

RICHLAND COUNTY COUNCIL
SOUTH CAROLINA



Committee Members

Joyce Dickerson, Chair
District Two

Bill Malinowski
District One

Damon Jeter
District Three

Kelvin E. Washington, Sr.
District Ten

Norman Jackson
District Eleven

**OFFICE OF SMALL BUSINESS OPPORTUNITY
AD HOC COMMITTEE**

September 16, 2014
4:30 PM
4th Floor Conference Room

I. CALL TO ORDER

II. MISSION STATEMENT [ACTION] [PAGE 3]

- A. Original Mission Statement
- B. Revised Mission Statement

III. ESTABLISHMENT OF DIVISION [ACTION] [PAGES 3-4]

- A. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; so as to change overall management of the program to the Office of Small Business Opportunity; and Amending Chapter 2, Administration; Article V; County Departments; Division 5A, Office of Small Business Opportunity; so as to create two divisions within the department [ACTION] [PAGES 9-25]
- B. SLBE Division
- C. Business Development Division
- D. Future Divisions(s) [DBE, MWBDE, etc.]

IV. BUSINESS DEVELOPMENT DIVISION [PAGES 4-6]

- A. Educational Assistance Unit

RICHLAND COUNTY COUNCIL

SOUTH CAROLINA



1. Various seminars, workshops, courses related to business development [**PAGES 7-8**]

B. Technical Assistance Unit

1. Mentor Protégé Program [**ACTION**]

2. Access to Financial Capital Program

3. Bonding and Insurance Program [**OCTOBER AGENDA**]

V. OCTOBER'S COMMITTEE ITEMS [FOR INFORMATION ONLY]

A. Bonding and Insurance

B. New Staffing

C. Additional Items

VI. ADJOURNMENT



Office of Small Business Opportunity
Small Local Business Enterprises (SLBE) Division
2020 Hampton Street, Suite 3064
Columbia, SC 29204
(803) 576-2130 – Office
(803) 576-2045- TTY
(803) 576-2135 – Fax

**OSBO Ad Hoc Committee Meeting – September 16, 2014
Addendum to the Agenda**

II. Mission Statement

Discussion Point:

At the July 29, 2014 Special-Called meeting, Council deferred approval of the Mission to a future meeting. Some Council members indicated the statement was too long and should be made more succinct; therefore, staff revised it to make it more concise as provided below.

Original Proposal:

“The Office of Small Business Opportunity is an inclusive program committed to promoting Richland County small businesses in growing, building capacity and providing access to resources by offering opportunities for meaningful participation in projects and contracts through a diverse and supportive business environment.”

Revised Proposal:

“The Richland County Office of Small Business Opportunity is committed to promoting, growing, building capacity and providing resources to its small businesses through an inclusive, diverse and supportive business environment.”

Action Item: Does the Committee recommend Council approve or further revise and adopt the revised Mission Statement for the OSBO?

III. Establishment of Divisions – ACTION

Discussion Point:

Staff recommends the establishment of divisions for the department to include the SLBE and the Business Development divisions. Creating divisions allows staff to more effectively focus on specific tasks needed to manage the daily operations within each respective division, which have some similarities and distinctions.

Council previously approved the SLBE program to ensure local businesses had a reasonable and significant opportunity to compete for and participate in Transportation Penny Tax and countywide, non-federally funded contracts. The SLBE Division processes applications for certification, conducts contract administration, monitors and oversees compliance, evaluates proposals, identifies future contracting opportunities and recommends capable and available participants to submit bids for upcoming projects.

The Business Development division will provide capacity building opportunities and support the successful development and growth of small businesses ranging from startups to established businesses that want to take their firms to the next level (participants do not have to be certified SLBEs). This division will provide educational assistance (classes, workshops, seminars, networking opportunities, etc., see pp. 5-6) and technical assistance (Mentor-Protégé, Access to Financial Capital, and Bonding and Insurance) programs to all businesses in Richland County. Because this is a new division, staff requests approval of the recommendations outlined above regarding how the division should be composed.

