

**Item #5<sub>(3)</sub>**

**ADDITIONAL MATERIAL  
2:00 P.M. PUBLIC HEARING  
APRIL 8, 2014**

**SUBMITTED AT THE REQUEST OF  
COMMISSIONER HOLNESS**

ORDINANCE NO. 2014-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO WORKFORCE INVESTMENT; ESTABLISHING GOALS FOR FIRST SOURCE EMPLOYMENT REFERRALS AND QUALIFYING NEW HIRES FOR SPECIFIED COUNTY CONTRACTS; CREATING SECTION 1-52 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Dale V.C. Holness)

WHEREAS, the Board of County Commissioners desires to enact a Broward County Workforce Investment ordinance to increase certain potential employment opportunities in connection with County-funded contracts,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 1-52 of the Broward County Code of Ordinances ("Code"), "Broward County Workforce Investment," is hereby created to read as follows:

[Underlining omitted]

**Sec. 1-52. Broward County Workforce Investment.**

This section shall be known and may be cited as the "Broward County Workforce Investment Act" (the "Act"). The objectives of the Act are to encourage Contractors to utilize CareerSource Broward ~~and its~~, the Florida Department of Vocational Rehabilitation, and their contract partners as a first source for employment candidates

1 for work on County-funded projects, and to encourage Contractor investment in  
2 Broward County economic development through the hiring of economically  
3 disadvantaged or hard-to-hire individuals.

4 (a) *Definitions.* For purposes of this Act:

5 (1) "CareerSource" means CareerSource Broward, the administrative entity of  
6 the Broward Workforce Development Board, or any successor entity.

7 (2) ~~"CareerSource Referrals" means workers who are identified by~~  
8 ~~CareerSource or any of its contract partners as candidates for~~  
9 ~~employment in response to a job order form submitted by the Contractor~~  
10 ~~to CareerSource.~~

11 ~~(3)~~ "Contractor" means an individual, non-profit, or for-profit entity, including a  
12 corporation, partnership, limited liability company, or similar entity, that  
13 enters into a Covered Contract. To the extent that the Covered Contract  
14 is performed in whole or in part by a subcontractor engaged by the  
15 primary contractor, the term "Contractor" as used herein shall include the  
16 subcontractor as well.

17 (43) "Covered Contract" means a County-awarded contract that (i) pays the  
18 Contractor, on average, at least twofive hundred ~~fifty~~-thousand dollars  
19 (~~\$250~~500,000) in annual payments; (ii) is not subject to state or federal  
20 requirements that prohibit or pre-empt the application of this Act to the  
21 contract; and (iii) is either for construction-related services or for "Covered  
22 services" under Section 26-101(f) of the Broward County Code of  
23 Ordinances ("Code") (the Broward County Living Wage Ordinance).



- (54) "Economically Disadvantaged Worker" means a person who (a) maintains a primary residence at the time of hire within a census tract with concentrated poverty as defined by a poverty rate of twenty percent (20%) or greater as determined from data from the most current U.S. decennial census and from information published by the Bureau of the Census and the Bureau of Labor Statistics; (b) prior to hire had an annual household income for the last full calendar year equal to or less than the most recently-published "Low-Income" income limits for the Fort Lauderdale, FL HUD Metro Fair Market Rents Area for Section 8 of the Housing Act of 1937, as amended; (bc) had been unemployed but seeking employment for more than six (6) consecutive months prior to hire; or (ed) had received federal or state public assistance through Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance (SNAP) within ninety (90) days prior to hire.
- (65) "Hard-to-Hire Worker" means a person who, at the time of hire, (a) has a criminal felony record; (b) has a record of a physical or mental impairment that substantially limits one (1) or more major life activities; (c) has neither a high school diploma nor a GED; ~~(d) is a military veteran;~~ or (e) ~~had~~ has been homeless for at least six (6) of the last twelve (12) months.
- (76) "Qualifying New Hires" means individuals (a) ~~hired through referral from CareerSource or its contract partners~~ who are Qualified Referrals; (b) ~~who were~~ are ~~military veterans or served in the Peace Corps;~~ (c) who are currently serving at the time of hire as apprentices through existing government-, school-, or Florida-registered apprenticeship programs; (ed)

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 lacking the required skills, experience, or qualifications for the position but  
2 who are hired by the Contractor and provided training by CareerSource,  
3 Florida Department of Vocational Rehabilitation, or one of ~~its~~their contract  
4 partners; (~~de~~) who are Economically Disadvantaged Workers; or (~~ef~~) who  
5 are Hard-to-Hire Workers.

6 (7) "Qualified Referrals" means workers who are identified by CareerSource,  
7 the Florida Department of Vocational Rehabilitation, or any of their  
8 contract partners as candidates for employment in response to a job order  
9 form submitted by the Contractor to CareerSource.

