COUNTY OF LOS ANGELES

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MARY C. WICKHAM
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July 19, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: Amendment to Title 2 – Administration of the Los Angeles County Code, Transitional Job Opportunities Preference Program

Dear Supervisors:

As directed by the Board of Supervisors at its meeting of July 12, 2016, enclosed please find an ordinance amending Title 2 – Administration of the Los Angeles County Code, relating to the Transitional Job Opportunities Preference Program. The ordinance amends the name of the Transitional Job Opportunities Preference Program to Social Enterprise Preference Program amends and clarifies the administration and certification; expands the preference to include social enterprises that employ a transitional workforce; and increases the preference from eight percent (8%) to fifteen percent (15%).

The analysis and ordinance may be presented to the Board of Supervisors for consideration.

Very truly yours,

MARY C. WICKHAM
County Counsel

By
PATRICE J. SALSEDA
Principal Deputy County Counsel
Contracts Division

APPROVED AND RELEASED:

LESTER J. TOLNAI
Chief Deputy

PJS:cd
Enclosure

c: Brian J. Stiger, Director, Consumer Affairs

HOA.100282759.1

ANALYSIS

This ordinance amends Title 2 – Administration of the Los Angeles County Code, relating to the Transitional Job Opportunities Preference Program by amending the name of the Transitional Job Opportunities Preference Program to the Social Enterprise Preference Program, including amending and clarifying the administration and certification; expanding the preference to include social enterprises; and increasing the preference from eight percent (8%) to fifteen percent (15%).

MARY C. WICKHAM
County Counsel

By
PATRICE J. SALSEDA
Principal Deputy County Counsel
Contracts Division

PJS:cd

Requested 02/19/16
Revised 07/15/16

ORDINANCE NO._____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the Social Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.205.010 is hereby amended to read as follows:

2.205.010 Introduction.

The Board of Supervisors finds that it is of benefit to the County of Los Angeles to promote and facilitate ~~transitional job opportunities for individuals who are homeless and other~~businesses that distinguish themselves by accounting for their measurable social, public health and environmental impact. ~~Individuals who have been out of work for an extended period of time. Individuals who have not worked for an extended period of time face considerable barriers when trying to re-enter the workforce. Transitional employment provides people who are the hardest to employ with opportunities to develop job and social skills that are necessary to succeed in the workplace.~~Social Enterprises, which include ~~N~~nonprofit and for-profit businesses ~~with transitional employment programs~~often incur higher ~~overhead~~operating costs ~~than other businesses due to the need for increased supervision, counseling, and training of the hardest to employ~~providing supportive services. Therefore, ~~such agencies~~Social Enterprises are at a competitive disadvantage in obtaining County contracts, in which estimated cost is a significant factor.

SECTION 2. Section 2.205.020 is hereby amended to read as follows:

2.205.020 Purpose.

The County of Los Angeles ~~transitional job opportunities~~Social Enterprise ~~p~~Preference ~~p~~Program is a race and gender-neutral program designed to establish a purchasing and contracting preference for ~~nonprofit organizations~~certified Social Enterprises ~~which~~that provide transitional ~~jobs to the long-term unemployed in the execution of their work under a purchase order or contract with the County of Los Angeles~~and permanent employment, to a Transitional Workforce or provide social, environmental and/or human justice services. The ~~transitional job opportunities~~Social Enterprise ~~p~~Preference ~~p~~Program is designed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure that all businesses, including ~~nonprofit businesses that provide transitional employment services,~~Social Enterprises are provided equal opportunities in ~~c~~County purchasing and contracting activities.

SECTION 3. Section 2.205.030 is hereby amended to read as follows:

2.205.030 Definitions.

For the purpose of this ~~c~~Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

A. "County" shall mean the County of Los Angeles or any public entities for which the ~~b~~Board of ~~s~~Supervisors is the governing body.

B. "Department" shall mean the ~~c~~County department, entity, or organization responsible for the solicitation.

C. "Contractor" shall mean any person, firm, corporation, partnership, or any combination thereof, which submits a bid or proposal or enters into a contract with the County of Los Angeles.

