

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 2, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to
Community Workforce
Program amending Sec. 2-
1701 of the Code of Miami-
Dade County

This item was amended at the Economic Development and Port Miami Committee on June 13, 2013 in two ways: 1) the County will not enter into a capital construction project contract until it receives and approves the contractor's workforce plan, previously the contractor's workforce plan was not required until the County would issue a Notice to Proceed, and 2) the contractor must first attempt to hire employees from the Designated Targeted Area where the project is located before hiring employees from other Designated Targeted Areas within the County.

The accompanying ordinance was placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime and Co-Sponsors Commissioner Barbara J. Jordan and Commissioner Dennis C. Moss.



R. A. Cuevas, Jr.
County Attorney


RAC/smm

Memorandum



Date: July 2, 2013

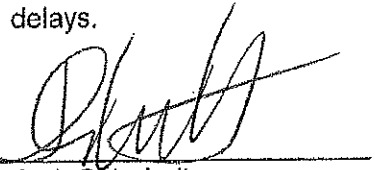
To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Relating to Community Workforce Program Amending Section 2-1701 of the Code

In addition to various non-substantive changes due to revised references, the proposed ordinance requires contractors to hire from the designated target area where the public improvement project is located. Excluded from this requirement are contractors working on Seaport and Airport capital construction contracts which will be allowed to hire from a designated target area other than the designated target area in which the project is located. This ordinance also makes the submission and acceptance of a workforce plan a prerequisite to the issuance of a notice to proceed.

The implementation of this ordinance will only have a fiscal impact in the event that a successful bidder fails to submit an approved Community Workforce Program work plan, which may result in project delays.



Jack Osterholt
Deputy Mayor

Fis6713




MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 2, 2013

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
7-2-13

ORDINANCE NO. _____

ORDINANCE RELATING TO COMMUNITY WORKFORCE PROGRAM AMENDING SECTION 2-1701 OF THE CODE OF MIAMI-DADE COUNTY TO REQUIRE CONTRACTORS, EXCEPT THOSE WORKING ON AIRPORT AND SEAPORT CAPITAL CONSTRUCTION CONTRACTS, TO FIRST HIRE FROM THE DESIGNATED TARGET AREA WHERE THE PUBLIC IMPROVEMENT PROJECT IS LOCATED, AND TO MAKE THE SUBMISSION AND ACCEPTANCE OF A WORKFORCE PLAN A PREREQUISITE TO THE COUNTY ENTERING INTO THE CONTRACT, DELETING REFERENCES TO "THE COUNTY MANAGER" AND REPLACING WITH "THE MAYOR OR THE MAYOR'S DESIGNEE," OR "THE BOARD" WHERE APPROPRIATE, AND DELETING REFERENCE TO "ADMINISTRATIVE ORDER" AND REPLACING WITH "IMPLEMENTING ORDER," PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND EFFECTIVE DATE

WHEREAS, Section 2-1701 of the Code of Miami-Dade County established the Community Workforce Program applicable to capital construction projects located in traditionally economically underserved areas; and

WHEREAS, the objective of the ordinance is to increase employment opportunities in geographic areas of Miami-Dade County designated as Empowerment and Enterprise Zones, Targeted Urban Areas, Community Development Block Grant Eligible Block Groups and Focus Areas, collectively known as "Designated Target Areas"; and

WHEREAS, the Community Workforce Program establishes a Local Workforce Goal requiring that a percentage of the workforce performing construction trades work and labor under a Capital Construction Contract or Work Orders be residents of Designated Target Areas; and

WHEREAS, the Community Workforce Program seeks to provide employment opportunities to residents of Designated Targeted Areas where public improvement projects are located; and

WHEREAS, this Board acknowledges that, due to the regional significance of Airport and Seaport public improvement projects as sources of employment, contractors working on Airport and Seaport Capital Construction Contracts may also need to hire from Designated Targeted Area other than the Designated Targeted Area where the project is located; and

WHEREAS, it is the goal of this Board to increase participation in the program and to ensure that contractors hire from the Designated Target Area early in the construction process to provide maximum opportunities to residents; and

WHEREAS, making the submission and approval of a Workforce Plan a prerequisite to the >>County entering into the contract<<¹ [~~issuance of a Notice to Proceed~~] will increase participation in the program and encourage early hiring from the Designated Targeted Area; and

WHEREAS, the position of County Manager was eliminated by Charter amendment in 2012,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Section 2-1701 the Code of Miami-Dade County is hereby amended as follows:²

¹ Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

² Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< shall be added. Remaining provisions are now in effect and remain unchanged.

