

Implementing Order



Implementing Order No.: IO 3-53

Title: Miscellaneous Construction Contracts Program

Ordered: 12/05/2017

Effective: 12/15/2017

AUTHORITY:

Sections 2-8.1 and 2-8.2.7.01 of the Code of Miami-Dade County, Resolutions R-1139-07, Resolution R-597-08, and Sections 1.01, 2.02 and 5.03(D) of the Miami-Dade County Home Rule Amendment & Charter.

SUPERSEDES:

This Implementing Order (IO) replaces the prior IO 3-53 and supersedes Section III.C.1 of Implementing Order 3-39, which became effective on April 16, 2010.

SCOPE:

This IO establishes the policy for administration of the Miscellaneous Construction Contracts (MCC) Program. This IO is applicable to the pre-qualification, registration, award and administration of miscellaneous construction contracts with a maximum value as specified in Section 2-8.1(b) of the Code of Miami-Dade County (Code). The MCC Program has two (2) plans. The 7040 Plan is 100% set-aside for certified Small Business Enterprise-Construction (SBE-CON) contractors. The 7360 Plan is open to all contractors and only used if either federal funding is involved or an SBE-CON set-aside cannot be established.

The County Mayor or County Mayor's designee shall ensure that the MCC program is utilized as approved by the Board of County Commissioners and that the work is awarded in a fair and equitable manner. The Internal Services Department (ISD) Small Business Development (SBD) Division shall administer the MCC Program. The use of the MCC program shall be in strict adherence with all applicable local, state, and federal regulations.

POLICY:

This IO is intended to enhance contracting opportunities for SBE-CON contractors and to expedite the award of construction contracts.

PROCEDURES:

I. DEPARTMENT ELIGIBILITY AND INCLUSION OF CONTRACTS

All County departments are eligible to access the MCC Program. To participate, the department must adhere to the procedures described herein and maintain well-trained, knowledgeable staff to manage the construction activities. Inclusion of contracts in the MCC Program shall be as established by Section 2-8.2.7.01 of the Code.

II. CONTRACTOR REGISTRATION PROCESS

A. MCC Program Participation Requirements

To enroll in the MCC Program, contractors should submit an MCC Program Registration Form to SBD. Contractors must be in good standing with the County by not having any outstanding debts and demonstrating acceptable past performance.

B. 7040 Plan Registration Requirements

Contractors wishing to participate in the 7040 Plan must comply with the following two (2) requirements:

1. Register as a vendor with ISD Procurement Management Services Division; and
2. Be certified as a Miami Dade County Small Business Enterprise - Construction (SBE-CON) contractor and maintain certification at all times as a SSE-CON contractor with SBD.

Note: SBE-CON certification requires that the contractor hold valid Miami-Dade County Certificates of Competency and/or State of Florida contractor's licenses.

Contractors will be automatically enrolled in the 7040 Plan by checking the appropriate box on the Small Business Enterprise Program certification application and effective the date of the SSE-CON certification approval. If the contractor opts out of the 7040 Plan by checking the appropriate box on their SSE Certification Application the firm will not be added to the pool. Contractors may be enrolled in the 7040 Plan at any time after the submittal of a SBE certification application by completing and submitting the MCC Program Registration Form.

C. 7360 Plan Registration Requirements

Contractors wishing to participate in the 7360 Plan must comply with the following three (3) requirements:

1. Register as a vendor with ISD Procurement Management Services Division;
2. Submit a completed MCC Program Registration Form to SBD; and
3. Hold at all times valid Miami-Dade County Certificates of Competency and/or State of Florida licenses.

D. Emergency Response Team Pool Registration Requirements

An emergency is an unforeseen or unanticipated, urgent and immediate need for construction services where the protection of life, health, safety, welfare of the community or the preservation of public property would not be possible using any of the County's standard contracting methods. The Emergency Response Team (ERT) Pool under the MCC Program may be used for such construction contract awards.

Contractors wishing to be a part of the ERT Pool must comply with the following:

1. Meet the requirements of either the 7040 or 7360 Plan;
2. Complete the MCC Program Registration Form and indicate their intent to be part of the ERT Pool;
3. Submit proof of insurance for Worker's Compensation, General Liability and Automobile Liability (Owned, Non-Owned and Hired Vehicles) Insurance in an amount not less than \$300,000 combined single limit for bodily injury and property damage; and
4. Be available 24 hours per day/ 7 days per week and respond to the user department's emergency call, within two (2) hours of the call, by communicating with a live person from said user department.

Note: In the event a contractor fails to respond two (2) consecutive times within two (2) hours of being contacted for an emergency, the user department shall notify SBD of the contractor's lack of compliance. SBD will then determine if the contractor will be suspended from the ERT Pool. SBD will allow a suspended contractor to reregister for the ERT Pool following the expiration of a six-month suspension period.

