



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-33

ROBERT E. SHANNON
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July 8, 2008

PRINCIPAL DEPUTIES

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Belinda R. Mayes
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Barry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffani L. Shin
Linda Trang

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare an ordinance amending Chapter 2.72 of the Long Beach Municipal Code by amending section 2.72.030, all relating to equal opportunity contract compliance program read the first time and laid over the next regular meeting of the City Council for final reading.

DISCUSSION:

Pursuant to your request of May 20, 2008, this office has prepared and submits the above-described ordinance for your consideration.

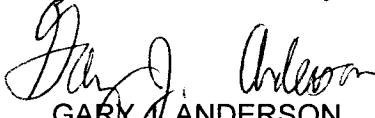
The amendment is show in Attachment "A."

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By: 
GARY J. ANDERSON
Deputy City Attorney

GJA:ikm
Enclosure
A08-01633

1 ATTACHMENT A
2 REDLINED VERSION
3

4 2.72.030 Definitions.

5 The following words and phrases shall be construed as defined in
6 this section unless from the context a different meaning is indicated and
7 more particularly directed to use of such words and phrases:

8 A. "Affirmative action" means the taking of positive steps by the
9 contractor or subcontractor to insure that its practices and procedures
10 promote and effectuate employment retention and advancement of a
11 particular class or category of persons generally described by race, color,
12 religion, sex, ancestry, national origin, age and handicap. The action may
13 involve the concept, when applicable of remedying the continuing effects
14 of past discrimination.

15 B. "Affirmative action plan" means a written statement executed by
16 the contractor which declares the contractor's policy for equal opportunity
17 and affirmative action practices and is signed by an authorized managing
18 official of the contractor. The plan declares the means and method of
19 policy implementation and identifies the management level person
20 responsible for the implementation of the plan. It contains a work force
21 analysis of the race, ethnic, and sex grouping of persons within the
22 contractor's work force by Equal Employment Opportunity -1 (EEO-1) job
23 categories as designated by the Equal Employment Opportunity
24 Commission and the Office of Federal Contract Compliance Programs.
25 Minorities are defined for this purpose as persons of the following racial
26 and ethnic groups: Black (negroes), Hispanic (including persons of
27 Mexican, Puerto Rican, Cuban, Central or South American, or other
28 Spanish origin or culture regardless of race), Asians (including Pacific

1 Islanders), American Indians (including Alaskan natives). It contains a
2 utilization analysis as a comparison between the contractor's work force
3 and the labor market availability (see definition under subsection I of this
4 section).

5 It declares the contractor's goals and timetables for eliminating
6 deficiencies as indicated by the utilization analysis. It further declares the
7 corrective action measures as affirmative steps the contractor will take to
8 meet established goals.

9 C. "Contract" means any agreement, franchise or lease, including
10 agreements for any occasional professional or technical personal services
11 for the performance of any work or service, the provision of any material or
12 supplies or the rendition of any service to or for the city, which is let,
13 awarded or entered into with or on behalf of the city.

14 D. "Contractor" means any person, firm, corporation, or any
15 combination thereof, which submits a bid or enters into any contract with
16 the city.

17 E. "Employment practices" means any practice involving the
18 recruitment of applicants, the selection of employees, the training of
19 employees, the compensation of employees directly or indirectly, the
20 promotion, demotion, layoff, suspension, termination of employees, or any
21 other practice relating to employees in their work-related activities.

22 F. "Employment action plan" is a written statement executed by the
23 contractor which declares the contractor's policy and the assignment of
24 responsibility to a top management person to implement the plan to hire
25 unemployed residents of Long Beach in the performance of the contract. It
26 further declares a numerical goal of employed residents by job
27 classification which the contractor will employ and the steps the contractor
28 will take to achieve the goal.

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G. "Equal opportunity" means that opportunity which must be extended to all persons to participate in all activities, employment, programs or services in like proportions to their representation in the labor market or service area, as applicable.

H. "Equal service certification" means a written statement executed by the contractor in which the contractor certifies and agrees that he will not discriminate against any person in the provision of any service activity or in any program funded in whole or in part by the city, because of race, color, religion, national origin, ancestry, sex, gender identity, age or handicap, except where such exclusion is a bona fide service activity or programmatic necessity.

I. "Labor market availability" means the total recorded number of persons who are employed or unemployed and seeking work within the Standard Metropolitan Statistical Area (S.M.S.A.) as defined in the Department of Commerce, Bureau of Budget Publication, "Standard Metropolitan Statistical Areas," 1967, U.S. Government Printing Office, Washington, D.C. 20402, and which is applicable to the contractor's work force.

