Agenda Item Details

Meeting: Feb 26, 2020 - City Commission Meeting & Summary

Category: 13. POLICY FORMATION AND DIRECTION

Subject: 13.03 Consideration of the revised and consolidated Minority Women Small Business Enterprise (MWSBE) Policy for the City, County, and Blueprint IA, and corresponding updates to City Procurement Policy 242--Patrick Twyman, Financial Services

Access: Public

Type: Action, Discussion

Preferred Date: Feb 26, 2020

Absolute Date: Feb 26, 2020

Fiscal Impact: No

Recommended Action: Option 1: Approve the revised and consolidated Minority Women Small Business Enterprise (MWSBE) Policy for the City of Tallahassee, Leon County, and Blueprint Intergovernmental Agency, and corresponding updates to City of Tallahassee Procurement Policy 242.

Public Content

For more information, please contact: Veronica McCrackin, Manager of Procurement Services Division at (850) 891-8665 or Darryl Jones, Deputy Director of the Office of Economic Vitality, MWSBE Division at (850) 528-5241.

Statement of Issue:

This agenda item seeks City Commission approval of the revised and consolidated Minority Women and Small Business Enterprise (MWSBE) Policy (Attachment #1) and corresponding updates to City Procurement Policy 242 (Attachment #2), providing that future City of Tallahassee solicitations will adhere to this consolidated MWSBE Policy effective April 1, 2020. This revised and consolidated MWSBE Policy is based on the findings of the 2019 Disparity Study, which revealed disparity in the four-county market area of Leon, Gadsden, Wakulla, and Jefferson counties.

Once the consolidated MWSBE Policy has been approved by the City of Tallahassee, Leon County, and Blueprint Intergovernmental Agency--and these entities' corresponding procurement policies have been updated--the consolidated MWSBE Policy will become effective April 1, 2020. All solicitations released by the City of Tallahassee on or after this date will comply with this new policy. This new policy provides uniform standards for the following: aspirational goals for MBE and WBE firm participation, the determination of responsiveness by OEV staff of the MWBE portion of a bid, and the scoring of the MWBE section of a responsive bid by OEV staff. City procurement staff will work towards educating both city employees and vendors about the new MWSBE Policy during the interim.
Blueprint Intergovernmental Agency has already adopted the revised and consolidated MWSBE Policy at its last meeting on January 30, 2020. The Leon County Board of County Commissioners will consider the revised and consolidated MWSBE Policy at its next scheduled meeting on February 25, 2020.

Staff is requesting City Commission approval to adopt the consolidated MWSBE Policy, and make conforming updates to City Procurement Policy 242, as necessary.

**Recommended Action:**

Option 1: Approve the Revised and Consolidated Minority Women Small Business Enterprise (MWSBE) Policy for the City of Tallahassee, Leon County, and Blueprint Intergovernmental Agency, and corresponding updates to City of Tallahassee Procurement Policy 242.

**Fiscal Impact:**

**Supplemental Material/Issue Analysis**

**History/Facts & Issues:**

In 2016, the City of Tallahassee City Commission and Leon County Board of Commissioners merged their respective supplier diversity offices into the Office of Economic Vitality Minority, Women, and Small Business Enterprise (MWSBE) Division. In order to continue a legally defensible race and gender conscious government program, a disparity study must first identify evidence of disparity in the relevant market area. Accordingly, the MWSBE Division awarded a contract to MGT of America, Inc. (MGT) to conduct a disparity study in the four-county market area of Leon, Gadsden, Wakulla, and Jefferson counties. The 2019 Disparity Study revealed sufficient evidence to support a continued race and gender conscious MWSBE program, as well as a single, consolidated MWSBE Program that serves the City of Tallahassee, Leon County, and Blueprint IA. The study was accepted by Blueprint IA on June 27, 2019, and became the basis for the proposed consolidated MWSBE policy.

The results of the 2019 Disparity Study became the basis of the proposed MWSBE Policy, which establishes the following uniform standards applicable to the procurement divisions of the City of Tallahassee, Leon County, and Blueprint IA:

- Establishes aspirational goals for MBE and WBE participation in solicitations
- Defines “Responsiveness” with regard to the OEV MWSBE Division’s evaluation of MWBE responses to solicitations
- Establishes a scoring criterion for the OEV MWSBE Division’s evaluation of MWBE responses to solicitations

The MWSBE Division of OEV will be responsible for evaluating the responses to all solicitations with project specific goals for MWBE responsiveness, including scoring of the MWSBE section of the solicitation.

