver.)