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Miami-Dade's New Locally Headquartered Business Preference for A&E Contracts

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On May 7, 2024, significant changes were made to the procurement landscape for Architectural and Engineering (A&E) firms in Miami-Dade County. The Miami-Dade Board of County Commissioners approved Ordinance No. 24-47, which introduces a Locally Headquartered Business (LHB) program that provides preference points during solicitations for professional services contracts, specifically for A&E firms that qualify as LHBs.

Enhancing Local Business Opportunities

Historically, Miami-Dade's Locally Headquartered Business program has focused on goods and services, excluding professional service agreements. The recent amendment to Section 2-8.5 of the Miami-Dade County Code removes this exclusion, expanding the LHB program's scope to include professional services. This change aims to bolster local A&E firms by offering them competitive advantages in the bidding process.

New Implementing Orders

With this ordinance, the previous Administrative Order No. 3-39, which governed the allocation of preference points, is replaced with Implementing Order (I.O.) 3-39. Furthermore, a new I.O. 3-68 has been created to provide for the use of LHB in the performance of professional services covered under Florida's Consultants' Competitive Negotiation Act in Section 287.055, Florida Statutes.

Eligibility Criteria for LHB Status

To be classified as a Locally Headquartered Business, A&E firms must adhere to the qualifying criteria detailed in Section 2-8.5(1)(d) of the Code. The Code stipulates that a qualifying firm must be a local business with offices within the boundaries of Miami-Dade County. Moreover, the local address must be the firm's principal place of business.

To achieve local business status, firms must:

- Possess a valid business tax receipt issued by Miami-Dade County for at least one year prior to the submission of bids or proposals.
- Maintain a physical business address within Miami-Dade County.
- Own or lease the business location, which must have been the employment site for at least three full-time employees for a continuous period of one year before the submission.

Moreover, to qualify as the Principal Place of Business, the location must serve as the "nerve center" for the firm's activities, a criterion derived from the U.S. Supreme Court decision in *Hertz Corp. v. Friend* 559 U.S. 77, 92-93 (2010). This definition emphasizes the importance of having a centralized location where a firm's operations are directed and controlled.

Points Allocation System

During the proposal submission process, Miami-Dade County will evaluate whether an A&E firm meets the LHB preference criteria. If the County determines a firm will meet the criteria, points will be allocated based on the status of the Prime Consultant as a LHB, as well as the percentage of work subcontracted to qualifying LHBs when the Prime is not a LHB.

The point allocation system will be as follows:

- If the Prime is not an LHB:

- Less than 5% subcontracting: 0 points
 - 5% to 15%: 1 point
 - 15% to 25%: 2 points
 - 25% to 35%: 3 points
 - 35% to 45%: 4 points
 - 45% and over: 5 points
- If the Prime is an LHB and commits to performing 50% of the work, the team will be entitled to an additional three (3) points. In addition, the team can obtain an additional (2) points based the percentage it subcontracts to LHBs as follows:
- Less than 5% subcontracting: 0 additional points
 - 5% to 15%: 1 additional point
 - 15% and over: 2 additional points

Importance of Understanding the Nerve Center Test

The "nerve center" concept plays a crucial role in establishing where a corporation's principal activities are directed. Despite potential challenges in applying this test—especially with the rise of telecommuting—the Supreme Court has affirmed it as the most effective measure for determining a corporation's principal place of business.

Preparing for Competitive Advantage

The implementation of Local Business and Locally Headquartered Business preferences can significantly influence the outcomes of County procurements. Therefore, it is crucial for A&E firms to carefully review the requirements related to these preferences. By doing so, they can strategically position their teams to enhance their competitiveness in securing contracts with the County.

In conclusion, Miami-Dade's new LHB program not only aims to support local businesses, but also enhances the overall landscape of procurement for architectural and engineering services. Firms looking to benefit from

this initiative should ensure compliance with the updated regulations and prepare robust proposals that align with the County's objectives.

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