

**ALAMEDA COUNTY
BOARD OF SUPERVISORS'
PROCUREMENT AND CONTRACTING POLICY COMMITTEE**

Monday, December 5, 2011
2:00 pm

Location: Board of Supervisors' Chamber – Room 512 – 5th fl
County Administration Building
1221 Oak Street, Oakland, CA 94612

Supervisor Nate Miley, Chair
Supervisor Keith Carson

Summary Action Minutes

I. Workforce Development Utilization and Residency Requirements

Anne Ludwig presented an oral report on workforce utilization and residency requirements as related to the Highland Hospital Acute Tower Replacement Project.

Currently there six hundred and eighty four (684) employees, based on certified payroll records for this project; Forty percent (40%) are Alameda County residents;

Ethnicity:

- o 5% African American
- o 1% Asian
- o 35% Caucasian
- o 51% Hispanic
- o 1% Native American
- o 6% Not specified – other

This data represents 4.5% of the labor dollars for this project.

Questions/Discussion

Keith Carson: Are there any policies in other jurisdictions, .e. Oakland, Los Angeles or San Francisco that have policies for hiring local residents? Are there any local jurisdictions that are trying to stipulate employment in their geographical sphere on a national level?

Brian Washington, County Counsel: San Francisco adopted an ordinance to that effect about six (6) months ago. However, Mr. Washington does not have any information on any outcomes based on that ordinance.

Sam Tuttelman, Social Services Agency: Regarding San Francisco, a number of jobs were created under their First Source program; last fiscal year there were 285 jobs; will obtain a breakdown of CALWORKS and General Assistance recipients hired; awaiting that information; around the country there are varying "first source" programs that have not been enforced based on SSA's research. East Palo Alto has one; the trend has been towards project labor agreements (PLA).

Questions/Discussion (continued)

Keith Carson: Attended a meeting earlier today where the business and economic development sector expressed interest and understand the importance of local people having local jobs.

Supervisor Miley: 1) asked Sam Tuttelman to report on SSA's meetings around a workforce development plan; 2) asked about the Public Works Agency workforce development plan and; 3) asked County Counsel about drafting a policy on workforce utilization.

Sam Tuttelman: The SSA was originally going to conduct a pilot "first source" program, however, there was no language written into SSA contracts that would support or enforce such a program.

The Social Services Agency determined it would be best to convene a meeting of "first source" experts to put together a workable first source program, in which Project Labor Agreements (PLA) and the Workforce Investment Board (WIB) would have a role in the process.

Bill Lepere, Public Works Agency: PWA's efforts around workforce development would include the East Bay Conservation Corp; apprenticeships are used;

Brian Washington: Reported that any impediments to a Workforce Development Ordinance depends on the scope; Calvin James County Counsel has been in discussion about workforce development; there can be some legal impediments in state and federal law. As the policies are being developed they have to be examined carefully;

Linda Moore, GSA, Co-Chair, East Bay Interagency Alliance: The Alliance is currently investigating workforce development from a regional perspective, and reports are due back in January that will looking at best practices in this county and regionally.

Speaker

Bernida Regan: Discussion of First Source; local hire ordinance related to construction might be needed: PLA – some are passed with local hire requirements, i.e. Port of Oakland, BART; or a local hire ordinance could be separate from a PLA. The ordinance adopted in San Francisco has incentives for local hire; looking for ways that their ordinance doesn't hurt workers elsewhere.

Recommendation from Committee: 1) Continue the workforce utilization and residency requirements discussion with the working group, including county agencies, County Counsel and East Bay Interagency Alliance representation. 2) Sam Tuttelman will convene a panel of "first source" experts from around the bay area to meet regarding workforce development and coordinate with Districts 4 and 5 and other county agencies to attend the meeting.

II. County Response to Grand Jury Report (SLEBS)

Aki Nakao, Director, General Services Agency reported on the County's response to Grand Jury recommendations for the Small Local and Emerging Business (SLEB) program.

II. County Response to Grand Jury Report (SLEBS) (continued)

The Grand Jury presented the following recommendations in their June 2011 report: General Services Agency must:

- 1) Prepare an annual report available to the public that shows the true cost of the Small, Local and Emerging Business Program compared to the open bidding process.
- 2) Evaluate every contractor's job performance in the Small, Local and Emerging Business program at the conclusion of the contract. This evaluation must be maintained on file and considered in the award process for new or renewed contracts.
- 3) Develop a system for tracking Small, Local and Emerging Business certified businesses and enforcing limits on their time in the program that comply with SLEB criteria.

