

RICHLAND COUNTY COUNCIL

SOUTH CAROLINA

OFFICE OF SMALL BUSINESS OPPORTUNITY AD HOC COMMITTEE MEETING

June 15, 2016
12:30 PM
4th Floor Conference Room

1. Call to Order
2. Election of Chair
3. Adoption of the Agenda

ITEMS FOR ACTION:

4. **SLBE Ordinance Revision: Sheltered Market Cap (\$250k → \$500k) [PAGES 2-5]**
5. **SLBE Size Standards Revisions [PAGES 6-8]**
6. **County Annual Asphalt/Concrete Contracts [PAGE 9]**
7. **SLBE Goals - Extend Countywide July 1, 2016 [PAGE 10]**
8. **On Call Maintenance Contract for Public Works [PAGE 11]**
9. **Adjournment**



Committee Members

Bill Malinowski
District One

Damon Jeter
District Three

Paul Livingston
District Four

Jim Manning
District Eight

Norman Jackson
District Eleven

Sheltered Market Cap (\$250k → \$500k)

What is an Affirmative Procurement Initiative? An Affirmative Procurement Initiative refers to any procurement tool to enhance contracting opportunities for SLBE / Emerging 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.

Affirmative Procurement Initiatives may be used to enhance SLBE and Emerging SLBE contract participation. Affirmative procurement initiatives are utilized on a case-by-case basis.

What is a Sheltered Market? A Sheltered Market is an Affirmative Procurement Initiative designed to set aside a County contract for bidding exclusively among SLBE firms.

Has Richland County used the Sheltered Market Affirmative Procurement Initiative since the implementation of the SLBE Ordinance? Yes. Richland County has approved four (4) contracts under the Sheltered Market program. (Jouster Street Dirt Road Paving; and 3 Sidewalk Packages) Contract values ranged from \$74,775.00 - \$144,264.00.

What is being proposed? Council Members and staff have heard from SLBE business owners, the National Association of Minority Contractors, and others that they wish for Council to increase the Sheltered Market Contract Cap from \$250,000 (per our SLBE ordinance) to \$500,000. By doing so, SLBE's will have the opportunity to bid on larger contracts; potentially increase profit margins; and gain valuable experience on larger projects (ie, resume building for SCDOT projects). **Staff recommends approval of this item.**

This revision, if recommended for approval, will require an ordinance amendment (three readings and a public hearing). Please find below an excerpt from the County's SLBE Ordinance as it relates to the proposed Sheltered Market revision (highlighted in yellow), as well as the actual ordinance revision.

Sheltered Market:

a. The Director of Procurement and the appropriate County Contracting Officer may select certain contracts which have a contract value of ~~\$250,000~~ \$500,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, 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 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.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; DIVISION 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; SECTION 2-644, AFFIRMATIVE PROCUREMENT INITIATIVES FOR ENHANCING SLBE AND EMERGING SLBE CONTRACT PARTICIPATION; SUBPARAGRAPH 5; SO AS TO INCREASE THE CONTRACT VALUE FOR SHELTERED MARKETS.

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; Sec. 2-644, Affirmative procurement initiatives for enhancing SLBE and emerging SLBE contract participation; Subsection (5); is hereby amended to read as follows:

(5) *Sheltered market.*

a. The director of procurement and the appropriate county contracting officer may select certain contracts which have a contract value of ~~two~~ five hundred ~~fifty~~ thousand (\$~~250,000~~ 500,000) dollars or less for award to a SLBE or a joint venture with a SLBE through the sheltered market program. Similarly, the director of procurement and the appropriate county contracting officer may select certain contracts that have a value of fifty thousand (\$50,000) dollars or less for award to an emerging SLBE firm through the sheltered market program.

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

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2016.

RICHLAND COUNTY COUNCIL

BY: _____
Torrey Rush, Chair

Attest this _____ day of
_____, 2016.

Michelle Onley
Assistant Clerk of Council

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

SLBE Size Standards Revision: Largest Primary NAICS Code → Annual Gross Receipts

Per the SLBE Ordinance, the size standards “shall be reviewed not less than annually and adjusted periodically by the Richland County Council to meet changes in market conditions.” This document defines the SLBE size standard eligibility requirements, in number of employees and annual gross revenue dollars.

Towards that end, the following two revisions are being proposed at this time:

1. Remove “within its largest primary NAICS commodity code” and base the size standard on **annual gross revenues**. This closes a loophole that could potentially allow non-eligible firms to participate in the SLBE program.
2. **Revise the engineering firm dollar amount from \$2.5 million to \$3 million.** Because engineering could be viewed as being a professional service, if a firm is over the cap for engineering, they could potentially claim they classify under professional services so they could qualify for the SLBE program. By leveling the dollar amounts of the two, it would simply eliminate any confusion, as well as the need for clarification of the industry category definitions.

Staff recommends approval of these two revisions to the Size Standards document.

The Size Standards document is separate and apart from the SLBE Ordinance, and as such, will only require one reading of Council.

The proposed revisions are contained on the following two pages, and are highlighted in yellow for your convenience.

Richland County, South Carolina

SLBE SCHEDULE OF SIZE STANDARD ELIGIBILITY REQUIREMENTS

1. Small Business Enterprise ("SBE")

A Small Business Enterprise, as defined by Section 2-639 of the Richland County Code of Ordinances, effective May 6, 2014, shall have the following size limitations:

a. The SBE must not have employed more than **fifty (50)** full-time employees at any one time during the last three years; and

b. The SBE must have annual gross revenues ~~within its largest primary NAICS commodity code as~~ averaged over its most recent past three fiscal years of not more than **\$7 million** for construction firms, specialty trade contractors, and manufacturing firms; not more than **\$3 million** for architectural firms; not more than **\$3 million** for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than ~~**\$2.5 million**~~ **\$3 million** for engineering firms; and not more than **\$2 million** for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services).

c. If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. 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.

2. Eligibility for the SLBE Program

To be certified as being eligible to benefit from, the SLBE Program as an "SLBE" firm or an "SLBE Joint Venture", per Section 2-641(a)(2) of the Richland County Code of Ordinances, a firm (or each member firm of the Joint Venture) must comply with the size standards outlined in section 1 above. To be certified as being eligible to benefit from the SLBE Program as an "Emerging SLBE" firm, a firm must comply with the requirements of Sections 2-641 (e)(1) – (e)(4) of the Richland County Code of Ordinances.

ADOPTED THIS ____ day of _____, 2016.

Torrey Rush, Chair

Richland County Council

Attest: _____

Michelle Onley

Assistant Clerk of Council

County Annual Asphalt / Concrete Contracts: There exists the opportunity for the County to purchase asphalt and/or concrete in order to reduce the burden on small local contractors of assuming the upfront material purchase cost. This may also save taxpayer dollars by reducing risk on small local contractors, and by establishing a fixed unit price between the County and supplier.

It is requested that Council direct staff to explore a county contract to provide asphalt and/or concrete. Staff will bring information back to Council once available.

SLBE Goals – Extend Countywide July 1, 2016: In the FY 17 budget, the funding for the OSBO division of Procurement is transferred from the Transportation Penny Program to the General Fund.

Because of this, it is requested that Council direct SLBE Goals to extend countywide, to include engineering, where applicable, as of July 1, 2016.

On Call Maintenance Contracts for Public Works: There exists the opportunity to implement and/or expand SLBE participation in on call maintenance contracts, such as sidewalk grinding; road striping; and dust control.

It is recommended that Public Works, as well as other applicable departments, research the implementation and/or expansion of on-call maintenance contracts. Staff will bring information back to Council once available.