

LEGISLATIVE DIGEST

[Administrative Code - Ban on City Contracts with Border Wall Contractors]

Ordinance amending the Administrative Code to prohibit City contracting with companies who bid on contracts or contract with the Federal Government to provide services or goods to construct the border wall referenced in Executive Order No. 13767, dated January 25, 2017.

Existing Law

Existing law does not include any restrictions on City contracting with entities or persons that bid, propose on and/or obtain contracts on the border wall that the Trump Administration seeks to build as referenced in Executive Order No. 13767, 82 Fed. Reg. 8793, dated January 25, 2017 (“Executive Order”).

Amendments to Current Law

The proposed ordinance creates a new chapter in the Administrative Code, which directs that the City will not enter into contracts for commodities or services or contracts for public works or improvements with entities or persons who bid, propose on, or enter into contracts with the Federal Government to perform work on the border wall referenced in the Executive Order. The ordinance would provide limited exceptions to these requirements.

The ordinance would require that the City Controller develop a list of such entities or persons who bid, propose on, or enter into contracts with the Federal Government to perform work on the border wall referenced in the Executive Order, or perform such work, no later than the operative date of the ordinance. (“Border Wall Entity List”) The operative date is 90 days after the effective date of the ordinance. Once developed, the Controller must post the list on his or her website, and update it twice a year.

The ordinance also would require that all City issued solicitations to bid, propose on, or enter into contracts covered by the ordinance require a certification from any party seeking such contracts that they are not on the Border Wall Entity List. As a condition of contract formation, the proposed ordinance also would require that each party to the proposed contract with the City certify that it has not bid, proposed on, or entered into contracts with the Federal Government to build the border wall and/or performed any work for the Federal Government to build the border wall, and promises not to do so during the term of the proposed contract.

The ordinance would require that City contracts include liquidated damages clauses for failure to comply with the conditions imposed under the ordinance and that violating terms of the ordinance is a material breach and may be grounds for termination of the contract, among other remedies.