J. "Service activity" means any program or activity which promotes the city as a creative, active and socially responsive community.

K. "Subcontractor" means any person, firm, corporation or any combination thereof, which enters into a contract with a contractor to perform or provide a portion or part of any contract with the city.

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING SECTION 2.72.030,
ALL RELATING TO EQUAL OPPORTUNITY CONTRACT
COMPLIANCE PROGRAM

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 2.72.030 of the Long Beach Municipal Code is hereby amended to read as follows:

2.72.030 Definitions.

The following words and phrases shall be construed as defined in this section unless from the context a different meaning is indicated and more particularly directed to use of such words and phrases:

A. "Affirmative action" means the taking of positive steps by the contractor or subcontractor to insure that its practices and procedures promote and effectuate employment retention and advancement of a particular class or category of persons generally described by race, color, religion, sex, ancestry, national origin, age and handicap. The action may involve the concept, when applicable of remedying the continuing effects of past discrimination.

B. "Affirmative action plan" means a written statement executed by the contractor which declares the contractor's policy for equal opportunity and affirmative action practices and is signed by an authorized managing official of the contractor. The plan declares the means and method of policy implementation and identifies the management level person

1 responsible for the implementation of the plan. It contains a work force
2 analysis of the race, ethnic, and sex grouping of persons within the
3 contractor's work force by Equal Employment Opportunity -1 (EEO-1) job
4 categories as designated by the Equal Employment Opportunity
5 Commission and the Office of Federal Contract Compliance Programs.
6 Minorities are defined for this purpose as persons of the following racial
7 and ethnic groups: Black (negroes), Hispanic (including persons of
8 Mexican, Puerto Rican, Cuban, Central or South American, or other
9 Spanish origin or culture regardless of race), Asians (including Pacific
10 Islanders), American Indians (including Alaskan natives). It contains a
11 utilization analysis as a comparison between the contractor's work force
12 and the labor market availability (see definition under subsection I of this
13 section).

14 It declares the contractor's goals and timetables for eliminating
15 deficiencies as indicated by the utilization analysis. It further declares the
16 corrective action measures as affirmative steps the contractor will take to
17 meet established goals.

18 C. "Contract" means any agreement, franchise or lease, including
19 agreements for any occasional professional or technical personal services
20 for the performance of any work or service, the provision of any material or
21 supplies or the rendition of any service to or for the city, which is let,
22 awarded or entered into with or on behalf of the city.

23 D. "Contractor" means any person, firm, corporation, or any
24 combination thereof, which submits a bid or enters into any contract with
25 the city.

26 E. "Employment practices" means any practice involving the
27 recruitment of applicants, the selection of employees, the training of
28 employees, the compensation of employees directly or indirectly, the

1 promotion, demotion, layoff, suspension, termination of employees, or any
2 other practice relating to employees in their work-related activities.

3 F. "Employment action plan" is a written statement executed by the
4 contractor which declares the contractor's policy and the assignment of
5 responsibility to a top management person to implement the plan to hire
6 unemployed residents of Long Beach in the performance of the contract. It
7 further declares a numerical goal of employed residents by job
8 classification which the contractor will employ and the steps the contractor
9 will take to achieve the goal.

10 G. "Equal opportunity" means that opportunity which must be
11 extended to all persons to participate in all activities, employment,
12 programs or services in like proportions to their representation in the labor
13 market or service area, as applicable.

14 H. "Equal service certification" means a written statement executed
15 by the contractor in which the contractor certifies and agrees that he will
16 not discriminate against any person in the provision of any service activity
17 or in any program funded in whole or in part by the city, because of race,
18 color, religion, national origin, ancestry, sex, gender identity, age or
19 handicap, except where such exclusion is a bona fide service activity or
20 programmatic necessity.

21 I. "Labor market availability" means the total recorded number of
22 persons who are employed or unemployed and seeking work within the
23 Standard Metropolitan Statistical Area (S.M.S.A.) as defined in the
24 Department of Commerce, Bureau of Budget Publication, "Standard
25 Metropolitan Statistical Areas," 1967, U.S. Government Printing Office,
26 Washington, D.C. 20402, and which is applicable to the contractor's work
27 force.

28 J. "Service activity" means any program or activity which promotes

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the city as a creative, active and socially responsive community.

K. "Subcontractor" means any person, firm, corporation or any combination thereof, which enters into a contract with a contractor to perform or provide a portion or part of any contract with the city.

Section 2. The City Clerk shall certify to the passage of this Ordinance by the City Council and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2008, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____

Mayor