**Aspirational Goals:** The 2019 Disparity Study provided new, consolidated aspirational goals, which represent payments to MWBE certified firms performing work on City, County, or Blueprint IA projects as a percentage of total spending. The aspirational goals for MWE and WBE spending are as follows:

<table>
<thead>
<tr>
<th>Procurement Category</th>
<th>Aspirational MBE Goal</th>
<th>Aspirational WBE Goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Prime Contractors</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>Construction Subcontractors</td>
<td>14%</td>
<td>9%</td>
</tr>
<tr>
<td>Architecture &amp; Engineering</td>
<td>8%</td>
<td>6%</td>
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</table>
Responsiveness: The consolidated MWSBE policy provides that the Office of Economic Vitality’s (OEV) MWSBE Division will be responsible for evaluating the responses to all solicitation with project specific goals for responsiveness, pursuant to the table below. Where project specific goals are set, respondents or vendors will be asked to provide an MWBE Participation Plan and/or Good Faith Effort documentation as part of their response. If the MWSBE Division finds that a response is non-responsive to the MWBE portion of the solicitation, the MWSBE Division will recommend that the Procurement Services or Purchasing Division deem the respondent non-responsive to MWBE criterion. The consolidated MWSBE policy provides that determination of overall responsiveness will be governed by the applicable Purchasing Manual or Procurement Policy of the appropriate entity.

### MWBE Response Evaluation: Responsiveness

<table>
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<tr>
<th>Recommendation</th>
<th>Response</th>
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| RESPONSIVE     | • Completed MWBE Participation Plan and MWBE Section that is eligible for full points;  
                   • Completed MWBE Participation Plan and MWBE Section that is eligible for partial points and completed Good Faith Effort documentation demonstrating why responded could not meet the full project specific goal; OR  
                   • Completed Good Faith Effort documentation. |
| NON-RESPONSIVE | • Completed MWBE Participation Plan that is eligible for partial points but no Good Faith Effort documentation demonstrating why responded could not meet the full project-specific goal;  
                   • An MWBE Participation Plan that is incomplete, unsigned, or otherwise ineligible for points and no Good Faith Effort documentation; OR  
                   • No MWBE Participation Plan or completed Good Faith Effort documentation. |

**Scoring:** The MWSBE Division of OEV will be responsible for scoring the MWBE section of a solicitation and determining whether the MWBE Participation Plan and Good Faith Effort Documentation, if any, is responsive. The MWSBE Division will then provide the MWBE Score and determination of the MWBE responsiveness to the relevant procurement agent. The procurement agent and any relevant scoring committee is responsible for scoring the remainder of the vendor’s response.

The consolidated MWSBE Policy generally provides that a maximum of 12 points is available for MWBE Section of a solicitation. The table below lays out all possible MWBE Score Outcomes.

### MWBE Score Outcomes

<table>
<thead>
<tr>
<th>Score</th>
<th>Response</th>
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<tbody>
<tr>
<td>2 Points</td>
<td>MWBE Section demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; apprenticeship or externship relationship, but the MWBE Participation Plan is ineligible for 5 or 10 points. <strong>Good Faith Effort documentation demonstrating why respondent could not meet the project specific goal is necessary for responsiveness.</strong></td>
</tr>
<tr>
<td>Points</td>
<td>Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets a portion of the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Does not demonstrate Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship. <strong>Good Faith Effort documentation demonstrating why respondent could not meet the project specific goal is necessary for responsiveness.</strong></td>
</tr>
<tr>
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</tr>
<tr>
<td>5 Points</td>
<td>Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets a portion of the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Also demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship. <strong>Good Faith Effort documentation demonstrating why respondent could not meet the project specific goal is necessary for responsiveness.</strong></td>
</tr>
<tr>
<td>7 Points</td>
<td>Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Does not demonstrate Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship.</td>
</tr>
<tr>
<td>10 Points</td>
<td>Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Also demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship.</td>
</tr>
<tr>
<td>12 Points</td>
<td>Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Also demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship.</td>
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When MBE or WBE firms respond to a solicitation as a prime contractor or consultant, the MBE or WBE firms may self-perform the project specific goal corresponding to the firm’s certification. For example, if a certified MBE firm responds to a solicitation as a prime contractor, the goal for MBE participation is fulfilled. The MBE prime contractor remains responsible for meeting the subcontracting goal for WBE participation.

**Good Faith Effort**

When a respondent fails to meet project specific goals in whole or in part at the time of response submittal, supplier diversity professionals like the MWSBE Division presume that MWBE firms were available to complete the work, but the respondent did not engage them. The respondent is responsible for demonstrating that it made a good faith effort to engage MWBE firms to meet the project specific goals, but was unable to do so, through submission of Good Faith Effort documentation.

Good Faith Effort documentation will, for the first time, be evaluated the same way for all three entities. Ten different kinds of documentation are acceptable to demonstrate Good Faith Effort, including, but not limited to: attendance at a pre-bid or pre-proposal meeting, copies of advertisements placed in the local newspaper and minority publications, or copies of written correspondence sent to certified MWBE firms.

**SBE PROGRAM**

The proposed MWSBE Policy provides two procurement strategies to increase the utilization of Small Business Enterprise (SBE) firms: reserve projects and unbundling of projects. Reserve projects are identified by size and reserved for only SBE firms to respond. Unbundling of projects is a strategy used, where feasible, to break large projects into smaller projects to increase SBE firm participation as prime contractors or consultants.

The first strategy is to reserve, where feasible given project time constraints and certified SBE firm availability, those projects valued under $150,000 for competition among only certified SBE firms. Solicitations for reserved projects valued under $150,000 will be advertised only to certified SBE firms, and only certified SBE firms will be
allowed to respond. If no certified SBE firms respond to a reserved solicitation or the responses are deemed unreasonable, all responses will be rejected and the project will be re-advertised in the usual manner to all prospective respondents.

