

LEGISLATIVE DIGEST

[Administrative Code - Amending Local Hire Policy to Set Percentages]

Ordinance amending the Administrative Code to move the Local Hiring Policy from Chapter 6 to a new Chapter 82, set mandatory participation levels for project work hours permanently at 30% for all projects covered by the policy, clarify language regarding application of the policy to projects outside of San Francisco, change the due date for annual reports regarding the policy from March 1 to April 1, and make other clarifications to the policy.

Existing Law

The San Francisco Local Hire Policy for Construction ("Policy") was approved on December 23, 2010. The Policy requires that all Covered Projects in excess of the Threshold Amount (currently \$600,000) include the requirement that the contractor hire local residents at a specific percentage of each trade (currently 30%) to the exclusion of other California residents. The Policy initially established a 20% local hiring requirement, with an annual 5% increase towards a 50% requirement. Since its enactment in 2011, the Board of Supervisors has acted twice by resolution to hold the percentage at 30%.

The Policy does not affect the ability of a contractor to hire non-California residents, even if the contractor ends up with a workforce consisting entirely of out-of-state workers. The term "Covered Project" includes: 1) City public works contracts; and 2) subject to certain exemptions, a) construction projects on property owned by the City, and b) construction projects on real property, located within the jurisdictional boundary of the City, and sold by the City for the purpose of housing development.

The Policy applies to Covered Projects outside the jurisdictional boundary of the City, distinguishing between projects constructed within 70 miles from the jurisdictional boundary of the City and beyond that 70-mile radius. For Covered Projects outside the jurisdictional boundary, but within a 70-mile radius of it, the percentage requirements apply in proportion to the City's actual cost after reimbursement from non-City sources compared to the total cost of the project, and, unless a reciprocity agreement exists, the "local" requirement includes San Francisco residents, workers local to where the work is located, and workers residing within the San Francisco Public Utilities Commission service area. If a reciprocity agreement with another local agency exists, that reciprocity agreement governs. For Covered Projects constructed 70 miles or more beyond the jurisdictional boundary of the City, the "local" requirement includes San Francisco residents, workers local to where the work is located, and workers residing within the region where the work is located. The Policy also requires the Office of Economic Development to prepare an annual report on the Policy on March 1 of each year.

Amendments to Current Law

Primarily, the amendment would move the Local Hiring Policy from Administrative Code Chapter 6, which governs public works contracting, and transfer it to a newly created Chapter 82 of the Administrative Code. It would leave a provision in Chapter 6 to mandate that the Policy be a material term of applicable public work contracts. In moving the Policy, the amendment also would update and summarize the findings. In addition, the amendment would make permanent the requirement that 30% of project work hours be performed by local residents in order to sustain the Policy's goals.

The amendment also would clarify language regarding application of the Policy to those projects constructed outside of the jurisdictional boundary of the City by erasing the distinction between projects constructed outside the City, but within 70 miles of the jurisdictional boundary, and projects located outside that 70-mile radius. The amendment would apply a consistent approach by: 1) applying the percentage requirements in proportion to the City's actual cost after reimbursement from non-City sources compared to the total cost of the project; and, 2) defining the "local" requirement as including San Francisco residents and workers residing within the San Francisco Public Utilities Commission service territory, unless a reciprocity agreement exists. If a reciprocity agreement exists, that agreement will govern.

The amendment also would: 1) change the annual due date for annual reports on the Policy from March 1 to April 1 and 2) clarify terms by capitalizing all defined terms within the Policy.

Background Information

When the Policy initially was passed in 2010, it applied to "Covered Projects," which were defined only as public works contracts entered into by the City that were larger than the Threshold Amount. In 2014, through Ordinance No. 85-14, the Board of Supervisors amended the Policy to expand the definition of Covered Project to include all construction projects on property owned by the City, including construction contracts that are issued by an entity or individual other than the City, in excess of the Threshold Amount, subject to specified exceptions. In 2015, through Ordinance No. 224-15, the Board of Supervisors expanded the definition of Covered Project further to include construction projects on real property, located within the jurisdictional boundary of the City, in excess of the Threshold Amount, and sold by the City for the purpose of housing development. Because the City has expanded the Policy to apply to construction projects beyond public works contracts issued by the City, it is appropriate for the Policy to be in a stand-alone chapter in the Administrative Code rather than in the chapter governing public works contracting. It is also appropriate to update the findings due to the changes in the economic environment since the Policy initially was enacted.

In addition, in 2014 through Resolution No. 80-14 and in 2015 through Resolution No. 74-15, the Board of Supervisors acted to hold the local hiring requirement at 30%, rather than allow it

to escalate to a higher percentage. Consistent with that practice, the amendment would make that action permanent by setting the local hiring requirement at 30%.

The amendment would clarify the Policy regarding projects located outside of the City by erasing the distinction between projects located within and beyond the 70-mile radius of the jurisdictional boundary of the City and applying consistent definitions of “local” residents and other Policy requirements. Finally, the proposed change of the deadline of the annual report from March 1 to April 1 would allow all relevant data to be collected through March 25 annually before the report is issued.

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