



CONTRACT MONITORING DIVISION OFFICE OF THE CITY ADMINISTRATOR



Edwin M. Lee, Mayor
Naomi M. Kelly, City Administrator

Romulus Asenloo, Acting Director

LBEAC November 3, 2016 Special Meeting Minutes

1. Call to Order

Committee Members present: Clifton Burch, Stacey Camillo, Boris Delepine, Elahe Enssani, Miguel Galarza, Alan Guy, Virginia Harmon

Committee Members Absent: Matthew Ajiake, Emylene Aspillá, Juliana Choy-Sommer, Darolyn Davis, Robert Lo, Iris Martin-Lopez, Wayne Perry, Ruben Santana

Staff Present: CMD: Romulus Asenloo, Yumiko Maeda, Stephanie Tang, Nichole Truax, Ryan Young

Chair Galarza called the meeting to order at 10:12 a.m.

2. Discussion and action item regarding recommendations to the City Administrator's Office on changes to the Rules and Regulations applicable to LBE Supplier Certification and the Bid Discount/Rating Bonus for LBE suppliers bidding as primes

- a. Due to a lack of quorum, the LBEAC could not take any action on this item. Ryan Young, from CMD Certification, handed out and presented the recommendations from the LBEAC Subcommittee tasked with looking into the LBE Supplier issues/concerns.
- b. The following were the key points discussed:
 - Principal Place of Business Requirement
 - How will CMD enforce "continuously open"?
 - Will the "continuously open" language be overly burdensome to LBE?
 - There was general agreement that "fixed" location language is necessary and adding language from 14B.3(A)(5) could be incorporated

SEC. 14B.3. LBE CERTIFICATION:

(A) **Criteria for LBE Certification.** The Director shall certify as an LBE any business that meets all of the following criteria and also meets the criteria set forth in Section 14B.3(B), Section 14B.3(C) or Section 14B.3(D):

(2) The business is continuously in operation.

(5) The business maintains its principal place of business in a fixed office within the geographic boundaries of the City that provides all of the services for which LBE certification is sought, other than work required to be performed at a job site; provided, however, that suppliers are not required to maintain their principal place of business in San Francisco, but are required to maintain a fixed office in San Francisco that meets all of the requirements of this Section other than the principal place of business requirement.

An office is a fixed and established place of business, as determined by the Director, including a qualified home office, where business is conducted on a regular basis of the type for which certification is sought. A residence qualifies as an office only if the residence is situated within the geographic boundaries of the City, and none of the business owners also maintain an office outside the residence in the same or related field, and a business owner claimed the home office as a business deduction on the prior year's income tax return, or for businesses started after the last tax return, would qualify for a deduction on the next tax return. None of the following constitutes an office: a post office box, a temporary location, a movable property, a location that was established to oversee a project such as a construction project office, or a work space provided in exchange for services as opposed to monetary rent.

To establish a principal place of business in San Francisco, a business must demonstrate that the majority of its principals are based in the San Francisco office.

Suppliers must maintain a warehouse in the City that is continuously stocked with inventory consistent with their certification. Truckers must park their registered vehicles and trailers within the City.

- Striking of the direct relationship provision
There were no concerns raised about the removal of this requirement.
- Broadening of the requirement that items of a “general character” be stocked in the warehouse instead of specific items
- Software/IT removed from supplier category.
 - There were no objections to this change.
 - It was noted that Chapter 21.30 (b) exempts software licensing purchase from the contracting requirement of the Administrative Code.
SEC. 21.30. SOFTWARE LICENSES, SUPPORT, ESCROW, FINANCE, AND EQUIPMENT MAINTENANCE AGREEMENTS.
(b) Software licensing procurements are not subject to the contracting requirements of the Administrative or Environment Code, but shall be subject to the requirements established by Section 21.03(j) and Chapter 67. For the purpose of this section, software licensing procurements shall be deemed to include both the licensed software product, any escrow agreement for source code, finance agreements, and support services for such product where support for that product is available only from the licensor.
- More thought needs to go into the “continuously open” and the “software” provisions
- There is need for CMD and OCA to have a conversation about Specially Manufactured Items

Other items raised/discussed

- CPI increases for contracts
- Multi-year contracts – subcontractors/subconsultants receiving retention when their scopes are completed but prior to final completion of the contract

Adjournment

The Committee adjourned at noon.