Legislation Details (With Text)

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Title: C/S Amending The City's Purchasing Ordinance, Sections 5-5-11 Relating To Capital Project Purchases And 5-5-31 Relating To Pay Equity Reporting To Provide For A 5% Preference For Companies That Have Gender Pay Equity (Gibson, Peña, Winter)

Sponsors:

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Date	Ver.	Action By	Action	Result
5/21/2015	3	City Clerk	Published	
5/21/2015	3	Mayor	Signed by the Mayor	
5/11/2015	2	City Council	Sent to Mayor for Signature	
5/4/2015	2	City Council	Passed	Pass
4/20/2015	2	City Council	Accepted with a recommendation Do Pass, As Substituted	
4/13/2015	1	Finance & Government Operations Committee	Substituted	Pass
4/13/2015	1	Finance & Government Operations Committee	Sent to Council with a recommendation of Do Pass, as Substituted	Pass
3/16/2015	1	President	Referred	
3/16/2015	1	City Council	Introduced and Referred	

CITY of ALBUQUERQUE

TWENTY FIRST COUNCIL

COUNCIL BILL NO. C/S O-15-47 ENACTMENT NO. _____

SPONSORED BY: Diane Gibson, Klarissa Peña, Brad Winter

ORDINANCE

C/S Amending The City's Purchasing Ordinance, Sections 5-5-11 Relating To Capital Project

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Purchases And 5-5-31 Relating To Pay Equity Reporting To Provide For A 5% Preference For Companies That Have Gender Pay Equity (Gibson, Peña, Winter)

AMENDING THE CITY'S PURCHASING ORDINANCE, SECTIONS 5-5-11 RELATING TO CAPITAL PROJECT PURCHASES AND 5-5-31 RELATING TO PAY EQUITY REPORTING TO PROVIDE FOR A 5% PREFERENCE FOR COMPANIES THAT HAVE GENDER PAY EQUITY.

WHEREAS, equal pay between men and women is a national concern, affecting families and society in general; and

WHEREAS, it is the policy of the City of Albuquerque to identify and combat pay inequity between women and men; and

WHEREAS, the City of Albuquerque maintains pay equity in employee salaries; and

WHEREAS, the City Council has previously, through a City Ordinance, required that all competitive bids and sealed proposals include Pay Equity Reporting; and

WHEREAS, the City should be a leader in combating compensation discrimination and ending pay inequality; and

WHEREAS, the providing a preference prior to contract award will further the goal of pay equity; and

WHEREAS, the City Council desires to provide a Pay Equity business preference to City purchases and to Capital Projects, Sealed Bids and Proposals.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. ROA 1994 Section 5-5-11, "Capital Projects" is amended as follow:

"§ 5-5-11 CAPITAL PROJECTS.

(A) Unless otherwise agreed to by the Central Purchasing Office and CIP, the purchase of goods, services and construction for capital projects not procured through the Central Purchasing Office, shall be procured through CIP, in accordance with the "Regulation Governing the Award and Rejection of Bids/Offers and Debarment of Contractors for Public Works Projects of the City of Albuquerque", effective July 25, 2008, or as hereafter amended.

(B) Goods, services and construction projects procured through CIP must comply with the reporting and preference requirements of Section 5-5-31 of the Public Purchases Ordinance, except when the preference creates a conflict with federal laws relating to federally funded contracts.

(C) The Mayor may promulgate additional or revised rules and regulations regarding

the solicitation of offers for capital projects and the award or rejection of offers therefor, including but not limited to establishing procedures for the solicitation and consideration of offers, award or rejection of offers, determining the responsibility of offerors, and such other matters as the Mayor deems desirable for the efficient administration of capital projects.

(D) It is the policy of the city to require local participation in capital projects where possible. Major construction projects which can reasonably be expected to exceed $5,000,000 in cost may require that a market analysis be conducted to determine the percentage of local participation to be required for the project. This determination of the need for a market analysis and the appropriate local participation requirement shall be made on a case by case basis by the user with advice from the city's legal department as needed.

(E) The purchase of goods, services or construction for capital projects for the city shall not occur as part of a contract originally procured as a concession contract or entered into as a lease unless the following applies:

(1) The capital project is included in the original competitive solicitation for the concession contract or lease; or

(2) A city contractor is unable to complete a capital project, which was awarded to that city contractor through a competitive bid process, which will cause damage or harm to the concessionaire or lessee and the concessionaire or lessee can quickly complete the project as determined in writing by the CIP Official; or

(3) The purchase meets the requirements of an emergency purchase as set out in this article.

(F) Any and all rules and regulations adopted or promulgated under this provision shall be consistent with and subject to the provisions of this article, and in the event of a conflict between such rules and regulations and this article, this article shall control.

SECTION 2. ROA 1994 Section 5-5-31, “Pay Equity Reporting Form” is amended as follows:

“§ 5-5-31 PAY EQUITY REPORTING FORM AND PAY EQUITY PREFERENCE.

(A) Reporting Form. All competitive sealed bids and competitive sealed proposals shall require that responses include a completed City of Albuquerque Pay Equity Reporting Form to determine the deviation between salaries for men and women and to encourage compliance with the New Mexico State Fair Pay for Women Act. The Central Purchasing Office and the CIP Official shall require that bids and proposals include the Form. Any response that does not include a completed form shall be deemed nonresponsive. The Central Purchasing Office and the CIP

Official may allow for a revised Pay Equity Reporting Form to be submitted by the respondent should, in their sole opinion, the originally submitted form require a technical change.

(B) Pay Equity Preference. Prior to making a recommendation of award, the Central Purchasing Office or CIP Official shall apply a 5% pay equity preference to the amount bid or to the request for proposal of all offers submitted by any business who at the time of submission of its bid or request for proposal holds a valid Pay Equity Business Certificate issued by the City's Office of Diversity and Human Rights.

(1) Pay Equity Business. For the purposes of this section, a pay equity business is any business that maintains a deviation of 10% or less between the salaries paid to men and the salaries paid to women for comparable positions, as reported in the Pay Equity Reporting form required to be submitted by each offeror as prescribed under Section 5-5-31(A) of this Article. For purposes of this section, comparable positions are those listed in the Job Classification Guide 2010 (or as may be updated and amended from time to time) published by the federal Equal Employment Opportunity Commission.

(2) Certification. The City Office of Diversity and Human Rights shall issue a Pay Equity Business Certificate to any business satisfying the requirements of subsection 1 above. Certificates shall be valid for a duration of one year from the date of issuance.

(C) Limitation. The total amount of all preferences, including the pay equity preference, is limited by subsection 5-5-17(E).

(D) Rules and Regulations. The Mayor or his designated representative, the Director of the Office of Diversity and Human Rights, or its successor agency, shall enforce this Section. The Office of Diversity and Human Rights may prescribe reasonable rules and regulations to carry out the intent and purpose of this section."

SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 4. COMPILATION. The ordinance amendment prescribed by SECTIONS 1 and 2 shall amend, be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect on July 1, 2015, and only

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after publication by title and general summary.

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