D. "Homeless" shall mean a person sleeping in a place not meant for human habitation, or "residing" in an emergency shelter, transitional housing, or other supportive housing program or those who are homeless under the individual County department's definition.

E. "Social Enterprise(s)" shall include nonprofit and for-profit businesses whose primary purpose is the "common good" and which "use the methods and disciplines of business and the power of the marketplace to advance their social, environmental and human justice agendas, wherein the organization that applies commercial strategies to maximize improvements in human and environmental well-being," that may "include maximizing social impact rather than profits for external shareholders," and has been certified as a social enterprise as provided for in this Chapter.

F. "Social Enterprise Preference Program" shall include:

1. A business that qualifies as a Social Enterprise and has been in operation for at least one (1) year providing transitional or permanent employment to a Transitional Workforce or providing social, environmental and/or human justice services; and

2. A business that is certified by the Department of Consumer and Business Affairs ("DCBA") as a Social Enterprise.

~~E~~G. "Solicitation" shall mean the ~~c~~County's process to obtain bids or proposals for goods and services.

~~F~~H. "Supportive services" shall mean services including, but not limited to, counseling services, individual case management, pre-employment job readiness training, daily on-the-job monitoring of participants~~ while on the job~~, provision of unsubsidized competitive employment opportunities, and assistance in applying for, obtaining, and maintaining unsubsidized competitive employment.

~~G~~I. "Transitional workforce employer" shall mean a ~~nonprofit organization that provides transitional jobs for the long-term unemployed and has been certified as a transitional employer as provided in this chapter.~~Social Enterprise that provides transitional jobs.

~~H~~J. "Transitional job" shall mean short-term or long-term, wage-paying, subsidized or non-subsidized employment that combines real work, skill development, and supportive services to help ~~participants~~a Transitional Workforce overcome barriers to employment and transition to unsubsidized competitive employment.

K. "Transitional Workforce" shall mean those under-employed or hard-to-employ persons that may be homeless, formerly incarcerated, or those who either have not worked for an extended period of time or face significant barriers to employment.

SECTION 4. Section 2.205.040 is hereby amended to read as follows:

2.205.040 Administration.

~~The Chief Executive Officer~~DCBA with the assistance of County Counsel, ~~the~~and the Internal Services Department ("ISD"), ~~and the Equal Employment Compliance~~

~~Officer,~~ shall issue interpretations of the provisions of this ~~c~~Chapter, and ~~the Internal Services Department~~ shall issue written instructions on the implementation and ongoing administration of this ~~c~~Chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 5. Section 2.205.050 is hereby amended to read as follows:

2.205.050 Certification.

~~Each department is responsible for certifying that a contractor is a transitional employer. A contractor shall qualify as a transitional employer, if all of the following are met:~~

A. ~~The entity is, and has been such for three (3) years, a nonprofit organization recognized as tax exempt pursuant to section 501 (c)(3) of the Internal Revenue Code.~~DCBA shall certify Social Enterprises and maintain records for the certified businesses and their participation in County purchasing and contracting.

~~B. The entity shall set forth, under penalty of perjury, such information as requested by the county on either electronic or hard copy forms supplied by the county, and submit the necessary certification forms, along with its application form and three (3) most recent annual tax returns (Form 990 or Form 990-EZ) to the department with its bid response to the solicitation for which it is competing.~~

~~C~~B. ~~The entity~~Qualifying Social Enterprises must be in operation for at least one (1) year providing transitional ~~jobs and the related supportive services~~or permanent employment to a Transitional Workforce or providing social, environmental and/or human justice services to program participants.

~~D~~C. The ~~entity~~business must also supply the following information as part of the certification process:

1. ~~A profile of its program participants (e.g., homeless individuals, individuals with addictions, at-risk youth, etc.).~~A description of the business' program and service components designed to help a Transitional Workforce or that otherwise qualify it under the definition of a Social Enterprise, including a description of the support services where applicable.