Future divisions could include a DBE program, an MWDBE program, a Veteran's program or another type of targeted program. A race- or gender specific program could only be developed after the completion of a disparity study which is not projected to begin until at least FY16. The Committee may insert a placeholder in the Ordinance now or wait until any future divisions are established and address an insertion at that point in time if necessary.

If the creation of the divisions is approved, they will be included in the OSBO draft Ordinance which is also being provided to the OSBO Ad Hoc Committee for consideration at its September 16, 2014 meeting.

Action Item: Does the Committee recommend approving the establishment of the SLBE, Business Development and other future divisions of the OSBO?

IV. Business Development Division

Discussion Point:

As mentioned previously, the Business Development Division will support the development and growth of small businesses that either want to start a new business or that want to take their business to the next level. Participants can utilize a variety of business assistance resources and access a combination of development services which would be available to and accessible by small business participants. Some of these programs include:

A. Various Business Development Services - ACTION

Discussion Point:

A number of courses, seminars, workshops, and networking opportunities would be offered to assist participants to develop, grow, market and manage their businesses by providing assistance in identifying their strengths and maximizing the value of their services. Several of the courses to be offered are outlined on pages 5-6 of this Addendum.

Action Item: Does the Committee recommend approving the development and implementation of various business development services?

B. Mentor Protégé Program (MPP) - ACTION

Discussion Point:

On July 22, 2014, this Committee directed staff to research Mentor Protégé programs and bring back a model to the September Committee meeting that would be suitable for the County to consider.

Mentor protégé programs are designed to encourage and motivate prime contractors to assist small businesses and enhance their capability and capacity to perform successfully on County contracts and subcontracts. Mentors provide various forms of individualized business development assistance to protégés. The goal of the program is to enhance the capability of participants to be competitive in the marketplace, achieve entrepreneurial success, contribute to the strength and vigor of the local economy and increase the overall number of small businesses receiving contract and subcontract awards resulting from such partnerships.

Action Item: Does the Committee recommend approving the development and implementation of a Mentor-Protégé program?

C. Access to Financial Capital Program - ACTION

Discussion Point:

On July 22, 2014, the Committee directed staff to research Access to Financial Capital programs and bring back options to the September Committee meeting that would be suitable for the County to consider.

The availability of capital is crucial for small business startup, survival and growth and is a major constraint limiting the growth, expansion and wealth creation of small firms -- especially women- and minority-owned businesses. The following options for the Committee to consider include:

- a. The County making recommendations to participants that can work with financial institutions that provide loans to small business owners;
- b. Offering referrals and access to other financial resources (such as associations and agencies) to provide assistance to small business owners;

- c. Make recommendations to participants to financial institutions that provide unconventional financing sources for firms considered at-risk or high risk.

Action Item: Does the Committee recommend approving the development and implementation of an Access to Financial Capital program?

D. Bonding and Insurance Program – FOR INFORMATION ONLY

On July 22, 2014, the Committee directed staff to research Bonding and Insurance programs and bring back several options to the September Committee meeting that would be suitable for the County to consider.

Update: Staff is currently working with internal departments to identify possible programs and will present this information to the Committee in October. The Program Development Team (PDT) will also introduce their Access to Bonding program for its SLBE participants.

OSBO COURSES, WORKSHOPS AND SEMINARS

The OSBO will, independently and in collaboration with community partners, offer courses, training, educational, professional business advising, other specialized services and networking events designed to support business growth, foster local and regional economic development and assist business owners in developing strategies to increase their contracting and subcontracting opportunities.

Specific types of services that will be offered (but are not necessarily limited to) are listed below:

Prequalification Orientations: Prospective applicants attend an orientation to learn about the certification process, eligibility criteria, program requirements and procedures to guide business owners through the certification process. *This course is currently offered each week and has been since July 2014 and will continue weekly through October 2014. Subsequently, it may be offered biweekly or monthly.*

Doing Business with Richland County: Offered in collaboration with Procurement Office, Business Licenses and other departments to familiarize participants with the process of registering as a vendor, bidding on solicitations, successfully completing the terms of the contract, submitting invoices for payment and to learn about upcoming Transportation Penny Tax and non-federally funded Countywide projects and services. *The OSBO is currently in the planning process of holding its first DBWRC Seminar later this year or early next year.*

Cost Estimating & Bidding: Participants learn how to use cost-estimating tools and techniques to accurately estimate the cost of completing projects, prepare bidding spreadsheets and access other resources to learn how best to prepare bids for future work contracts.

