



Legislation Details (With Text)

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Title: ORDINANCE AMENDING ORDINANCE 6-S&F-a, OCTOBER 11,2000, ESTABLISHING A FIRST SOURCE EMPLOYMENT LINKAGE PROGRAM TO FACILITATE AND ENCOURAGE PRIVATE SECTOR EMPLOYMENT OPPORTUNITIES FOR NEWARK RESIDENTS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AMENDING TITLE 2, CHAPTER 4, BY ADDING LANGUAGE TO ADDRESS IMMEDIATE SHORT TERM TRAINING AND EMPLOYMENT OPPORTUNITIES.
Sponsors: Osborne/James
Deferred 6F-e 010715
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ORDINANCE AMENDING ORDINANCE 6-S&F-a, OCTOBER 11,2000, ESTABLISHING A FIRST SOURCE EMPLOYMENT LINKAGE PROGRAM TO FACILITATE AND ENCOURAGE PRIVATE SECTOR EMPLOYMENT OPPORTUNITIES FOR NEWARK RESIDENTS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AMENDING TITLE 2, CHAPTER 4, BY ADDING LANGUAGE TO ADDRESS IMMEDIATE SHORT TERM TRAINING AND EMPLOYMENT OPPORTUNITIES.

Sponsors: Osborne/James
Deferred 6F-e 010715
Tabled 6F-b 012115 Osborne/McCallum

WHEREAS, there is a need to establish a comprehensive program to ensure the creation of employment and training incentives and opportunities for City of Newark residents; and

WHEREAS, in order to implement a comprehensive solution to systemic unemployment and a lack of training opportunities, there is a need to address immediate problems with viable short term solutions, while studying and developing more fulsome programs to address the systemic problems; and

WHEREAS, the Mayor of the City of Newark is desirous of amending certain existing First Source Ordinances to address immediate short term training and employment opportunities, which will be

followed in the near future with further ordinance amendments and/or a comprehensive First Source Ordinance to establish long term processes and procedures.

NOW, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, AS FOLLOWS:

Section 1. The Revised General Ordinances of the City of Newark, New Jersey, 2000, Title 2, Chapter 4 is hereby amended as follows:

2:4-20. HIRING OF NEWARK RESIDENTS BY CONTRACTORS OR OTHER PERSONS DOING BUSINESS WITH THE CITY OF NEWARK.

a. The City of Newark requires, as part of its bid specifications and contract stipulations, that all/any prospective contractors **or vendors or persons doing business with the City (hereinafter referred to as "Contractors/Vendors")**, **bidding** for a municipal contract in a "service-provider" category take affirmative steps to the greatest extent feasible **to ensure the greater of one of the following: (a) that employ forty (40%) percent of the necessary workforce employed by the contractors or vendors to perform the services contracted**, are performed with ~~of~~ qualified Newark residents for the duration of the contract **(hereinafter referred to as the "Work Force Goal")**; or **(b) that at least forty (40%) percent of the total employee worker hours, in each project area or category, shall be reserved for Newark residents (hereinafter referred to as the "Workhour Goal")**. In order to comply with this section, contractors/ **vendors** or other persons doing business with the City shall demonstrate good faith efforts to **meet the Work Force and/or Work Hour Goals.** ~~ensure that forty (40%) percent of the total employee worker hours, in each project area or category, shall be reserved for Newark residents.~~

b. Contractors/**Vendors** awarded municipal contracts in compliance with paragraph a. above are required to submit **semiannual quarterly** progress reports to the Office of the City Clerk, the Office of Affirmative Action and to the user agency **or Department**, containing an accurate record of 1) the number of Newarkers hired as well as the number of Newark residents currently employed on **the project or in performance of the contract**; 2) the number of training positions, if any, and the amount of positions that will be filled by Newark residents; 3) the necessary level of job skills required of Newarkers to plan and implement the work to be done on the job **or in performance of the contract**. In the semiannual reports the **Contractors** should document all "good faith" efforts in their actions to hire Newark residents **and assign Workhours**. Example of such documentation should consist of the following:

1. Copies of all advertisement for training and employment.
2. A list of Newark residents who applied or otherwise expressed interest in training positions or employment.
3. Letters to community organizations informing them of employment opportunities.
- 4. Work rosters and time and hour documentation.**

c. All advertisements **or postings on the City of Newark website and requests for quotations for open market contracts**, made by or on behalf of the City or any of its departments for Bids, Request For Proposals or other specifications in pursuance of any law requiring the advertisements for bids shall include specific reference to paragraphs a. and b. of this Section.
(Ord. 6 S+FA, 3-21-01 § 1; Ord. 6 S+FB, 2-19-03 § 1; Ord. 6 PSF-F, 11-7-11 § 1)

[New Section] d. Exceptions. To the extent that the Contractor/Vendor requests and the City of Newark concurs, that there is an existing condition or circumstance whereby there are not sufficient available, qualified applicants willing or able to satisfy the Workforce or Workhour Goals associated with the contract, the affected Contractor/Vendor shall deposit with the City of Newark, in an account established pursuant to law, to be expended only for job training programs performed by or sponsored by the City of Newark, an amount equal to 2% of the total annual amount of the contract. A request for an exception shall be made in writing, to the Office of Affirmative Action, on forms approved by the City of Newark, establishing good faith efforts to meet the aforementioned goals. The exceptions may be granted by the Office of Affirmative Action, in its discretion.

[New Section] e. Implementation.

1. One Stop Career Center-NewarkWORKS. The Department of Economic and Housing Development, NewarkWORKS, shall be the office responsible for maintaining records, providing a point of contact for Newark residents seeking employment, maintaining a First Source Register of job opportunities on municipal contracts and unemployed persons, which shall be made available to Contractors/Vendors as a First Source for their employment needs.

2. Job Opportunities. Contractors/Vendors, awarded a bid contract from the City of Newark shall, prior to hiring for any vacancy arising under the municipal contract, shall notify NewarkWORKS of the vacancy, so that it may be listed in the First Source Register. The First Source Register shall contain a detailed description of the job responsibilities and necessary qualifications. The job listings shall be posted in a conspicuous place to be designated by Newark Works on the City's website. Newark Works shall also provide to the Contractors/Vendors a list of qualified candidates from the First Source Register, if such candidates are available, within 24 hours of receiving a notice of a vacancy. The Contractors/Vendors shall (a) review the resumes and qualifications of the candidates, and (b) make a good faith effort, in the sole judgment of the City of Newark, to fill a minimum of 40% of its employment needs the municipal contract with qualified Newark residents.

3. Random Site Visits. The Deputy Mayor for Full Employment or his or her duly authorized representative shall be entitled to perform or conduct random, unannounced site visits to applicable project or job sites to determine whether or not the Contractor/Vendor is in compliance with the First Source requirements of the ordinance.

4. Violations. Contractors/Vendors who have not requested and/or granted an Opt-Out Exemption pursuant to this ordinance, determined to be not in compliance with the ordinance, shall be subject to the following administrative sanctions.

a. Suspension of the contract until the Contractor/Vendor comes into compliance, if appropriate;

b. Termination of the Contract, following receipt of a notice of default, and an opportunity to cure and/or

c. Payment to the Newark Works Job Training Fund, a sum of \$2,000.00 per employee, or the value of wages that would have been earned by employees, impacted by the Contractor's/Vendor's noncompliance, whichever is less.

All contracts and specifications shall include the aforementioned sanction provision.

5. The terms of this ordinance shall not obviate the obligation or requirement of a

Contractor/Vendor to execute a First Source Hiring Agreement, separate and apart from the contract for services.

2:4-21. NEWARK RESIDENTS' EMPLOYMENT POLICY.

2:4-21.1. Declaration of Public Policy.

It is hereby declared to be the public policy of the Municipal Council that the hiring of Newark residents to the greatest extent possible by developers, construction contractors and any other entities or individuals which have been contracted to conduct business with the City of Newark shall be applied to any and all Federally or State assisted, City sponsored or privately funded developments within the City limits, with bona fide Newark residents being afforded a minimum of forty (40%) percent of the total employee worker hours in each construction trade and/or company position. The term employees shall apply to persons filling apprenticeship and on-the-job-training positions, and said developers, contractors and employers may rely upon the traditional referral methods in the hiring of employees, journeymen, apprentices, trainees and helpers. By way of example: for a construction contract, the categories shall include, but not be limited to, carpenters, drywall (sheetrock) installers, electricians, framers, glazers, hazardous materials removers, heavy equipment operators, laborers, landscapers, masons, painters, pipe fitters, plumbers, roofers and window installers. (Ord. 6 S+FD, 11-18-02 § 1; Ord. 6 PSF-F, 11-7-11 § 1)