The second strategy is to encourage as a matter of policy the “unbundling” of projects, where feasible, into smaller projects which may be more suitable for SBE firm participation. As part of the solicitation development meetings arranged by the City Procurement Services and County Purchasing Divisions, the MWSBE Division will recommend that projects be broken into smaller projects to encourage SBE firm participation.

**Mentor-Protégé; Joint Venture, Partnership, and Association; and Apprenticeship or Externship**

The proposed MWSBE Policy encourages Mentor-Protégé relationships and Joint Venture, Partnership, and Association to afford prime contracting and consulting opportunities for MWBE firms on City, County, and Blueprint projects. The consolidated MWSBE Policy provides incentive for prime contractors and consultants to employ apprentices and externs for the first time through Apprenticeship or Externship. Where applicable, Mentor-Protégé and Apprenticeship or Externship relationships and Joint Ventures, Partnerships, and Associations will be worth 2 points towards a respondent’s MWBE Score. The consolidated MWSBE Policy incentivizes these relationships for the first time with additional points in an MWBE Score.

**Mentor-Protégé Relationships**

The MWSBE Division will approve a Mentor-Protégé relationship between a Mentor and a Protégé that is an MBE, WBE, or SBE firm certified with the MWSBE Division for an initial period of 3 years. Each year, the Mentor and Protégé will prepare a three-year development plan that will help the certified firm build capacity and experience. A Mentor responding to a City, County, or Blueprint solicitation can demonstrate a Mentor-Protégé relationship in its response for 2 points and may count the work of its Protégé towards one half of the relevant MBE or WBE goal.

**Joint Venture, Partnership, and Association**

A Joint Venture is a joint business association—a separate legal entity like a corporation or LLC—consisting of one certified MWBE firm and one non-MWBE firm or two certified MWBE firms formed to carry on a single business activity which is limited in scope and duration. A Partnership or Association is subject to the same requirements as a Joint Venture, but does not require the formation of a legal entity separate from its component firms. The MWBE firm or smaller MWBE firm in a Joint Venture, Partnership, or Association will comprise a minimum of ten percent (10%) of the association and will receive a share of contract dollars proportionate to the percentage of its participation. From its creation and each year subsequent, a Joint Venture, Partnership, or Association will submit a Joint Venture, Partnership, and Association Affidavit and all contractual agreements related thereto. Joint Ventures, Partnerships, and Associations responding to City, County, and Blueprint solicitations can earn 2 points for demonstrating their relationship in their response and may count the work of the smaller MWBE firm towards one half of the relevant MBE or WBE goal.

**Apprenticeship or Externship**

Respondents may earn 2 points towards for affirming in their response that the respondents themselves or their subcontractors or sub-consultants will participate in an apprenticeship program registered with the Florida Department of Education or the United States Department of Labor or utilize otherwise-qualifying apprentices or externship for at least ten percent (10%) of the labor hours on the construction project. Respondents will be required, quarterly, to submit documentation of the company’s participation in an apprenticeship program or an externship program offered by qualified workforce development intermediary or educational institution or documentation of apprentice utilization.

**Reporting:** The effectiveness of the MWBE Program and SBE Program will be measured by a review of funds spent with MWSBE firms as a percentage of the total spending of the City, County, and Blueprint. Program effectiveness will also be measured by efforts of City, County, and Blueprint staff to provide prime contracting opportunities for MWSBE firms. The MWSBE Division will compile program information into an annual report. These annual supplier diversity reports on MWSBE utilization will be captured uniformly for all three governments.
because 1) a consolidated MWSBE Policy ensures uniformity in processes, thus uniformity in data collection; 2) the utilization of the B2GNow Contract Compliance Monitoring software, that tracks both non-MWSBE and MWSBE subcontracting, will capture the same data for the City of Tallahassee, Leon County Government, and Blueprint.

As with the existing program, prime contractors and consultants will be expected to maintain records about their subcontractors, subconsultants, or suppliers and make those records available to the MWSBE Division. Primes will also be responsible for providing a Final Pay Affidavit. Capture of all prime and subcontracting data, including MBE, WBE, SBE, and non-minority firms, will facilitate progress towards reaching the aspirational goals.

**Department(s) Review**

**Options**

1. Approve the revised and consolidated Minority Women Small Business Enterprise (MWSBE) Policy for the City of Tallahassee, Leon County, and Blueprint Intergovernmental Agency, and corresponding updates to City of Tallahassee Procurement Policy 242.

   **Pros:** Ensure uniform policy of MWSBE matters with the County and Blueprint IA.

   **Cons:** None

2. Do not approve the Revised and Consolidated MWSBE policy.

   **Pros:** None

   **Cons:** City Procurement Policy will not be in agreement with County or Blueprint IA procurement policy, and may complicate solicitations after April 1, 2020.

**Attachments/References:**

1. Minority, Women, and Small Business Enterprise Policy (OEV MWSBE)
2. City Procurement Policy 242