Project Management: Some of the main concepts of project management will be explored, including what project management is, what a project manager does, how to manage tasks and to-do lists, resources and software applications for project management, and how it all fit together.

Financial Statements: Participants learn to read, understand and use financial statements to make sound business decisions and produce measureable financial results. create an accurate operating budget that helps one's company achieve its goals build more powerful and more accurate forecasting models to better analyze financial data, predict revenues and costs, assess risks—and justify critical business decisions.

Cash Flow Management: Attendees learn how to determine how much cash is needed to run one's business and how to efficiently and effectively manage the activities that provide cash in order to generate cash. Some of the related activities include billing customers as quickly as possible, disbursing payments when they come due, collecting cash on overdue accounts, and investing idle cash.

Referrals to Bank Loans, Loan Funds and Guarantee Programs: Identify financial institutions (traditional, credit unions, community banks) that have a history of providing capital to small businesses. Staff will also identify organizations that work with businesses that may be considered at an elevated or high risk.

Starting a Business: Work with community partners and guest speakers to provide a series of workshops and seminars related to the planning, key financial decisions and series of related activities necessary for participants to start a business.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; DIVISION 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; SO AS TO CHANGE OVERALL MANAGEMENT OF THE PROGRAM TO THE OFFICE OF SMALL BUSINESS OPPORTUNITY; AND AMENDING CHAPTER 2, ADMINISTRATION; ARTICLE V; COUNTY DEPARTMENTS; DIVISION 5A, OFFICE OF SMALL BUSINESS OPPORTUNITY; SO AS TO CREATE TWO DIVISIONS WITHIN THE DEPARTMENT.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; is hereby amended to read as follows:

DIVISION 7. SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT
REQUIREMENTS

Sec. 2-639. General Provisions.

(a) *Purpose*

The purpose of this division is to provide a race- and gender-neutral procurement tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in County contracts for construction, architectural & engineering services, professional services, non-professional services, and commodities. The Small Local Business Enterprise (“SLBE”) Program also furthers the County’s public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the County’s compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in County contracts. Moreover, the SLBE Program provides additional avenues for the development of new capacity and new sources of competition for County contracts from the growing pool of small and locally based businesses.

(b) *Scope and Limitations*

This SLBE Program may be applied by the County on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions*

Affirmative Procurement Initiatives – refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

Award – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the County to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (“ITB”) or request for proposal (“RFP”) process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

Bid Incentives – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities including change orders and amendments.

Centralized Bidder Registration System (“CBR”) -- a web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., “Spend” or “Payments”) on County contracts.

County – refers to the County of Richland, South Carolina.

Commercially Useful Function – an SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors.

Specifically, an SLBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

Emerging SLBE – an emerging firm that meets all of the qualifications of a Small Local Business Enterprise, and that is less than five years old, but has no more than five full-time employees and annual gross sales as averaged over the life of the firm that are less than \$1 million.

Goal – a non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract-by-contract basis by either the Director of Procurement OSBO or a Goal Setting Committee.

Goal Setting Committee – a committee established by the Director of Procurement the OSBO for the County, (including a representative of the Procurement Department and a representative of the end-user agency,) and chaired by the Director of Procurement the OSBO, that establishes SLBE Program goals and selects appropriate SLBE Affirmative Procurement Initiatives to be applied to each contract for the County based upon industry categories, vendor availability, and project-specific characteristics. The Director of Procurement the OSBO may establish as many as five separate Goal Setting Committees (i.e., one for each industry category).

Good Faith Efforts – documentation of the Bidder's intent to comply with SLBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder's commitment to comply with SLBE Program goals as established by the Director of Procurement the OSBO or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the County web site; solicitations of bids from all qualified SLBE firms listed in the County's SLBE Directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

Graduation – An SLBE firm permanently graduates from the County’s SLBE program when it meets the criteria for graduation set forth in this policy.