County Responses:

- 1) The County agrees with the recommendation and the General Services Agency will work to create a report for the Board of Supervisors that illustrates the actual and estimated costs of the SLEB program.
- 2) The County partially agrees with the recommendation as the General Services Agency is not the appropriate entity to evaluate SLEB contractor performance. It is more appropriate for the County Departments to evaluate performance.

The Office of Acquisition Policy could create performance standards and tools for departments to use to evaluate SLEB vendors.

- 3) The County partially agrees with this recommendation because GSA and the Auditor-Controller Agency have been jointly responsible for developing policies.

Questions/Discussion/Speaker

Norm Budman: How does the County view the Grand Jury's recommendations? Is the bonding program part of the cost of the SLEB program? The bonding program should be included in the overall costs. Is there a process to evaluate contractors in general for the County; a form to fill out, for example?

Nate Miley: The County's legal obligation is to respond to the civil Grand Jury's recommendations; confirmed by Brian Washington, County Counsel.

Aki Nakao: Currently there is no form, however, any issues that arise from a contractors' performance is documented, and would affect the award if future contracts.

Keith Carson: (to Norm Budman) Are you asking to determine if the terms and conditions of the contract being met? What are some the things beyond the terms and conditions of the contract that could be looked at in your opinion?

Questions/Discussion/Speaker

Norm Budman: Certainly the terms and the conditions of the contract should be met; but also, timeliness; quality of service; quality of materials; things that would go in to an evaluation to help the County evaluate future contracts for the contractor; some kind of closure statement for evaluating what happened in the contract based on standards;

Keith Carson: (to PWA and GSA) – at the end of a job, explain what are some of the things that are reviewed. For example just recently; with respect to the Bay Bridge; there was a question of quality of materials; Does CalTrans or other entities have a check list after a job or contract is complete, other than they met the terms of the conditions of the contract? How challenging would it be to do a rating system?

Aki Nakao: There should be a distinction between inspection of service and a “report card” at the end of the contract. In the Bay Bridge example: performance and inspection is done during the course of the contract;

If the work is not being done correctly, the County would reject it, and the contractor would not be paid until the work is corrected. GSA can work to put together a “Contractor Rating System”.

Supervisor Miley: The SLEB Program is a policy decision of the Board of Supervisors, however it is not beyond scrutiny. There has been a working group convened to look at the effectiveness of the program among other things.

III. Quarterly Auditor-Controller Procurement Contracting Report

Patrick O’Connell, Auditor-Controller, Auditor-Controller Agency, provided a summary and PowerPoint presentation of the Procurement and Contracting Quarterly [Report](#).

The report covers the period from July 1, 2009 through June September 30, 2011, with comparisons to July 1, 2006 through June 30, 2009 of the date for the various categories.

Questions/Discussion/Speakers

Norman Budman: It would be helpful, especially for the working group to have the data that shows SLEB only dollars.

Patrick O’Connell: The format that is being used is based on the Availability Study.

Jose Deunas: The numbers in the report do not coincide with what the contractors are getting. Minority contractors can’t get contractors for various reasons. There is a better way to present the numbers that are more accurate. He hopes the working group will help produce better numbers. He invited everyone to the Ethnic Chambers Christmas mixer.

Supervisor Miley: What is the Board policy regarding SLEBS?

Patrick O’Connell: For contract amounts under 25k the policy is 100% SLEB participation; over 25k the policy is a 20% SLEB participation. Some areas of the program are meeting the target and some are not. A waiver is required if a non SLEB is used.

IV. Report out from Procurement and Contracting Working Group

Supervisor Nate Miley reported that the Procurement and Contracting working group held its first meeting on Monday, November 21st. The working group was formed to discuss the following:

- Effectiveness of SLEB
- Bonding and Certification
- Uniform Procurement Manual

In the first meeting the discussion was around the effectiveness and some bonding and certification information. The group will be examining the effectiveness of the SLEB program, best practices in addition to examining policies from other jurisdictions.

Keith Carson stated that the first order of business is to determine what we hope to accomplish and how to go about accomplishing it. Once that has been clearly defined then we can envision where we are going, and make some adjustments to the existing policy and programming.

Speaker

Bernida Reagan: Invited everyone to the Contractor Networking event hosted by the County Administrator's Office and the Public Works Agency, to be held tomorrow at 4:30 at the Public Works Agency worksite. The event includes primes and subs networking and talking about upcoming projects.

PUBLIC COMMENT

None.

Adjourn Meeting adjourned to March 5, 2012

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