~~2. A description of the entity's program components designed to help program participants transition towards unsubsidized competitive employment, including a description of the supportive services offered to participants.~~

~~3. The number of participants in the program during the last calendar year.~~

4~~2~~. Any other information requested by ~~the department~~DCBA. ~~Each department shall certify transitional employers and maintain records of such certified businesses and their participation in county purchasing and contracting.~~

SECTION 6. Section 2.205.060 is hereby amended to read as follows:

2.205.060 Responsibilities and ~~s~~Standards.

A. ~~In order t~~To facilitate the participation of ~~transitional employers~~Social Enterprises in ~~c~~County purchases of goods and services, County departments shall provide for ~~transitional employer~~Social Enterprise preference in their purchase of goods and services where responsibility and quality are equal.

B. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, subject to Section D and F, the preference to the ~~transitional employer~~Social Enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by ~~the Internal Services Department~~DCBA.

C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to cost/price, subject to Section D and F, the preference to the ~~transitional employer~~Social Enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the cost/price component of the evaluation method, determined according to the instructions issued by ~~the Internal Services Department~~DCBA.

D. The Social Enterprise preference under subsections B and C of this section shall not exceed one-hundred and fifty thousand dollars ($150,000) for any one (1) solicitation and award determination.

~~D~~E. In order for a ~~transitional employer~~Social Enterprise to be eligible to claim the preference, the entity must request the preference in the solicitation response.

~~E~~F. When an applicable statute limits the preference to the ~~transitional employer~~Social Enterprise at ~~five percent (5%) or some other~~an amount less than ~~eight~~fifteen percent (~~8~~15%), the applicable statute shall determine the preference amount~~.~~

G. In no case shall the Social Enterprise Preference Program price or scoring preference be combined with any other County preference program to exceed fifteen percent (15%) of the lowest responsible bid meeting specifications.

SECTION 7. Section 2.205.070 is hereby amended to read as follows:

2.205.070 Exclusions.

The ~~transitional job opportunities~~Social Enterprise ~~p~~Preference shall not be given for the following ~~c~~County contracts and purchases:

A. National contracts established for the purchase of services, equipment, and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.

B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4~~0~~6.0 or a successor provision.

C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.

D. A non-agreement purchase with a value of less than five thousand dollars ($5,000~~.00~~) pursuant to the Los Angeles County Purchasing Policy Manual, Section A-0300 or a successor provision.

E. Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government relating to participation in a contract by a minority or women business enterprise as a condition of the receipt of the federal funds.

F. A contract for which federal, State, or local laws may limit or prohibit application of a Social Enterprise preference.

SECTION 8. Section 2.205.080 is hereby amended to read as follows:

2.205.080 Violations and ~~s~~Sanctions.

A. The information furnished by each solicitation respondent requesting a ~~transitional job opportunities~~Social Enterprise preference shall be under penalty of perjury.

B. No person or entity shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a ~~transitional employer~~Social Enterprise for the purpose of this ~~c~~Chapter.

C. No person or entity shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a ~~c~~County official or employee for the purpose of influencing the certification or denial of certification of any entity as a ~~transitional employer~~Social Enterprise.

D. ~~An entity~~business which has obtained ~~c~~County certification as a ~~transitional employer~~Social Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the ~~c~~County any difference between the contract amount and what the ~~c~~County's costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision 1 of subsection D of this ~~s~~Section, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the ~~c~~County ~~c~~Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any ~~entity~~Social Enterprise that has previously obtained proper certification, however, as a result of a change in its status would no longer be eligible for certification, and fails to notify ~~the certifying department~~DCBA of this information prior to responding to a solicitation or accepting a contract award.

SECTION 9. Section 2.205.090 is hereby amended to read as follows:

2.205.090 **~~Appeals for reconsideration of transitional employer certification.~~Review for Program Eligibility.**

~~The certifying department~~DCBA will investigate any valid complaint of eligibility received by the ~~c~~County concerning the ~~transitional job opportunities~~Social Enterprise ~~p~~Preference ~~p~~Program.

SECTION 10. Section 2.205.100 is hereby amended to read as follows:

2.205.100 **Applicability.**

This ~~c~~Chapter shall apply to all solicitations issued sixty (~~9~~60) days after the effective date of the ~~o~~Ordinance codified in this ~~c~~Chapter.

[2205010PSCC]