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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

**MEMORANDUM**

Amended
Agenda Item No. 7(C)

**TO:** Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

**DATE:** May 1, 2012

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

Ordinance amending Chapter 2 of the Code; creating Section 2-2092 of the Code; establishing First Source Hiring Referral Program

Ordinance No. 12-32

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan, and Co-Sponsors Vice Chairwoman Audrey M. Edmonson, Commissioner Jean Monestime and Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

# Memorandum

MIAMI-DADE COUNTY

**Date:** May 1, 2012

**To:** Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez
Mayor

**Subject:** Ordinance amending Chapter 2 of the Code establishing First Source Hiring Referral Program

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The proposed ordinance establishing, monitoring, and enforcing the First Source Hiring Referral Program will not have a fiscal impact to the County. If this ordinance is adopted, the Mayor will designate the South Florida Workforce Investment Board as the agency in charge of the functions of contract monitoring and compliance for this program.

Office of the Mayor

Fis1012

# MEMORANDUM

(Revised)

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**TO:** Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

**DATE:** May 1, 2012

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

**SUBJECT:** Amended
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**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 Manager'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 _____

Amended
Agenda Item No. 7(C)
5-1-12

ORDINANCE NO. 12-32

ORDINANCE AMENDING CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING SECTION 2-2092 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ESTABLISHING FIRST SOURCE HIRING REFERRAL PROGRAM; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, the average unemployment rate in Miami-Dade County (the 'County") currently exceeds 12.5% and is higher than the averages for the State of Florida and the United States; and

**WHEREAS**, unemployment and underemployment can contribute to significant social and economic burdens on our community, including increased foreclosure rates, crime, and need for costly social services; and

**WHEREAS**, the County awards millions of dollars in contracts for goods and services each year, which results in the creation of a wide variety of employment opportunities; and

**WHEREAS**, these contracts are paid for with taxpayer dollars and should be used to promote the sustenance and creation of jobs that will increase consumer income, decrease levels of poverty, invigorate neighborhood businesses and reduce the need for taxpayer-funded programs in other areas; and

**WHEREAS**, the federal Workforce Investment Act of 1998 ("WIA") created comprehensive reform legislation to affect federal job training programs, and to create a complete workforce investment system; and

**WHEREAS**, the Florida Legislature enacted the Workforce Innovation Act of 2000, which implements the WIA and created Workforce Florida, Inc. and the Workforce Florida Board; and

**WHEREAS**, there are currently twenty-four (24) local areas or regions in Florida, and within each region WIA provides for the creation of a local workforce investment board; and

**WHEREAS**, the South Florida Workforce Investment Board ("SFWIB") is the regional workforce board for Miami-Dade County and Monroe County; and

**WHEREAS**, SFWIB assists employers and prospective employees with employment services, labor market information, and provides necessary training for the economically disadvantaged, dislocated workers, individuals transitioning from welfare to work, and refugees; and

**WHEREAS**, SFWIB provides employers and prospective employees access to a range of specialized services and resources through its career centers, or community-based partners and faith-based organizations (a current list of SFWIB career centers, and community-based partners and faith-based organizations is attached as Exhibit "A"); and

**WHEREAS**, SFWIB, based on its mandate and experience assisting employers and employees navigate the South Florida job market, is the appropriate vehicle to serve as a first source job registry and referral program for employment created from or through a County Contract,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 2-2092 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:[1]

>>**Sec. 2-2092. First Source Hiring Referral Program**

(1) Title. This section shall be referred to as the Miami-Dade County First Source Hiring Referral Program.

(2) Definitions. The following definitions shall apply to this section:

A. "Implementing Order" or "IO" means the implementing order developed by the Mayor or Mayor's designee and approved by this Board of County Commissioners (the "Board") to give effect to the provisions of this Section.

B. "County Contract" means an agreement for the purchase of goods and services specifically identified in the Implementing Order.

C. "Contractor" means any person or entity which enters into a County Contract.

D. "First Source Register" means the register of unemployed persons maintained by the Referral Agency in accordance with the provisions of this Section.

E. "Referral Agency" means the South Florida Workforce Investment Board ("SFWIB"), through its career centers, or community-based partners and faith-based organizations.

F. "Referral Period" means the three (3) to five (5) day period following notification to the Referral Agency of employment availability.

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[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(3) First Source Register created.

The Referral Agency shall compile and maintain a First Source Register, which shall be a listing of unemployed persons, including graduates of programs funded by the Workforce Investment Act to be made available to Contractors as a first source for their employment needs. The Referral Agency shall not discriminate on the basis of race, ethnicity, sex, residence, or other protected category or class, in the compilation or maintenance of the First Source Register, or in its referral activities provided for in this Section. The Referral Agency shall, to the extent allowed by law, maintain a data base which identifies the race, ethnicity, sex, and residence of the persons within the First Source Register sufficient to permit adequate analysis of the available work force.

(4) Referral Procedure.