2:4-21.2. Contractors' Best Efforts.

a. In order to validate a good faith **effect** with the qualified Newark residents the contractor shall comply with the stipulation of Ordinance 6-S&F-a, October 11, 2000 , the First Source Employment Program and shall require each subcontractor to designate an individual to serve as a compliance officer for the purpose of pursuing the Newark Residents Jobs Policy.

b. Prior to the start of construction, the contractor and each subcontractor then selected, shall meet with appropriate representatives of the construction trade unions, representatives from the Newark Residents Job Policy Office **Office of the Deputy Mayor for Full Employment** and the awarding or contracting authority for the purpose of reviewing the standards and the estimated employment requirements for construction activity over the construction period of the project. **The Department of Economic and Housing Development, One Stop Career Center-NewarkWORKS, shall be the office responsible for maintaining records, providing a point of contact for Newark residents seeking employment, maintaining a First Source Register of job opportunities on municipal contracts and unemployed persons, which shall be made available to Contractors/Vendors as a first source for their employment needs.**

c. Whenever any person involved in the construction of a project makes a request to a union hiring hall, business agent or contractors' association of qualified workers, the requestor shall ask that those qualified applicants referred for construction positions be referred in the proportions specified in the Newark Residents Construction Employment standards and shall further contain a recitation of such standards. However, if the requesting party's workforce composition at any time falls short of any one (1) or more of the proportions specified in the standards, the requesting party shall adjust his or her request so as to seek to more fully achieve the proportions as specified in whom a request for qualified employees has been made fails to fully comply with the request, the requesting party's compliance officer shall seek written confirmation that there are insufficient employees in the categories specified in the request and that such insufficiency is documented on the unemployment list maintained by the hall, agent or association. Copies of any confirmation so

obtained shall be forwarded to the Commission. Copies of any requests for qualified employees made at the time that the requesting party's workforce composition fall short of any one (1) or more such standards shall be forwarded contemporaneously to the **Deputy Mayor for Full Employment**.

d. All persons applying directly to the contractor or any subcontractor for employment in construction of a project who are not employed by the party to whom application is made shall be referred by said party to the Newark Residents Jobs Policy Office **Office of the Deputy Mayor for Full Employment**, and a written record of such a referral shall be made by said party, a copy of which shall be sent to **the Affirmative Action Review Council, R.O. 2:2-28.1**. ~~said Compliance and Enforcement Division out of the Newark Employment Commission.~~

e. Contractors shall maintain a file of the names, addresses, and telephone numbers of each Newark resident who has sought employment with respect to a project or who was referred to the contractor by the **Office of the Deputy Mayor for Full Employment Newark Resident Jobs Policy Office** but was not hired. The contractor shall maintain a record of the reason any such person was not hired. If the contraction of a project is subject to any union collective bargaining agreements, it shall be required that the employee complies with any lawful union security clauses contained in such agreement. **The contractors shall report the data required by section on a Newark Workforce Compliance Report template, prepared by the Office of the Deputy Mayor for Full Employment, on a monthly basis. This reporting requirement shall be in addition to any other reporting required by this or any other ordinance.**

f. The contractor shall in a timely manner complete and submit to the **Affirmative Action Review Council** ~~Commission~~ a projection of the workforce needs over the course of construction of the project. Such a submission shall reflect the needs by trade for each month of the construction phase.

g. The contractor shall obtain from each worker employed in the construction of the project, a sworn statement containing the worker's name and place of residence.

h. One (1) week following the commencement of construction of the project, and each week thereafter until such work is completed, the contractor shall complete and submit to the Newark Residents Job Policy Office **Office of the Deputy Mayor for Full Employment** for week just ended a report which reflects (a) for each employee, the employee's name, place of residence, race, gender, trade and total number of worker hours he or she worked, and (b) the total worker hours of its total workforce. **In addition to providing demographic information and the total worker hours of its workforce, the contractor shall report the total number of hours worked by Newark residents, with an additional breakdown by trade, from the beginning of the project to date. To comply with this provision, contractors shall provide this data on the Newark Workforce Compliance Report template, provided by the Office of the Deputy Mayor for Full Employment.**

i. The contractor and each subcontractor shall maintain records reasonably necessary to ascertain compliance with the steps detailed in paragraphs a. through h. hereof for at least one (1) year after the beginning of the construction of the project. In its review of records of a construction project submitted to demonstrate compliance with these steps, the **Affirmative Action Review Council** ~~Commission~~ shall take into consideration any affirmative action outreach programs and affirmative action job training programs of the particular trades participating in the project.