Independently Owned, Managed, and Operated – ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

Industry Categories – procurement groupings for County contracts for purposes of the administration of Affirmative Procurement Initiatives shall be inclusive of Architectural & Engineering, Construction, Professional Services, and Non-professional Services, and Commodities procurements. Industry Categories may also be referred to as “business categories.”

Joint Venture - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

Local Business Enterprise (“LBE”) - a firm having a Principal Place of Business or a Significant Employment Presence in Richland County, South Carolina. This definition is subsumed within the definition of Small Local Business Enterprise.

Non-professional Services – non-construction, non-architectural, and non-engineering services that are other than Professional Services, and such “other” services that do not require any license or highly specialized training and credentials to perform.

Office of Small Business Opportunity – the department of the County responsible for management of the SLBE Program.

Points – the quantitative assignment of value for specific evaluation criteria in the selection process.

Prime Contractor – The vendor or contractor to whom a purchase order or contract is awarded by the County for purposes of providing goods or services to the County.

Principal Place of Business – a location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent of its overall customers or sales dollars, or through which no less than

twenty-five percent of its employees are located and domiciled in the County of Richland and/or Richland County.

Professional Services – any non-construction and non-architectural & engineering services that require highly specialized training and / or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

Responsive - a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE Program requirements.

Sheltered Market – An Affirmative Procurement Initiative designed to set aside a County contract bid for bidding exclusively among SLBE firms.

Significant Employee Presence – no less than twenty-five percent of a firm's total number of full and part-time employees are domiciled in Richland County.

Small Local Business Enterprise ("SLBE") – an independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a "Small Business Enterprise" and a "Local Business Enterprise."

SLBE Plan Execution Certification (SLBE Form – C) - The form certifying the general contractor's intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

SLBE Directory - A listing of the small local businesses that have been certified by the ~~Procurement Department OSBO~~ for participation in the SLBE Program.

SLBE Certification/Re-certification Application (SLBE Form – R) – This form shall be completed by Small Local Business Enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the County's Small Local Business Enterprise Program. This form shall be completed every two years by certified Small Local Business Enterprises by the anniversary date of their original certification.

SLBE Schedule of Size Standard Eligibility Requirements – a document, separate and apart from this ordinance, adopted by the Richland County Council, which defines the SLBE size standard eligibility requirements, in number of employees and annual gross revenue dollars, applicable to the SLBE Program. The size standards shall be reviewed not less than annually and adjusted periodically by the Richland County Council to meet changes in market conditions.

SLBE Schedule for Subcontractor Participation (SLBE Form – S) – This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be

reviewed and approved by the Director of OSBO and the Director of Procurement before contract award.

SLBE Unavailability Certification (SLBE Form – U) - This form demonstrates a bidder's unsuccessful good faith effort to meet the small, local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

Small Business Enterprise (“SBE”) - a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the size standard limitations as adopted and periodically amended in the SLBE Schedule of Size Standard Eligibility Requirements. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department OSBO as an SLBE.

Small Local Business Enterprise (“SLBE”) – ~~A~~ Local Business Enterprise that is also a Small Business Enterprise.}

Spend Dollars – dollars actually paid to prime and / or subcontractors and vendors for County contracted goods and/or services.

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the County.

Suspension – the temporary stoppage of a SLBE firm’s participation in the County’s contracting process under the SLBE Program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.

Sec. 2-640. Program Objectives and General Responsibilities.

(a) To meet the objectives of this Program, the County is committed to:

1. Increasing the participation of Small Local Business Enterprises (“SLBEs”) in County contracting, and, to the extent possible, ameliorating

through race- and gender-neutral means, any disparities in the participation of minority business enterprises or women business enterprises on County contracts.

2. Regular evaluation regarding the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;

3. Establishing one or more Goal Setting Committee(s) (“GSCs”) to provide guidance on the implementation of the rules under this Policy;

4. Continuous review and advice of the GSC in administering the policy and goals herein. The County’s Director of Procurement the OSBO shall determine the size of each GSC that is to be chaired by the Procurement OSBO Director. The Procurement OSBO Director shall also appoint the remaining members of the GSC, will work in conjunction with the Procurement Director to select from the County’s pProcurement personnel, and will work with other County departments affected by this Program; and

5. Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and /or performing on County contracts, and of providing the means of tracking actual County bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, Prime Contractors and Subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the County.