III. REQUEST FOR PRICE QUOTATION IN THE CAPITAL IMPROVEMENTS INFORMATION SYSTEM

A. Request for Price Quotation Creation

A Request for Price Quotation (RPQ) refers to the solicitation document issued by the County containing the project scope of work to be performed and requesting submittal of prices and other necessary information. The solicitation process begins when a user department creates and submits a complete RPQ in the Capital Improvements Information System (CIIS).

An RPQ from a user department shall:

1. Contain an estimated project value based on recent prices (no more than six months old);
2. Have a well-defined scope of services;
3. Identify special requirements, when applicable;
4. Clearly state in CIIS the plans and/or specifications, if any; and
5. Contain the Office of Management and Budget (OMB) approved capital budget project number, site number and its specific funding source with the index code (if applicable), as all RPQs are subject to funding approval by OMB.

The user department shall include the "RPQ Bid Form" with the bid package they provide to bidders.

B. Bonds

It is the policy of the County to foster opportunities for small businesses and the requirement for a Bid Bond or Payment and Performance Bond may serve as a barrier for an opportunity. Accordingly, SBD will review RPQs requiring a Bid Bond or Payment and Performance Bond with an estimated contract value less than \$200,000 to determine whether such requirement is appropriate under the circumstances before it provides the user department with a bidders list.

C. Liquidated Damages

User departments are encouraged to include liquidated damages provisions in RPQs, when applicable.

D. Single Trade Contract

A Single Trade Contract is created when 100% of the scope of the work can be performed by a Specialty Building Contractor as defined under Chapter 10 of the Code or when the scope of work is primarily a single trade but ancillary trade work is required to complete 100% of the work. Under the 7040 Plan, only Specialty Building Contractors can bid as the prime contractor on a Single Trade Contract RPQ.

E. Multiple Trade Contract

A Multiple Trade Contract is created when the scope of work to be performed requires a licensed General Contractor (ex., Building, Engineering or Mechanical) as prime

contractor and specialty subcontracting trades. Under the 7040 Plan, subcontractors must be certified SBE-CON contractors unless none is available, in which case the user department must request an exemption from SBD prior to issuing the solicitation.

IV. MCC PROGRAM SOLICITATION PROCESS

A. 7040 Plan Solicitations

RPQs issued for the 7040 Plan are not publicly advertised and only contractors registered in the 7040 Plan are eligible to bid by invitation only. Once the user department submits a complete RPQ through CIIS, SBD will review the RPQ for compliance with this 10 and create a bidders list as stated below. To process the RPQ, three (3) or more licensed prime contractors in the 7040 Plan must be licensed in the categories required for the work.

A contractor's certification level established pursuant to Section 10-33.02 of the Code determines that contractor's participation level in the 7040 Plan. The Mayor or Mayor's designee shall be authorized to issue, and regularly update, the Contractor's Rotation Policy. The Contractor's Rotation Policy shall be intended to distribute contracts equitably among contractors registered in the 7040 Plan based on number of prior contracting opportunities within the plan and contract awards. The Contractor Rotation Process establishes the placement of each 7040 Plan contractor for RPQs. Once SBD approves a contractor to participate in the 7040 Plan and its profile is complete in the CIIS, the system will allocate the placement of that contractor based on a rotation factor. The rotation factor is further explained in SBD's Contractor's Rotation Policy.

1. RPQs valued up to \$10,000

SBD will provide the user department a bidders list with a minimum of (4) contractors in numerical order based on each contractor's placement on the rotation. The user department shall invite Bidder Number 1 to provide a quote and award the contract to it, if the quote is responsive and the bidder is responsible. If Bidder Number 1 either (1) fails to respond, (2) is unavailable to perform the work, (3) provides a quote that is not responsive, or (4) is not responsible, the user department shall give Bidder Number 2 the same opportunity to provide a quote. This process shall continue until the user department awards the contract to a contractor on the list or the project is canceled. In the event that the user department determines that none of the contractors from the bidders list can be awarded or none responded to the RPQ, the user department shall request from SBD an additional bidders list.

2. RPQs valued from \$10,001 to \$200,000

SBD shall provide the user department with a minimum of ten (10) contractors that will bid competitively. However, user departments may request that SBD provide it with all contractors registered in the primary license trade.

3. RPQs valued from \$200,001 to \$5,000,000

The user department shall invite all contractors registered in the primary license trade to bid competitively. RPQs in the 7040 Plan valued at \$250,000 and over may be subject to Community Workforce Program (CWP) requirements. SBD will provide the CWP goal, if applicable.

B. 7360 Plan Solicitations

RPQs processed through the 7360 Plan are those that are either federally funded or approved by SBD as there is insufficient availability for a 100% SBE-CON set-aside. However, projects to be processed through the 7360 Plan must first be submitted to SBD for review and application of SBE subcontractor and/or CWP measures, if applicable.

RPQs for the 7360 Plan are advertised publicly and are open for bidding by all contractors that comply with the requirements of this 10. SBD will advertise 7360 Plan RPQs and post on the ISD Procurement Management Services website.

