

ORDINANCE #68412
Board Bill No. 75
Committee Substitute

An ordinance pertaining to public works contracts, establishing apprenticeship training, and workforce diversity, and city resident programs for City-funded public works contracts; establishing a Community Jobs Board; containing definitions; containing a severability clause and an effective date.

WHEREAS, the City of St. Louis is committed to working in partnership with labor, business and the community to create a skilled workforce that reflects the diversity of the population of City; and

WHEREAS, a well-trained, diverse workforce is critical to the economic and social vitality of the City and the region; and

WHEREAS, statistical data and other evidence shows that minorities and women are under-represented in the skilled workforce of the construction industry, that such under-representation is due to past discriminatory barriers and that a diversity program is needed to rectify such under-representation; and

WHEREAS, the City's public works contracts can provide training and job opportunities as a means to increase the skills and diversity of the construction industry workforce; and

WHEREAS, the City is committed to ensuring that employment opportunities on City public works projects are offered to City residents; and

WHEREAS, the City is committed to using training that is accepted industry-wide so that the resulting journey-level workers can enter the region's pool of skilled labor, fully qualified for jobs throughout the industry; and

WHEREAS, the City is committed to promoting apprenticeship opportunities on public works projects and ensuring that all contractors participate in this requirement.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Definitions. When used in this ordinance:

1. "Labor Hours" shall mean the total number of work hours workers receive as an hourly wages who are directly employed on the site of the public works project. "Labor Hours" shall include hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor Hours" shall not include hours worked by non-working foremen, superintendents, owners and workers who are not subject to prevailing wage requirements.
2. "Agency" shall mean the St. Louis Agency for Training and Employment (SLATE).
3. "Minorities" shall mean persons who are citizens or lawful permanent residents of the United States and who:
 - a. Have origins in any of the Black racial groups of Africa ("Black Americans");
 - b. Have origins in any of the peoples of Mexico, Puerto Rico, Cuba, Central or South America, regardless of race ("Hispanic Americans");
 - c. Have origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent or the Pacific Islands ("Asian Americans"); or
 - d. Maintain cultural identification through tribal affiliation or community recognition with any of the original peoples of the North American continent; or those who demonstrate at least one-quarter descent from such groups ("Native Americans").
4. "Public Works Contract" shall mean, for the purposes of this Ordinance, a contract for construction work entered into by the Board of Public Service and signed by the President of the Board of Public Service in the name of the City, for which the design team's estimated base value of the contract is One Million Dollars or more.

SECTION TWO. Apprenticeship Goal. On each Public Works Contract for which the design team's estimated base value of the contract is One Million Dollars or more, the Agency shall set a goal that a minimum percentage of fifteen percent (15%) of all the contract's Labor Hours are to be performed by apprentices enrolled in any training program approved or recognized by the United States Department of Labor, Employment and Training Administration (ETA), Office of Apprenticeship (OA). This goal shall be subject to the waiver provision set forth in Section Seven. Such Apprentices, if they are minorities and/or women, may also be counted towards the goals set forth in Section Three.

SECTION THREE. Participation Goals for Minorities and Women. On each Public Works Contract for which the design team's estimated base value of the contract is One Million Dollars or more, the Agency shall set a goal that 25% of all Labor Hours are to be performed by Minorities and 5% of all contract Labor Hours are to be performed by women.

SECTION FOUR. City Resident Participation. On each Public Works Contract for which the design team's estimated base value of the contract is One Million Dollars or more, the Agency shall set a goal that 20% of all Labor Hours are to be performed by persons who reside in the City of St. Louis ("City Residents"). Such City Residents, if they are minorities and/or women, may also be counted towards the goals set forth in Section Three.

SECTION FIVE. Implementation and Administration. The Agency shall be responsible for the administration and implementation of this ordinance and shall develop and adopt rules in furtherance of such administration and implementation. Said rules shall set forth a system for monitoring contractors' actual use of apprentices, minorities, women and City Residents. The Agency shall establish contract specification language to implement the apprenticeship goals, the participation goals for minorities and women, and the city resident participation goals, and said language shall be included in all applicable contracts as determined by the Agency.

Pre-Award Conferences ("Conferences") shall be held by the Board of Public Service for General Contractors and Sub Contractors. Conferences shall be for the following purposes: (a) to confirm that the apparent lowest and most responsive bidder is committed to meeting the goals established in the bid solicitation; and (b) to offer to apparent lowest and most responsive bidder the resources of SLATE in consultation with the Construction Prep Center, the Construction Career Academy and ACCESS St. Louis, to assist the bidder and subcontractors in meeting such goals.

SECTION SIX. Community Jobs Board. The Mayor of the City of St. Louis with the President of the Board of Aldermen shall appoint a Community Jobs Board with approval from the Board of Aldermen, which shall have nine (9) members. Two (2) members shall be a woman in construction, representative of women in construction; two (2) members shall be minorities in construction, representative of minorities in construction; one (1) member shall be representatives of community organizations; two (2) members shall be representatives of construction labor unions; and two (2) members shall be representatives of construction contractors. The Community Jobs Board shall review and provide feedback to the Agency on the manner in which this Ordinance is implemented and to review the results of the implementation of this Ordinance and provide feedback to the Agency on whether or not this Ordinance is achieving the intended results. The Agency shall provide quarterly reports, including a report of any waivers granted by the Agency during the preceding quarter, to the Community Jobs Board and shall schedule quarterly meetings of the Community Jobs Board. Members of the Community Jobs Board shall serve in staggered two year terms.

SECTION SEVEN. Waivers and Exceptions. The Agency is authorized to issue a written waiver or reduction of the goals set forth in Sections Two, Three and Four of this ordinance on specific contracts for one or more of the following reasons:

- A. The Agency determines that the project carries a disproportionately high ratio of material costs to Labor Hours, which does not make the goals economically feasible;
- B. The project is being undertaken in connection with an emergency;
- C. The Agency otherwise determines that a waiver or reduction is appropriate.

Waivers or reductions may be made before or during the bidding process if information related to A, B and C of this section not previously known is brought to the attention of the contracting agency. No waivers shall be granted following the award of a contract unless such contract is terminated and the project is re-bid.

SECTION EIGHT. Non-discrimination Policy Requirement. On each public works contract, for which the design teams estimated base value of the contract is one million dollars (\$1,000,000) or more, the agency shall require that all contractors assigned

to work have a personnel policy which prohibits discrimination based upon race, color, creed, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity or expression.

SECTION NINE. Reporting Requirement. The Agency shall furnish an annual report to the Board of Aldermen on or before September 30 of each year for the preceding fiscal year, describing the progress of administering and implementing the requirements of this ordinance.

SECTION TEN. Severability Clause. The provisions of this ordinance shall be severable. In the event that any provision of this ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this ordinance are valid unless the court finds the valid provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Board of Aldermen would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION ELEVEN. Effective Date. The provisions of this ordinance shall become effective sixty days after its approval by the mayor or sixty days after its adoption over the veto of the mayor. Said provisions shall apply to all Requests for Proposals or bids issued, and contracts awarded pursuant thereto, on or after said sixty day period.

Approved: July 27, 2009