(b) At a minimum, the Procurement OSBO Director shall:

1. Report to the County Administrator and the County Council on at least an annual basis as to the County’s progress towards satisfying SLBE program objectives;

2. Formulate Program waivers, improvements and adjustments to the GSC goal-setting methodology and other Program functions;

3. Have substantive input, in conjunction with the Procurement Department, in a contract specification review process to be undertaken in advance of the issuance of County’s RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority-owned, and other businesses;

4. Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and

5. Monitor and support the implementation of the rules under this Program, and where appropriate, make recommendations to the County Administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the County Council.

(c) At a minimum, each Goal Setting Committee shall:

1. Meet as often as it deems necessary to accomplish its duties but not less than twice annually;

2. Develop the SLBE goal setting methodology to be implemented by the Director of Procurement the OSBO on a contract-by-contract basis; and

3. Monitor and support the implementation of the rules under this Program policy.

Sec. 2-641. Eligibility for the SLBE Program.

(a) For the purpose of this program, a firm will be certified as a Small and Local Business Enterprise (SLBE) with the Procurement OSBO Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the SLBE eligibility criteria as set forth below:

1. It is an independently owned and operated for-profit business concern as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;

2. It meets size standard eligibility requirements for Small Business Enterprises as adopted and periodically amended in the SLBE Schedule of Size Standard Eligibility Requirements.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not

be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement OSBO Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program.

3. The firm is a Local Business Enterprise as defined in this division with a Principal Place of Business or Significant Employee Presence in Richland County, SC as defined herein;

4. The firm has established its Principal Place of Business or Significant Employee Presence in Richland County for at least one year prior to seeking certification as an SLBE; and

5. In the year preceding the date of the initial certification application, the applicant has not received more than \$1,000,000 in County contract payments as a result of contract awards from the County achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the Director of Procurement the OSBO or designated Procurement OSBO Department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the Director of Procurement the OSBO stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE-R) every two years to the Procurement OSBO Department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a Principal Place of Business or Significant Employment Presence in the County of Richland in accordance with this Section 2-641 of Division 7, "Eligibility for the SLBE Program," of this Policy. To qualify for recertification, an SLBE's maximum employment numbers and annual gross revenues average for the three fiscal years immediately preceding the application for recertification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the Director of Procurement the OSBO or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE Program is maintained.

(e) For purposes of this Program, a firm will be certified as an *Emerging SLBE* by the **Procurement OSBO** Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating ~~that~~ it meets all of the Emerging SLBE eligibility criteria as set forth below:

1. The firm complies with SLBE criteria as specified above in Sec. 2-641 (a)(1), (a)(3) and (a)(4);
2. The firm has been in existence for less than five years;
3. The firm has no more than five full-time employees; and
4. The firm's annual gross revenues as averaged over the life of the firm are less than \$1 million.

Sec. 2-642. Graduation and Suspension Criteria.

(a) A bidder may not count towards its SLBE or Emerging SLBE participation the amount subcontracted to an SLBE or Emerging SLBE firm that has graduated or been suspended from the program as follows:

1. An SLBE firm shall be permanently graduated from the SLBE Program after it has received a cumulative total of \$5 million of County-funded prime contract or subcontract payments in at least five separate contracts since its initial certification as an SLBE firm;
2. An SLBE firm shall be permanently graduated from the SLBE program after its three fiscal year average gross sales exceeds the size standard eligibility requirements;
3. An SLBE firm shall be temporarily suspended by the Director of **Procurement the OSBO** for the balance of any fiscal year after it has received a cumulative total of \$1.5 million in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in Affirmative Procurement Initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria. The OSBO will notify the Procurement Department when an SLBE firm's eligibility is revoked;
4. An SLBE firm may have its SLBE eligibility permanently revoked by the Director of **Procurement the OSBO** if it fails to perform a Commercially Useful Function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SLBE firm and its owners would not

otherwise be entitled. The OSBO will notify the Procurement Department when an SLBE firm's eligibility is revoked;

5. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status after it has received a cumulative total of \$2.5 million of County-funded prime contracts or subcontract payments in at least five separate contracts since its initial certification as an Emerging SLBE firm. The OSBO will notify the Procurement Department when an Emerging SLBE firm graduates;

6. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status once its three-year average annual gross sales exceeds \$2 million. The OSBO will notify the Procurement Department when an Emerging SLBE firm graduates; and

7. An Emerging SLBE firm shall be temporarily suspended from Emerging SLBE status by the Director of ~~Procurement~~ the OSBO for the balance of any fiscal year after it has received a cumulative total of \$750,000 in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the Emerging SLBE firm shall be eligible to continue participating in Affirmative Procurement Initiatives as an SLBE firm for the remainder of the fiscal year, and may also participate in Affirmative Procurement Initiatives as an Emerging SLBE firm in the following fiscal year so long as the firm has not yet satisfied the graduation criteria for such status. The OSBO will notify the Procurement Department when an SLBE firm is temporarily suspended.

(b) The Director of ~~Procurement~~ the OSBO shall provide written notice to the SLBE firm or Emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

Sec. 2-643. Appeals.

A business concern that is denied eligibility as an SLBE or as an Emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the County Administrator. A written notice of appeal must be received by the County Administrator within 15 days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the Director of ~~Procurement~~ the OSBO, or designee (other than the Director of ~~Procurement~~ the OSBO), shall also participate in a hearing conducted by the County Administrator or the County Administrator's designee soon as practicable. The decision of the County Administrator, or designee, shall be the final decision of the County.

Sec. 2-644. Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation.

(a) The County, in conjunction with the ~~appropriate Contract Officer Procurement Department~~ and the Director of ~~Procurement~~ the OSBO, may utilize the following Affirmative Procurement Initiatives in promoting the award of County contracts to SLBEs or Emerging SLBEs.

1. *Bonding and Insurance Waiver:* The County, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the County determines that the bonding and or insurance requirements would deny the SLBE or Emerging SLBE an opportunity to perform the contract which the SLBE or Emerging SLBE has shown itself otherwise capable of performing.

2. *Price Preferences:* The County may award a contract to an SLBE or Emerging SLBE which submits a bid within 10% (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than \$25,000 higher than the low bid; nor would it apply on a contract in which the total contract cost would exceed the County’s budgeted price for the contract.

3. *Evaluation Preferences:* The County may reserve up to 20% of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or Emerging SLBE firms, or to joint ventures that have SLBE and/or Emerging SLBE partners

a. For Architectural & Engineering, Professional Services, Other Services, and design / build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or Emerging SLBE participation criterion for all contracts let at predetermined percentage of the total points awarded. The determination will be made using the suggested model outlined in the “Point Evaluation Table” below:

POINT EVALUATION TABLE

10 Points for SLBE Participation	20 Points for SLBE Participation
> 51% = 10 points	> 51% = 20 points
> 45% = 7 points	> 45% = 17 points
> 40% = 6 points	> 40% = 16 points
> 35% = 5 points	> 35% = 14 points
> 30% = 4 points	> 30% = 12 points
> 25% = 3 points	> 25% = 10 points
> 20% = 2 points	> 20% = 8 points
> 15% = 1 points	> 15% = 6 points
	> 10% = 4 points

Contractors may be evaluated on their SLBE or Emerging SLBE participation by utilizing the following schedule, which is most often used by Architectural & Engineering:

Points Awarded		% of Participation Criteria
5.0	51-100	Proposals by registered SLBE owned and/or controlled firms
4.0	36 – 50	Majority prime with registered SLBE participation
3.0	30 – 35	Majority prime with registered SLBE participation
2.0	24 – 29	Majority prime with registered SLBE participation
0	0 – 23	Less than the goal for registered SLBE participation

4. *Mandatory Subcontracting:*

a. The Goal Selection Committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible SLBEs or to eligible Emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or Emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the Mandatory Subcontracting goal for that contract.

