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"To enrich lives through effective and caring service"

July 9, 2012

To: All Department Heads

From: Tom Tindall
Director

Tom Tindall

Subject: **REVISED IMPLEMENTATION INSTRUCTIONS TRANSITIONAL JOB OPPORTUNTIES PREFERENCE PROGRAM**

On February 13, 2007, the Board of Supervisors approved an Ordinance creating the Transitional Job Opportunities Preference (TJOP) Program and the effectuating Ordinance, Los Angeles County Code Chapter 2.205.

On June 6, 2012, the Board of Supervisors approved an Ordinance amending Chapter 2.205, to increase the preference for nonprofit organizations that provide transitional employment services in price or scoring in solicitations for goods and/or services over $5,000 from five percent to eight percent.

The TJOP program percentage increase takes effect in countywide solicitations for bids that are released on or after Thursday, July 12, 2012, and shall apply to the procurement of all goods and services, unless specifically excluded.

The Internal Services Department has revised the attached implementation guidelines to assist departments with implementing these changes. Additionally, all models on the County's Purchasing and Contacts web portal will be updated by the effective date.

If you have any questions regarding this matter, your staff may contact Yolanda Young at (323) 267-3101 or via e-mail at yyoung@isd.lacounty.gov.

TT:JS:YY:lg

Attachment

c: Chief Executive Office
County Counsel

COUNTY OF LOS ANGELES

IMPLEMENTATION INSTRUCTIONS FOR THE TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

JULY 12, 2012

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IMPLEMENTATION INSTRUCTIONS

On February 13, 2007, the Los Angeles County Board of Supervisors (Board) approved the Transitional Job Opportunities Preference Program, Los Angeles County Code Chapter 2.205. The Ordinance provisions were effective March 22, 2007 and applied to the procurement of all goods and services, unless specifically excluded. These instructions provided the guidelines and necessary interpretation to assist departments in implementing the Transitional Job Opportunities Preference Program requirements and monitor compliance.

On June 6, 2012, the Board approved an ordinance amending Title 2, Chapter 2.205 of the Los Angeles County Code, Transitional Job Opportunities Preference Program, increasing the preference for nonprofit organizations that provide transitional employment services from five percent to eight percent, and clarified administration of the preference program (Exhibit I). The Ordinance provisions are effective July 12, 2012 and apply to the procurement of all goods and services, unless specifically excluded. For those solicitations where an applicable statue limits the preference to the Transitional Job Opportunities Vendor at five percent (5%) or some other amount less than eight percent (8%), the applicable statue shall determine the preference amount.

I. Introduction

In adopting the Transitional Job Opportunities Preference Program, the Board made a finding that people 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 hardest to employ with opportunities to develop job and social skills that are necessary to succeed in the workplace. Nonprofit businesses with transitional employment programs incur higher overhead costs than other businesses due to the need for increased supervision, counseling and training of the hardest to employ population. Therefore, such agencies are at a competitive disadvantage in obtaining County contracts, in which estimated cost is a significant factor.

The County of Los Angeles Transitional Job Opportunities Preference Program is a race and gender-neutral program designed to establish a purchasing and contracting preference for nonprofit organizations which 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. The Transitional Job Opportunities Preference 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, are provided equal opportunities in County purchasing and contracting activities where responsibility and quality are equal.

The Chief Executive Officer with the assistance of County Counsel, the Internal Services Department, and the Equal Employment Compliance Officer may amend these guidelines as appropriate to improve the administration of the Transitional Job Opportunities Preference Program. Such amendments shall be reported to the Board.

II. Transitional Job Opportunities Vendor

A vendor may be certified as a Transitional Job Opportunities Vendor if all of the following are met:

- The entity is, and has been such for three (3) years, a non-profit organization recognized as tax exempt pursuant to section 501 (c) (3) of the Internal Revenue Services Code;

- The entity shall set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms, along with their application form and three most recent annual tax returns to the department with their bid/proposal response to the purchasing or contracting solicitation for which they are competing;

- The entity must have been in operation for at least one year providing transitional jobs and the related supportive services to program participants; and,

- The entity must also provide a profile of their program, a description of their program components designed to assist program participants, number of past program participants, and any other information requested by a contracting department.

III. General Description of the Transitional Job Opportunities Preference Program

The Transitional Job Opportunities Preference Program identifies each County department as responsible for certifying that a potential contractor is a transitional employer. The Program provides for an eight percent (8%) bid/proposal price reduction ("preference") for certified Transitional Job Opportunities Vendors whenever a solicitation for goods or services includes a cost component in the selection process. The preference in solicitations shall be applied as follows:

A. For solicitations that are based on the lowest responsive and responsible bid/proposal, the preference to be granted to each Transitional Job Opportunities Vendor shall be equal to eight percent (8%) of the lowest bid/proposal amount.