A. The Referral Agency shall be the first source for employees to fill jobs created to satisfy the requirements of County Contracts. The following requirements shall be included in all County Contracts, except those covered under the Community Workforce Program ("CWP"), and except those covered under programs intended to encourage and assist in the employment of the blind and other severely handicapped persons such as described in Sections 413.032 - 413.037, Florida Statutes (2011):

1. The Contractor, prior to hiring to fill each vacancy arising under a County Contract, shall first notify the Referral Agency of the vacancy and list the vacancy with the Referral Agency. The listing shall contain a detailed description of the job responsibilities and qualifications, and be posted during the Referral Period. The Referral Agency shall provide a list of qualified candidates, if such candidates are available, to Contractor within twenty-four (24) hours of receiving notice of vacancy. Thereafter, Contractor shall (a) review the resumes and qualifications of the candidates, and (b) make a good faith effort as determined by the

County, to fill a minimum of fifty percent (50%) of its employment needs under the County Contract from the First Source Register. Notwithstanding the foregoing, if after the Referral Period a suitable employee is not found from the Referral Agency, the Contractor is free to fill its vacancies from other sources.

2. A good faith effort to employ candidates from the Referral Agency shall constitute, at a minimum, evaluating the qualification of such candidates, and conducting interviews with those candidates who satisfy the minimum competency requirements. The Contractor is not required to hire any individual candidate referred. However, Contractors shall not commit to fill vacancies in any other manner until after the end of the Referral Period, unless the Referral Agency notifies the Contractor in writing prior to the end of the Referral Period that qualified candidates are not available in sufficient numbers to fill the vacancies. Upon such notification, the Contractor may immediately fill vacancies using other sources.

3. In determining whether a Contractor has made good faith efforts, the County may consider, among other criteria to be set forth in the Implementing Order: (a) the number, skills and composition of the Contractor's labor force ultimately hired; (b) whether minimum requirements were established for available positions beyond reasonable requirements to complete the job; (c) the number of referred candidates interviewed for the position; and (d) the Contractor's use of the First Source Register to satisfy its labor needs in contracts other than County Contracts. The County's determination as to whether a Contractor has made such good faith efforts is final and binding.

4. All competitive solicitations for County Contracts, except those covered under CWP, shall set forth the requirements of this Section.

(5) Monitoring and Compliance.

A. County Contracts shall require the Contractor to submit quarterly reports to the Referral Agency indicating the name and number of employees hired by Contractor in the previous quarter, including the source from which such employees were found, and payroll records and tallies of employee work hours. If none of the candidates referred to a Contractor by the Referral Agency were hired, the Contractor shall report the reasons why all referred candidates were rejected in its quarterly reports. Each quarterly report shall be submitted to Referral Agency within two (2) weeks of the end of the quarter.

B. For each County Contract, the Contractor shall retain records sufficient to determine compliance with this Section. Such records shall include: (1) notifications to the Referral Agency; (2) referrals from the Referral Agency; (3) job applications received from sources other than the Referral Agency; and (4) the number of candidates hired based on referrals from the Referral Agency. To the extent allowed by law, such records shall be made available to Referral Agency upon request.

C. Referral Agency shall be entitled to perform random, unannounced site visits to applicable project sites to determine whether or not Contractor has filled its vacancies.

D. Referral Agency shall report to the County, any non-compliance with the requirements of this ordinance, any related Implementing Order, or first source agreement between Referral Agency and Contractor.

(6) **Implementation**

A. The Mayor or Mayor's designee shall prepare and submit to the Board for approval, the Implementing Order which shall at a minimum:

1. Indicate that all County Contracts shall be subject to the requirements of this Section. The requirements of this Section shall be implemented to the maximum extent feasible, for all County purchases of goods and services.

2. Develop a time frame for implementation of First Source Hiring Referral Program. A rollout department shall be identified to use the Referral Agency with its County Contracts, and all other County departments will be phased into this process within six (6) month of the passage of this ordinance.

3. Advise prospective and awarded Contractors of the nature of the First Source Hiring Referral Program.

4. Set forth procedures to determine Contractor compliance with the requirements of this Section.

5. Recommend and establish a minimum funding threshold.

6. Establish a procedure for review and investigation of allegations of noncompliance with the provisions of this ordinance, implementing order, or first source hiring agreement.

7. Establish a procedure to determine appropriate sanctions for failure to comply with the terms of this ordinance, implementing order, or first source hiring agreement.

8. Establish an appeals process for determinations of noncompliance with the provisions of the ordinance, implementing order, or first source hiring agreement.

B. The Mayor or Mayor's designee shall prepare quarterly reports for the Board which shall include: (a) the dollar amount of each County Contract utilizing the First Source Hiring Referral Program; and (b) an analysis of the effectiveness of the program during each quarterly reporting period.

(7) Sanctions for Violations.

A. Each County Contract shall include provisions stating the nature of the sanctions to be imposed on a Contractor that is not in compliance with this Section. Such sanctions shall

include, but not be limited to the following:

1. Suspension of contract until Contractor performs obligations, if appropriate.

2. Default and/or termination.

3. Payment of $1,500 per employee, or the value of wages that would have been earned by employees injured by Contractor's non-compliance, whichever is less.

B. If any Contractor attempts to comply with the provisions of this ordinance through fraud, misrepresentation or material misstatement, the County, in its sole discretion, may immediately terminate the subject County Contract.<<

**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 a 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.** The Mayor or Mayor's designee is hereby directed to prepare and submit the implementing order to this Board for approval, not later than ninety (90) days following the effective date of this ordinance.

**Section 5.** 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.

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>>**Section 6.** This ordinance shall sunset in two (2) years from the effective date, unless extended by this Board.<<

PASSED AND ADOPTED: May 1, 2012

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

dsh

David Stephen Hope
John McInnis

Prime Sponsor: Commissioner Barbara J. Jordan
Co-Sponsors: Vice Chairwoman Audrey M. Edmonson
Commissioner Jean Monestime
Commissioner Dennis C. Moss