- (1) *Definitions.* For purposes of this section the following definitions shall be effective:

* * *

- P. *Review Committee* or *RC* means the committee established by the ~~[[County Manager]]~~ >> Mayor or the Mayor's Designee<<to review proposed contracts for the application of local workforce goals.

* * *

- (2) *Program Components:*

- A. *Application:* Except where state, or federal laws or regulations mandate to the contrary, the provisions of this ordinance shall require review of Capital Construction Contracts/Work Orders for public improvements located in Designated Target Areas to determine the appropriateness of applying a local workforce goal requiring that a minimum of 10% of the persons performing the construction trades and labor work under the contract be residents of Designated Target Areas as set forth in this ordinance. The provisions of this ordinance shall apply to all such Capital Construction Contracts/Work Orders entered into and issued by the County, its departments and agencies including the Public Health Trust or funded in whole or in part by County funds or with private funds on County property. The foregoing notwithstanding, the ~~[[County Manager]]~~ >> the Board<< may by ~~[[Administrative Order]]~~ >> Implementing Order<< provide that Contracts and/or Work Orders below a certain dollar amount shall not be subject to the requirements of this ordinance.

- B. *Establishment of local workforce goal:* A local workforce goal may be applied to a Capital Construction Contract/Work Orders subject to review under this section based on the Scope of Work the relative local unemployment rate, ~~[[and]]~~ and an estimate of the trades and workforce necessary to perform construction trades work and labor under the contract. The RC is responsible for recommending to the ~~[[County Manager]]~~ >> Mayor or the Mayor's Designee<< whether a workforce goal should be applied to a Capital Construction Contract/Work Order. The contract

language for a Capital Construction Contract/Work Order to which a local workforce goal is applied shall specify that a certain percentage of the workforce performing construction trades and labor work under such contract be residents of Designated Target Areas as provided herein.

- C. *Workforce Plan:* Bid and proposal documents for Capital Construction Contracts/Work Order to which a local workforce goal has been applied shall require the contractor, to develop and submit to the County, within fifteen (15) days of notification of award of the contract, a Workforce Plan outlining how the goal will be met and containing all of the information and elements required by this Section. The Plan shall specify the total number of persons that will be used by the contractor (as well as by all subcontractors) to perform all of the construction trades and labor work of the contract, broken down by trade and labor category, minimum qualifications for each category, and the number of persons to be utilized in each category. The Plan shall identify by name, address and trade category of all persons proposed to perform work under the contract currently on the contractor's (or on any proposed subcontractor's) payroll who reside in ~~[[any]]~~ ~~[[the]]~~ ~~>>any<<~~ Designated Target Area ~~[[where the public improvement project is located]]~~. The Plan shall also indicate the number of positions shown on the work, trade categories and minimum qualifications therefore of the positions to be hired by the contractor (or by any proposed subcontractors) to perform the construction trades and labor work under the contract. ~~>>The County will not<<[[issue a Notice to Proceed]]>>enter into the contract<< >>until it receives the contractor's Workforce Plan and deems the Plan acceptable.<<~~ ~~[[The issuance of a Notice to Proceed does not indicate an acceptance of the Plan. The contract language of a contract subject to a local workforce goal shall provide that issuance of a Notice to Proceed prior to SBD's approval of any Plan submitted shall not be deemed a waiver of the requirements that a Plan be submitted and be approved. The contract language of a contract subject to a local workforce goal shall provide that a contractor who does not have a Plan for such contract approved by SBD as of twenty five percent (25%) completion of the contract may be subject to sanctions including, but not limited to, stop payment.]]~~ The contract language of a contract subject to a local workforce goal shall ~~[[also]]~~ provide that in the event that at contract completion, the contractor fails to comply with the established local workforce goal, liquidated damages equal to a minimum of \$1,500.00 per position or the salary that would be payable for such position had the person(s)