B. For solicitations that are based on factors other than just the lowest cost (Requests for Proposals), the preference to be granted to each Transitional Job Opportunities Vendor is eight percent (8%) of the lowest cost proposal. Typically, in contracts for services, cost is only one of several other factors (e.g., qualifications, implementation approach, references, etc.,) that are rated in identifying the highest rated proposal. In these cases, the cost component of each Transitional Job Opportunities Vendor's bid/proposal will be scored based on their original bid/proposal amount less the preference amount, as calculated above.

C. For those solicitations where an applicable statue limits the preference to the Transitional Job Opportunities Vendor at five percent (5%) or some other amount less than eight percent (8%), the applicable statue shall determine the preference amount.

IV. Applying the Preference

Transitional Job Opportunities Vendors must claim the preference when responding to a solicitation and, in order to claim the preference, must be certified by the applicable department at the time of bid/proposal submission. Departmental staff must confirm certification prior to granting the preference. The eight percent (8%) preference is used only to determine the lowest bidder or proposer and does not alter the bid/proposal amount submitted by a certified Transitional Job Opportunities Vendor. A contract awarded to a Transitional Job Opportunities Vendor on the basis of the eight (8%) preference will be for the amount of the actual bid or proposal.

- **Exhibit II** provides examples of how to apply the preference and evaluate the results.

V. Exclusions

Vendors shall be advised of the following exclusions from the Transitional Job Opportunities Preference Program including:

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 4.40 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 $5,000.00 pursuant to the Los Angeles County Purchasing Policy Manual, Section A-0300 or a successor provision.

E. Any contract and purchase, funded in whole or in part by the federal government, except in those instances where application of the Transitional Job Opportunities Preference Program is determined by the County to be either permitted or required by applicable federal statutes or regulations.

VI. Departmental Responsibilities

Department staff is responsible for the following:

- Understanding the program in order to clearly explain it to vendors.

- Including Transitional Job Opportunities Preference Program language in all applicable solicitations.

  - **Exhibit III** provides the standard solicitation language.

- Verifying current Transitional Job Opportunity Vendor status prior to applying the preference to each bid/proposal.

- Including standard contract language in all contracts awarded to a Transitional Job Opportunity Vendor.

  - **Exhibit IV** provides the standard contract language for any contract with a Transitional Job Opportunity Contractor.

- Maintaining appropriate documentation for each solicitation where the Transitional Job Opportunities Preference Program was applied. This includes, but is not limited to: 1) the vendor's request for the preference and all supporting documentation required to claim the preference; 2) verification of current Transitional Job Opportunity Vendor status; and 3) the calculation of the preference amount.

- Notifying CEO of any complaints regarding a Transitional Job Opportunity Vendor's eligibility.

- Notifying CEO and County Counsel of its intent to assess sanctions, pursuant to the Transitional Job Opportunities Preference Program, prior to assessing any sanctions or penalties.

VII. Sanctions

A. The information furnished by each solicitation respondent requesting a Transitional Job Opportunities Preference Program shall be provided 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 for the purpose of this 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 County official or employee for the purpose of influencing the certification or denial of certification of any entity as a transitional employer.

D. An entity which has obtained County Certification as a transitional employer 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 County any difference between the contract amount and what the 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 section, be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved; and

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

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

VII. Appeals for Reconsideration of Transitional Employer Certification

The certifying department will investigate any complaint of eligibility received by the County concerning the Transitional Job Opportunities Preference Program.

ANALYSIS

This ordinance amends Title 2 – Administration of the Los Angeles County Code by:

- Increasing the Transitional Job Opportunities Preference from five percent (5%) to eight percent (8%); and
- Clarifying the administration of the Transitional Job Opportunities Preference Program.

JOHN F. KRATTLI
Acting County Counsel

By
ELIZABETH FRIEDMAN
Principal Deputy County Counsel
Contracts Division

EJF:gjh

05/3/12 Requested
05/4/12 Revised

ORDINANCE NO. 2012-0025

An ordinance amending Title 2 - Administration of the Los Angeles County Code, to increase the Transitional Job Opportunities Preference from five percent (5%) to eight percent (8%); and to clarify the administration of the Transitional Job Opportunities Preference Program.

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

SECTION 1. Section 2.205.040 is hereby amended to read as follows:

2.205.040 Administration.

The Chief Executive Officer with the assistance of County Counsel, the Internal Services Department, and the Equal Employment Compliance Officer, shall issue interpretations of the provisions of this chapter, and the Internal Services Department shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 2. Section 2.205.060 is hereby amended to read as follows:

2.205.060 Responsibilities and standards.

A. In order to facilitate the participation of transitional employers in county purchases of goods and services, departments shall provide for transitional employer preferences 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, the preference to the transitional employer shall be

~~five~~eight percent (8%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by the ~~Chief Administrative Office~~Internal Services Department.