b. An SLBE or Emerging SLBE prime contractor may not subcontract more than 49% of the contract value to a non-SLBE.

c. A prospective bidder on a County contract shall submit at the time of bid SLBE – Form S providing the name of the SLBE or Emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or Emerging SLBE, and the work to be performed by the SLBE or Emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the Director of ~~Procurement~~ the OSBO for good cause by submitting the SLBE Unavailability Certification form to the Director of ~~Procurement~~ the OSBO at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the bidder and careful review by the Director of ~~Procurement~~ the OSBO. The Director of ~~Procurement~~ the OSBO shall base his or her determination on a waiver request on the following criteria:

(1) Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SLBEs or Emerging SLBEs;

(2) Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the circumstances of the contract; and

(3) Whether there are no certified SLBE or Emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the Director of ~~Procurement~~ the OSBO, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive. The OSBO will notify the Procurement Department of the issuance of a waiver to a Prime Contractor.

e. In the absence of a waiver granted by the Director of ~~Procurement~~ the OSBO, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law. The OSBO will notify the Procurement Department of the determination of the failure of a Prime Contractor to attain a mandatory subcontracting goal.

f. A Prime Contractor is required to notify and obtain written approval from the Director of ~~Procurement~~ the OSBO in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County. The OSBO will notify the Procurement Department of the reduction in scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor.

5. *Sheltered Market:*

a. The Director of the OSBO, in conjunction with the Director of Procurement, and the appropriate County Contracting Officer may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of OSBO, in conjunction with the Director of Procurement and the appropriate County Contracting Officer may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the ~~County's Contracting Officer~~ Director of the OSBO and

Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. *Competitive Business Development Demonstration Project:*

a. With the concurrence of the Director of the OSBO, in conjunction with the Director of Procurement, the ~~appropriate~~ County ~~Contracting Officer~~ may reserve certain contracts for placement into a Competitive Business Development Demonstration Project ("CBD Demonstration Project") wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such County contracts. The purpose for the placement of a contract into the CBD Demonstration Project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the County.

b. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposals process whereby the selected firm will be required to be a joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future County contracts and to successfully compete in the industry.

c. The Director of OSBO, in conjunction with the Director of Procurement, shall be required to select SLBE candidate firms for participation on such CBD Demonstration Projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

Sec. 2-645. SLBE Program Performance Review.

(a) The Director of ~~Procurement~~ the OSBO or designee shall monitor the implementation of this Policy and the progress of this Program. On at least an annual basis, the Director of ~~Procurement~~ the OSBO or designee shall report to the County Administrator and County Council on the progress of achieving the goals established for awards to certified SLBE and Emerging SLBE firms, reporting both dollars awarded and expended. In addition, the Director of Procurement or designee shall report on the progress in achieving the stated Program Objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on County contracts.

(b) The County shall periodically review the SLBE Program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated Program Objectives. The County Council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program.

Sec. 2-646. Conflicts.

To the extent language in this Division conflicts with other language in Article X, the language in this Division controls only with respect to contracts wherein the Small Local Business Enterprise Program is being applied by the Director of Procurement. In all other respects, prior language in this Article shall remain in full force and effect.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; Division 5A, Office of Small Business Opportunity; Section 2-232, is hereby amended to read as follows:

Sec. 2-232. Creation; director; divisions.

There is hereby created the department of the Office of Small Business Opportunity (OSBO) and the position of director of the OSBO. The director shall be appointed by and report to the county administrator, and his/her term of office shall be at the pleasure of the county administrator. The director of the OSBO shall be a person with education, training, skills, and/or experience that is satisfactory to the county administrator.

The department shall be divided under the director of the Office of Small Business Opportunity into the following functional divisions:

(1) SLBE Division. This division shall manage and administer the SLBE Program (see Section 2-639 et. seq.).

(2) Business Development Division. This division shall manage the Business Development Program and any other programs or functions assigned to the Division by the county administrator or county council.

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

Attest this _____ day of
_____, 2014.

S. Monique McDaniels
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Third Reading:
Public Hearing: