



TO: Economic Development Committee
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SUBJECT: Small Business Enterprise (SBE) & Local Employment & Apprenticeship Training Program (LEAP) and Small Works Roster (SWR) Code Change Proposals

DATE: November 28, 2017

SUMMARY:

This report summarizes the proposals to update the City of Tacoma municipal codes and modify sections to make the Small Business Enterprise (SBE), Local Employment and Apprenticeship Training (LEAP) programs and Small Works Roster (SWR) more effective in meeting the needs of the marketplace and City objectives.

STRATEGIC POLICY PRIORITY:

In order to have a vibrant, sustainable City, our municipal codes will:

- ❖ Ensure all Tacoma residents are valued and have access to resources to meet their needs.
- ❖ Foster a vibrant and diverse economy with good jobs for all Tacoma residents.
- ❖ Encourage thriving residents with abundant opportunities for life-long learning.
- ❖ Cultivate a vibrant cultural sector that fosters a creative, cohesive community.
- ❖ Encourage and promote an efficient and effective government, which is fiscally sustainable and guided by engaged residents.
- ❖ Grow the SBE program and drive a robust bidding environment

BACKGROUND:

The City’s SBE and LEAP programs are designed to increase workforce development and small business capacity. Both programs require updates and revisions to comply with the policies established by the City Council and Tacoma Public Utilities (TPU). The LEAP and SBE programs also need to increase their effectiveness in procuring local companies to work on City projects. In addition, the current code for the Small Works Roster does not benefit SBEs. Staff has reviewed the City code to see what the City is doing, what it should be doing and how to make the programs better. This report highlights some opportunities for improvement in the statutes and proposes changes to improve our programs to meet the policy goals of the City Council and TPU.

LEAP Issues:

Between 2014 – 2016, only 44% of the contracts met the current 15% LEAP goal. The LEAP goal is placed on building projects over \$750,000.00, civil projects over \$250,000 to mandate that 15% of the total labor hours to be completed with LEAP eligible employees. LEAP has penalties for noncompliance. Staff reviewed our efforts for compliance with the code and found that only 4% of the possible



enforcement measures were implemented. It is unclear from the records why the code was not enforced by the LEAP Coordinator as required by the statute. Also, the current code and outdated software identifies compliance with the goal at the end of the project not during its operation. The result is an inability to assist vendors in achieving compliance during the term of the project. In previous years, the LEAP program did not consistently issue penalties against noncompliant vendors as allowed by the code. Over the same two year period, the City issued fines of only \$4,927.50 instead of \$55,945.73 that the code would allow.

Further, the LEAP code was originally designed to allow City of Tacoma residents to work on City projects. With adjustments, contractors could substitute Pierce County apprentices, veterans, and City of Tacoma residents in place of Community Empowerment Zone (Hilltop and Eastside) residents. Sometimes the code authorized adjustments that allowed contractors to comply with LEAP goals with no apprentices or City residents on a City project. As a result, many contracts have no apprentices or any efforts to use apprentices on their contracts with the City. The adjustment provisions many times are used to defeat the purpose of the LEAP code. Not having local people or apprentices on a City project is not what the City Council or TPU envisioned when this program was started in 1997. The following changes should improve the effectiveness of all three programs.

Improvements to the LEAP program:

1. Expand the program area from City of Tacoma and Pierce County to areas serviced by Tacoma Public Utilities (88 zip codes in six counties).
2. Change Community Empowerment Zone to updated language and designation of Priority Hire Area, which is economically distressed zip codes within the TPU service area (about 36 zip codes), TMC 1.90.040 (A)
3. Eliminate adjustments from the code, TMC 1.90.040 (B)
4. Move from one LEAP goal to Priority Hire Goal of 15% and Apprentice Goal of 15% each
5. Both Priority hire and apprenticeship goals can be met simultaneously by hiring apprentices who reside within Economically Distressed ZIP Codes within the TPU Service Area.
6. Exempt out-of-state labor for both goals to comply with United States constitutional issues.
7. Streamlining program requirements in outlying areas

SBE Issues:

1. Prime contractors failing to meet current 5% goals due to low incentives
2. Not enough SBE's available
3. Bonding requirement poses a barrier
4. Subcontractors seek other projects that have less restrictions or bonding requirements
5. No teeth in SBE code
6. Contractor's lack of awareness of City procurement processes
7. Disparity Study will identify SBE challenges but not implement solutions
8. No structure for SBE goal setting process for Services and Supplies

The Small Business Enterprise (SBE) program is designed to remedy underutilization of small businesses by placing reasonable goals on City projects. To fully achieve the City Council's mission and meet the



needs of the marketplace, the SBE Program requires adjustments. Under TMC 1.07.060, all contracts over \$25,000 in value must come to the SBE Office for goal setting. City departments are not sending most of their contracts to the SBE Office to obtain specific participation goals for the project. Out of over 800 contracts in 2016 (most were over \$25,000 in value); only 29 contracts had goals on them. Of the 29 contracts that had goals set for them, only 4 projects had either minorities, women or veterans on them. SBE policy compliance by City departments is only 3% and Contractor compliance with SBE goals is minimal. Data of historical SBE compliance is currently under evaluation to increase the SBE goal from 5% to 10%. Changing the current participation goal from 5% to 10%, competition and SBE participation would increase significantly.

Small Works Roster

Currently, the Small Works Roster offers small projects (under \$200,000) to be completed by registered companies on its roster. Large and small companies are registered on the Small Works Roster. There is no benefit for SBEs on that roster of small projects. The proposal to add a 5% goal for SBEs on the roster would promote more local participation on City projects. This would also help increase capacity of SBEs on City projects. The proposal provides that if an SBE is within 5% of the lowest bidder (Non-SBE), the SBE would be selected as the winner of the small works project.

In 2015, the City added two new categories for SBE goal participation but no process was added to implement the goals. This current proposal clarifies the process for adding goals on Services and Supplies contracts procured by the City. Also, clarifying language is added for occasions when no SBE goals are met by any vendor. Also, additional business support services are being implemented for SBEs to increase their capacity to successfully complete City projects. Many support services are provided by area partners, federal programs and state programs to help small businesses. The City partnerships include WA Department of Transportation, Minority Business Development Agency, US Department of Transportation, Metro Parks and the Tacoma School District. The following proposals should increase the effectiveness of the SBE program and small business development in the Pierce County area.

Improvements to SBE Program

1. Expand SBE area to TPU service area in six (6) counties – allows local labor to count for LEAP
2. Change re-certification from 1 year to 3 years
3. Modify language for Services and Supplies to be non-public works specific
4. Increase evaluated bid formula from 5% to 10% of the lowest bid
5. Enforcement provisions if no vendor meets the SBE goal
6. Delete education requirements
7. Contractor evaluation after each project
8. Implement enforcement provisions after Disparity Study is complete in July 2018.

ISSUE: This is an information briefing only.

ALTERNATIVES: This is an information briefing only.

FISCAL IMPACT: This is an information briefing only.