V. 7040 AND 7360 PLANS RPQ AWARD PROCESS

A. Sealed Bids

All sealed bids must be opened publicly and read aloud.

B. Recommendation for Award

For the 7040 Plan, the Recommendation for Award letter will be issued to the responsive and responsible bidder. For the 7360 Plan, the Recommendation for Award letter will be issued to the lowest priced, responsive and responsible bidder. SBD shall review the Recommendation for Award (via CIIS), confirm that the contractor's insurance is current and approve the Purchase Order (via ADPICS/ERP) to ensure compliance with this 10.

Note: Contractor's insurance must be approved by the ISD Risk Management Division.

Award amounts more than 20% below or above the original estimated contract value shall include written justification in CIIS from the user departments. A user department shall also provide a written justification for any decision to not use a contractor that proffered a bid to the County in the rotation process.

C. Posting and Filing of Awards

Awards from \$25,000 to \$250,000 shall be posted by the user department on ISD's website and notification shall be sent to all bidders. Awards greater than \$250,000 shall be filed by the user department with the Clerk of the Board.

D. Notice to Proceed

The user department shall only approve, execute and release the Notice to Proceed (NTP) after SBD approves the purchase order. The executed NTP constitutes a contract with Miami-Dade County for the MCC Program and shall incorporate by reference the latest version of the contract documents available at the time of execution of the NTP. No work shall begin prior to the approval of the purchase order and issuance of the NTP.

VI. ERT POOL AWARD PROCESS

An Emergency RPQ may be awarded without utilizing the competitive bid procedures if the user department determines that the work to be performed is an emergency and cannot be performed within the required time using competitive purchasing procedures. The user department's Project Manager shall process a request for the emergency work by contacting, and awarding the project to, a contractor from the ERT Pool in CIIS.

Contractors may submit their emergency quotes by telephone, facsimile or e-mail, followed by written confirmation.

Within five (5) working days after the contractor is contacted to perform the work described in the Emergency RPQ, the user department's director or authorized designee shall submit to SBD a written explanation of the circumstances mandating the emergency procedures.

VII. CHANGE ORDERS OR REVISIONS TO THE RPQ

The County may process change orders, which result in additions to, or reductions from, the amount, type or value of the work described in the RPQ, including the contract timeline. User departments shall follow the same approval process for MCC Program awards outlined above when submitting a change order. Change Orders must have all required authorizations prior to submittal to SBD.

Any County contract with small business measures is required to meet at least eighty-five percent (85%) of the small business goals applicable to the tasks and value of the portion of the contract work performed to date before a change order or contract amendment may be considered for approval, unless the following explanatory information has been provided. Items with small business measures which fail to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the user department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment.

A. Contracts Valued up to \$1,000,000

Change orders for contracts with a current value up to \$1,000,000 require authorization by the user department's Project Manager and Assistant Director.

B. Contracts Valued \$1,000,001 or over

Change orders for contracts with a current value of \$1,000,001 or over require authorization as shown in the table below.

% Contract Value of Cumulative Change Order Amount*	% Time Extension*	Authorization by (or designee)
< 15%	< 15%	User Department Project Manager and Assistant Director
15 – 25%	15 – 25%	User Department Project Manager and Director
> 25%	> 25%	User Department Project Manager and Deputy Mayor

***Not to exceed the maximum value specified in Section 2-8.1(b) of the Code.**

User departments shall submit to SBD copies of all executed change orders regardless of the dollar amount or time change requested. A change order is executed when all applicable signatures are received, which may include contractor, user department Project Manager, user department Assistant Director, user department Director, Deputy Mayor and surety.

Any change order that will increase the contract value in excess of the maximum value specified in Section 2-8.1 (b) of the Code shall be subject to approval by the Board of County Commissioners.

VIII. PERFORMANCE EVALUATIONS

In accordance with Administrative Order No. 3-42, *Evaluation and Suspension of Contractors and Consultants*, all contractors shall be evaluated for their performance at least once on each capital improvement contract. The performance evaluation shall be completed in the CIIS by the user department's Project Manager no later than 90 days after contract completion or final acceptance, whichever comes first. Performance evaluations may be used as a basis for determining future awards.

IX. CONSTRUCTION MANAGEMENT AND CIIS

User departments shall identify a "Project Qualifier" for each RPQ submitted to SBD. The Project Qualifier and the personnel assigned to manage a capital improvement project must have working knowledge of the type of work to be accomplished and possess general project/construction management skills. All personnel assigned to manage an MCC Program RPQ shall become familiar with the policies and Procedures involving the use of CIIS. SBD staff shall provide overall CIIS training to all users.

Maintaining data in the CIIS

User departments shall provide, on a monthly basis, a current status for each RPQ by entering the appropriate information in that RPQ's unique "home page" in the CIIS.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Approved by the County Attorney
as to form and legal sufficiency.