



TO: Elizabeth Pauli, City Manager
FROM: Clifford Armstrong III, Contract and Program Auditor, Community and Economic Development
Kim Bedier, Acting Community and Economic Development Department Director
COPY: City Council and City Clerk
SUBJECT: Ordinance amending Tacoma Municipal Code 1.90 relating to the Local Employment and Apprenticeship Training Program (LEAP) – 7/10/18
DATE: 6/22/2018

SUMMARY:

The Local Employment and Apprenticeship Training Program (LEAP) staff is seeking City Council approval to amend its code. These amendments will address issues that have arisen through the current code and are the result of consultation with many stakeholders, both internal and external, over the course of one year.

STRATEGIC POLICY PRIORITY:

- Foster a vibrant and diverse economy with good jobs for all Tacoma residents.
 - Increases access for local tradespeople on City of Tacoma funded construction projects.
- Encourage and promote an efficient and effective government, which is fiscally sustainable and guided by engaged residents.
 - Recommendations were reached with considerable input from key stakeholders who are City of Tacoma residents and Tacoma Public Utilities ratepayers.

BACKGROUND:

The Local Employment and Apprenticeship Training Program has been a City of Tacoma program since 1997. The program requires prime contractors to ensure that a certain amount of labor hours on City-funded “public works” are performed by local residents. The proposed changes in this resolution have been reviewed and forwarded by the Economic Development Committee, which recommended a trial period for the changes. Proposed changes have been approved by the Tacoma Public Utilities Board and must now be voted on by City Council.

ISSUE:

Problem:

1. Compliance with Privileges and Immunities Clause of US Constitution
 - a. The LEAP code does not have an out-of-state employee exemption, which is necessary for compliance with the Privileges and Immunities Clause of the U.S. Constitution.
2. Built-in adjustments that prevent efficient utilization of key constituencies
 - a. LEAP currently allow adjustments in a way that lowers overall program utilization.
3. No apprentice requirements
 - a. The City’s LEAP is a regional outlier in this respect given the City’s size and influence and is an oddity given the name and intent of the program.
4. Lack of consideration for Tacoma Public Utilities contracts.
 - a. Current policy places undue burden on contractors and City/TPU staff for certain TPU contracts.
 - b. TPU ratepayers, half of the program’s constituency, do not have equitable opportunity to utilize the program.
5. Outdated usage of Community Empowerment Zones
 - a. The utilization of CEZ’s nationally has subsided in favor of other geographic distinctions for economically challenged areas.



Solutions:

1. Place an out-of-state employee exemption into the LEAP code.
 - a. Places the code in compliance with the federal statute.
2. Removal of 1.90.040 B (Adjustments)
 - a. Removes code adjustments to ensure uniform compliance with objectives.
3. Create an Apprentice Utilization Goal on contracts over \$1 million to a regionally standard 15%.
 - a. Creates a concrete apprentice goal.
4. Tie geographic boundaries of the program to the Tacoma Public Utilities Service Area.
 - a. Removes exceptions built into the code that acknowledge the original program language did not sufficiently take TPU into consideration.
5. Remove Community Empowerment Zone language from LEAP code. Input “Economic Distressed Area” of TPU Service Area in its place.
 - a. Retains equity-based goals in a way that mirrors the current national standard and applies to the geographic boundaries of the program.

ALTERNATIVES:

Alternative 1: Amend the code only to comply with the Privileges and Immunities Clause to ensure federal compliance.

Alternative 2: Amend the code immediately to comply with the Privileges and Immunities Clause and implement a pilot of the remaining changes for a period of 16 months of several construction cycles, at which time the impact of changes will be reviewed with key stakeholders.

RECOMMENDATION:

Approve the proposed changes to TMC 1.90 in principle, and implement a pilot of the proposed changes effective July 30th, 2018 through November 30th, 2019. Impact of changes will be reviewed with key stakeholders at the conclusion of the pilot, and a further recommendation made.

FISCAL IMPACT:

1. LEAP currently has no documented impact on bids. The code is only taken into account after a contract is awarded. As such, staff is unable to provide an exact estimate on what fiscal impact the changes would have on the bid process as it is not an itemized part of the bid process that has been tracked over its 20 year history.
2. In the process of outreach for these proposed changes, LEAP staff consulted with several contractors and the LEAP Advisory Committee. Anecdotally, contractors have acknowledged that the proposed changes would make it easier for them to comply with the program. Because it is easier to comply with the program, the City would levy fewer fines.
 - a. In 2017, \$0 in fines were levied.
 - b. Between the years of 2010–’15, 14 fines were levied for a total of ~\$25,000. The highest year for fines was 2010 with \$10,875 levied.



EXPENDITURES:

FUND NUMBER & FUND NAME *	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
TOTAL			

* General Fund: Include Department

REVENUES:

FUNDING SOURCE	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
TOTAL			

POTENTIAL POSITION IMPACT:

POSITION TITLE	PERMANENT/ PROJECT TEMPORARY POSITION	FTE IMPACT	POSITION END DATE
TOTAL			

This section should only be completed if a subsequent request will be made to increase or decrease the current position count.

FISCAL IMPACT TO CURRENT BIENNIAL BUDGET: There is no impact to LEAP’s budget.

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? Yes

IF EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED. N/A