been hired for the position as listed on the approved workforce plan to include all approved revisions to the workforce plan, whichever is greater shall be withheld from the contractor's final payment as liquidated damages and be applied to pay part of the costs of the Community Workforce Program under this ordinance. An updated Plan shall be submitted to SBD on a monthly basis. In the event that during the contract time a new hire or a person identified in the Plan as already on the contractor's (or any proposed subcontractor's) payroll to meet the local workforce goal is replaced, Miami-Dade County will require the contractor to immediately contact SBD identifying the replacement. Notwithstanding anything to the contrary above, the contractor may be relieved from the requirements of this ordinance, in part or in whole, if such contractor can demonstrate to SBD that it has utilized its best efforts to achieve the goal in accordance with the prescribed ~~[[Administrative Order]]~~ >>Implementing Order<<.

- D. *Goal compliance:* The following shall count towards compliance with a local workforce goal. Within 15 days of approval of the Workforce Plan, the contractor shall complete and submit a Job Order Request Form (in the form attached to Resolution No. 1145-99, the Clearinghouse for posting of job opportunities) to the Employee Relations Department for each position designated in the approved Workforce Plan for recruitment. The employer/contractor Information portion of the Job Order Request Form shall provide the relevant information for the contractor or subcontractor who will employ the new hire. Persons designated in the approved Workforce Plan as already on the contractor's (or on any proposed subcontractor's) payroll at the time of bid submittal who reside in the DTA in which the public improvement is located and who perform any construction trades work or labor of the contract shall count towards meeting the local workforce goal. Each New Hire residing in >>the<< ~~[[any]]~~ DTA >>where the public improvement project is located<< who is hired to any position designated in the approved Workforce Plan who performs construction trades or labor work of the contract for a minimum duration of one hundred twenty (120) days or the length of the job whichever is less, shall also count towards meeting the goal. Persons that reside in a DTA other than the DTA in which the public improvement is located, ~~[[will not]]~~ ~~[[may]]~~ >>may<< be counted towards meeting the goal ~~[[=]]~~ ~~[[provided the first priority in hiring for such position was given to persons residing in the Designated Target Area in which the public improvement is located, and when the hiring party as well as the WDOs and WROs have demonstrated the SBD that they have been unable to identify~~

~~a qualified resident of the Designated Target Area in which the public improvement is located.]] >>provided the first priority in hiring for such position was given to persons residing in the Designated Target Area in which the public improvement is located, and when the hiring party as well as the WDOs and WROs have demonstrated to SBD that they have been unable to identify a qualified resident of the Designated Target Area in which the public improvement is located<<.~~

>>E. Exceptions: Due to the regional significance of Airport and Seaport public improvement projects as sources of employment, contractors performing work at the Airport and Seaport may hire residents of DTAs other than the DTA where the project is located<< >>and are not required to give first priority to persons residing in the DTA where the project is located.<< >>Persons designated in the approved Workforce Plan as already on the Airport or Seaport contractor's (or on any proposed subcontractor's) payroll at the time of bid submittal who reside in any DTA and who perform any construction trades work or labor of the contract shall count towards meeting the local workforce goal. Each New Hire residing in any DTA who is hired to any position designated in the approved Workforce Plan who performs construction trades or labor work on the Airport or Seaport Capital Construction Contract for a minimum duration of one hundred twenty (120) days or the length of the job whichever is less, shall also count towards meeting the goal.<<

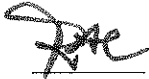
Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.



Prepared by:



Joni A. Mosely

Prime Sponsor: Commissioner Jean Monestime
Co-Sponsors: Commissioner Barbara J. Jordan
Commissioner Dennis C. Moss