C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to cost/price, the preference to the transitional employer shall be ~~five~~eight percent (8%) of the cost/price component of the evaluation, determined according to the instructions issued by the ~~Chief Administrative Office~~Internal Services Department.

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

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

[2205040EFCC]

Exhibit I

SECTION 3. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Zev Yaroslavsky
Chairman

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of June 12, 2012 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	None
	Zev Yaroslavsky		
	Don Knabe		

Effective Date: July 12, 2012

~~Operative Date:~~

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:
JOHN F. KRATTLI
County Counsel

By _____
John F. Krattli
County Counsel

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EXHIBIT II

CALCULATING THE TRANSITIONAL JOB OPPORTUNITIES PREFERENC01+000E PROGRAM

Example 1: Evaluation with no Transitional Job Opportunity Vendors

Point Allocation	Proposal A Non-Transitional Vendor	Proposal B Non-Transitional Vendor	Proposal C Non-Transitional Vendor
Non-cost points *(700 Maximum Points)*	500	500	420
Proposal Cost* *(300 Maximum Points)* **Cost Points**	$103,000 $100,000/$103,000 = .97 .97 x 300 = 291 291	$100,000 $100,000/$100,000 = 1 1 x 300 = 300 300	$106,000 $100,000/$106,000 = .94 .94 x 300 = 282 282
Total Points	791	**800**	702

** Calculation of Proposal Cost*

- Maximum points awarded to lowest cost
- Lowest proposal cost divided by cost of each proposal then multiplied by 300 points

Example 2: Evaluation with a Certified Transitional Job Opportunity Vendor

Point Allocation	Proposal A *Certified Transitional Vendor*	Proposal B Non-Transitional Vendor	Proposal C Non-Transitional Vendor
Non-cost points *(700 Maximum Points)*	500	500	420
Proposal Cost *(300 Maximum Points)* 8% Reduction **	$103,000 ($8,000)	$100,000 N/A	$106,000 N/A
	$95,000 $95,000/$95,000 = 1 1 x 300 = 300	$100,000 $95,000/$100,000 = .95 .95 x 300 = 285	$106,000 $95,000/$106,000 = .90 .90 x 300 = 270
Cost Points	300	285	270
Total Points	**800**	785	690

** Preference = 8% x $100,000 (lowest proposal)

Example 1: No preference was granted. Proposal B submitted the lowest cost and therefore received the maximum points for cost and the highest score for total points. Proposal B would be the recommended contractor.

Example 2: Preference was granted to Proposal A, a certified Transitional Job Opportunity Vendor. Based on the 8% reduction in proposal cost, Proposal A became the lowest cost and therefore received the maximum points for the cost section. As a result, Proposal A received the highest score for total points and would be the recommended contractor. The contract amount would be Proposal A's original proposal cost of $103,000.

The Transitional Job Opportunity Preference Program's additional cost in this example is $3,000, which is the the difference between the proposal by the Certified Transitional Job Opportunity Vendor and the lowest cost submitted.

STANDARD SOLICITATION LANGUAGE

The following language shall be included in any solicitation subject to the Transitional Job Opportunities Preference Program.

Transitional Job Opportunities Preference Program

"In evaluating bids/proposals, the County will give preference to businesses that are certified by the County as Transitional Job Opportunity vendors, consistent with Chapter 2.205 of the Los Angeles County Code. A Certified Transitional Job Opportunity vendor is, and has been such for three (3) years, an entity: that is a non-profit organization recognized as tax exempt pursuant to section 501 (c) (3) of the Internal Revenue Services Code; set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms, along with their application form and three most recent annual tax returns to the department with their bid/proposal response to the purchasing or contracting solicitation for which they are competing; has been in operation for at least one year providing transitional job and the related supportive services to program participants; and provided a profile of their program with a description of their program components designed to assist program participants, number of past program participants, and any other information requested by a contracting department. Transitional Job Opportunities vendors must request the preference in their solicitation responses and may not receive the preference until their certification has been affirmed by the applicable department. County must verify the Transitional Job Opportunity vendor certification prior to applying the preference. Sanctions and financial penalties may apply to a vendor that knowingly and with intent to defraud seeks to obtain or maintain certification as a Transitional Job Opportunities vendor."

STANDARD CONTRACT LANGUAGE

The following language shall be included in any contract subject to the Transitional Job Opportunities Preference Program.

Transitional Job Opportunities Preference Program

"This Contract is subject to the provisions of the County's ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

Contractor shall not knowingly and with the 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 Job Opportunity vendor.

Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.

If Contractor has obtained County certification as a Transitional Job Opportunity vendor 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 this contract to which it would not otherwise have been entitled, shall:

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

2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the contract; and

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

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