(Ord. 6 S+FD, 11-18-02 § 2; Ord. 6 PSF-F, 11-7-11 § 1)

2:4-21.3. Developers' Best Efforts.

a. In order to validate a good faith effort to hire qualified Newark residents the developer shall comply with the stipulations of Ordinance 6-S&F-a, October 11, 2000, the First Source Employment Program and shall incorporate in every general construction contract or construction management

agreement an enumeration of the standards and shall impose a responsibility upon such general contractor or construction management to take all steps enumerated in paragraph a. though i. and incorporate such standards in all subcontracts and impose upon all subcontracts the obligation to take such steps.

b. The developer shall meet with the contractor no less frequently than weekly throughout the period of construction of the project to review the contractor's compliance with such standards and steps. The developer shall maintain minutes of such meetings and shall forward a copy of such minutes to the ~~Newark Residents Jobs Policy Office~~ **Office of the Deputy Mayor for Full Employment** within ten (10) days of such meeting.

c. The following procedures and guidelines must be followed by all subcontractors performing work on the project. This project is subject to the Newark Residents Job Policy, and will be monitored by the ~~Newark Residents Jobs Policy Office~~ **Office of the Deputy Mayor for Full Employment** to ensure that employment of forty (40%) percent Newark residents is achieved and maintained.

1. Submit a letter to the union explaining that this project is subject to the Newark Residents Jobs Policy, which requires that employment of forty (40%) percent Newark residents must be achieved on a weekly basis until completion of your contract with this company.

2. As your company gets ready to hire workers from the local union, keep in mind that all requests made by your job representative in your office must be done in writing. All requests must include:

(a) The name of the representative making such request, name of persons she/he contacted at the union hall, date of contract and action taken by union representative.

3. A meeting is to take place with union business agents before your company starts any type of work on this project.

4. Your office must keep records for all walk-in applicants. Records should include the name, address, and telephone number of the applicant, the position for which the applicant applied, whether the applicant is a resident, and action taken by your office.

5. A meeting shall be called by the general contractor and the **Office of the Deputy Mayor for Full Employment** ~~Newark Residents Jobs Policy Office~~ to discuss what other steps will be taken to help your office comply with these requirements.

(Ord. 6 S+FD, 11-18-02 § 3; Ord. 6 PSF-F, 11-7-11 § 1)

2:4-21.4 Affirmative Action Review Council - Enforcement and Monitoring.

The duties heretofore conferred on the Newark Employment Commission with regard to enforcement and monitoring of the Newark Resident Employment Policy shall be exercised by the Affirmative Action Review Council. The Newark Employment Commission ordinance is hereby repealed.

Newark Employment Commission.

a. ~~Established.~~ The Commission to be known as the "Newark Employment Commission" is hereby established.

b. ~~Purpose.~~ The Commission, which shall meet monthly, shall be responsible for the implementation, enforcement and monitoring of the Newark Resident Employment Policy in a manner that is consistent and fair to all parties.

~~c. *Membership.* The Commission shall consist of seven (7) members to be appointed by the Mayor with the advice and consent of the Municipal Council.~~

- ~~1. The Commission shall include at least one (1) person for each of the following categories:~~
- ~~(a) A representative from the Mayor's Office.~~
 - ~~(b) A representative from the Municipal Council.~~
 - ~~(c) A representative from the labor union.~~
 - ~~(d) A representative from the construction contractor.~~
 - ~~(e) A representative from a real estate developer.~~
 - ~~(f) A representative from the Mayor's Office of Employment and Training (MOET)~~
 - ~~(g) A community representative.~~

~~d. *Compensation.* The Newark Employment Commission members shall serve without compensation with the original appointees serving in the following manner: Four (4) for a term of one (1) year; three (3) for a term of two (2) years. Each succeeding appointment shall be a term of three (3) years, and all appointments to fill vacancies shall be for the unexpired term.
(Ord. 6 S+FD, 11-18-02 § 4)~~

Section 2. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency.

Section 4. This Ordinance amendment shall take effect upon final passage and publication in accordance with New Jersey State law.

STATEMENT

This ordinance amends an existing First Source Ordinance to address immediate short term training and employment opportunities.

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