

LEGISLATIVE DIGEST

[Administrative Code – Benefit Corporation Discount]

Ordinance amending the San Francisco Administrative Code by adding Chapter 14C, Sections 14C.1 through 14C.3, to provide for a downward adjustment in price or upward adjustment in rating of a proposal or bid from a California Benefit Corporation for a competitively-solicited City contract.

Existing Law

Currently, the City does not apply an adjustment in price for bids or proposals submitted by a Benefit Corporation for a competitively-solicited City contract.

Amendments to Current Law

Under the proposal, Contract Awarding Authorities would apply a downward adjustment in price or upward adjustment in rating of a proposal from a Benefit Corporation for purposes of determining the apparent highest ranked proposal or the apparent low bid. The proposed discount would apply to City contracts that exceed the Threshold Amount in Chapter 6 or the Minimum Competitive Amount in Chapter 21.

Budget and Finance Committee Amendments

On March 14, 2012, Supervisor Chiu proposed the following amendments to this legislation:

1) Limit the application of the Benefit Corporation Discount to apply only if the application of the discount would not adversely impact the ranking for negotiation or award process of a bid or proposal submitted by a Micro-LBE, Small-LBE, SBA-LBE, or a California non-profit; and

2) Limit the Benefit Corporation Discount to all Contracts that exceed the Threshold Amount in Chapter 6 or the Minimum Competitive Amount in Chapter 21, but are less than \$10,000,000; and

3) Reduce the California Benefit Corporation Discount from eight percent (8%) to four percent (4%); and

4) Delete the provision that would have allowed companies receiving a Local Business Enterprise (Administrative Code 14B) bid discount or rating bonus from combining or aggregating discounts; and

5) Require businesses applying for the Benefit Corporation Discount to have been incorporated as a B Corporation for at least six (6) months preceding the application of the discount; and

6) For the first two years of the Ordinance, the Director of the Human Rights Commission in coordination with the Controller, shall conduct a biannual evaluation of the impact of the B

Corporation Discount on 14B LBEs and City contracting. Thereafter, the Director shall conduct an annual evaluation.

During the March 14, 2012 Budget and Finance Committee, Supervisor Chiu asked the City Attorney's Office to include language that would: 1) expand the categories of protected businesses a Benefit Corporation could not displace to also include San Francisco Businesses; and 2) to require a Benefit Corporation to provide evidence, as determined by the Human Rights Commission, of third party verification.

On April 4, 2012 Supervisor Chiu revised the Ordinance to include findings and the following amendments:

- 1) HRC shall verify current Benefit Corporation status with the California Secretary of State; and
- 2) Prohibit application of the Benefit Corporation Discount to a Benefit Corporation that is a subsidiary of a non Benefit Corporation; and
- 3) Authorize HRC to implement rules and regulations consistent with the Ordinance for third party verification.

On April 11, 2012 Supervisor Chiu revised the Ordinance to include the following amendments:

- 1) To expand the category of protected businesses to include a regional business. A regional business is a business that has a principal place of business located in the geographic limits of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Sonoma, and Sacramento; and
- 2) To include an operative date of 90 days from the effective date of the Ordinance; and
- 3) To include an expiration date of three years from the effective date unless extended by the ordinance of the Board.