10 (8) "Vacancies" means all full- and part-time job openings of the Contractor  
11 that are the direct result of the County-awarded contract at issue, ~~including~~  
12 ~~job openings for work to be performed on the County project and job~~  
13 ~~openings within Broward, Miami-Dade, and Palm Beach counties created~~  
14 ~~by internal promotion or lateral transfer, as a result of the County-awarded~~  
15 ~~contract, of persons already employed by the Contractor. For example, if~~  
16 ~~a worker is promoted or transferred from a position within Broward~~  
17 ~~County, Miami-Dade County, or Palm Beach County on an unrelated~~  
18 ~~project in order to work in a position on the County-awarded project, the~~  
19 ~~position on the unrelated project constitutes a Vacancy for the purpose of~~  
20 ~~this Act. Vacancies include job openings at the time contractual~~  
21 ~~performance commences and any job openings that develop at any time~~  
22 ~~during the contract term.~~

23 (b) *Workforce Investment Goals*. Under any procurement solicitation for any  
24 Covered Contract, the bidder or proposer shall be required, as an issue of



1 ~~responsiveness~~responsibility, to indicate that it agrees to be bound to contractual  
2 obligations under the Covered Contract, if awarded to the bidder or proposer, requiring  
3 it to use good faith efforts to meet the First Source Referral Goal and the Qualifying  
4 New Hires Goal. If the bidder or proposer fails to respond affirmatively, it shall be  
5 deemed non-~~responsiveresponsible~~ to the solicitation.

6 (1) First Source Referral Goal.

7 a. Upon award of the applicable Covered Contract, the Contractor  
8 agrees to ~~list~~publicly post all Vacancies for Covered Contracts  
9 ~~exclusively with~~through CareerSource for a period of at least five  
10 (5) business days, which shall be calculated from the date of written  
11 notice by the Contractor to the County and CareerSource of the  
12 placement of the job order form with CareerSource. During this  
13 period, the Contractor shall not utilize other recruitment methods or  
14 advertisements to attempt to fill any Vacancies, except that internal-  
15 only job postings by the Contractor and consideration of any  
16 Qualified Referrals are permitted during this period.

17 ~~b.b.~~ CareerSource will provide to the Contractor a list of Qualified  
18 Referrals that meet the requirements of the Vacancies.

19 c. Promptly upon receipt thereof, the Contractor agrees to review the  
20 qualifications of ~~all CareerSource the Qualified~~ Referrals and use  
21 good faith efforts to interview ~~all CareerSource~~Qualified Referrals  
22 that appear to meet the qualifications required for one (1) or more  
23 Vacancies.

1 ed. Upon completion of the review of the CareerSourceQualified  
2 Referrals' qualifications and good faith efforts to interview ~~all~~  
3 qualified candidates, the Contractor shall be deemed to have  
4 demonstrated good faith efforts to comply with the First Source  
5 Referral Goal regardless of whether the Contractor offers  
6 employment or actually hires any of the CareerSourceQualified  
7 Referrals.

8 (2) Qualifying New Hires Goal.

9 a. The Contractor agrees to use good faith efforts to hire Qualifying  
10 New Hires for at least fifty percent (50%) of the Vacancies resulting  
11 from a Covered Contract.

12 b. The Qualifying New Hires Goal shall be calculated as follows:

13 1. The total number of Vacancies for the Covered Contract,  
14 minus the number of Vacancies actually filled by workers  
15 who are not residents of the State of Florida at the time of  
16 hire, divided by two (2) and rounded up to the nearest whole  
17 number, constitutes the Qualifying New Hires Goal; and

18 2. Each Economically Disadvantaged Worker or Hard-to-Hire  
19 Worker who is hired by the Contractor for the Covered  
20 Contract shall count as two (2) Qualifying New Hires for  
21 purposes of meeting the Qualifying New Hires Goal.

22 c. The Contractor shall be deemed to have demonstrated good faith  
23 efforts to meet the Qualifying New Hires Goal if:  
24

1. The Contractor meets the First Source Referral Goal but is unable to meet the Qualifying New Hires Goal due to a documented lack of ~~qualified~~ CareerSourceQualified Referrals or due to special skills, experience, or expertise required to fill the Vacancies;
  2. The Contractor demonstrates that at least fifty percent (50%) of the Contractor's current workforce consists of workers who met the definition of Qualifying New Hires on the date of hire;
  3. Identified collective bargaining agreement provisions prevent the Contractor from meeting the Qualifying New Hires Goal; or
  4. Documented other circumstances (including, without limitation, voluntary terminations, employee illnesses, etc.) that prevent the Contractor from meeting the Qualifying New Hires Goal despite documented reasonable efforts.
- d. A written sworn statement or other notarized certification by a person that he or she qualifies as a Qualifying New Hire, Economically Disadvantaged Worker, or Hard-to-Hire Worker, which certification identifies the specific factual basis for the person's qualification, shall constitute sufficient evidence that the person meets the qualification, ~~unless the Contractor is on actual notice of facts that contradict the qualification, in which case the~~

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~~Contractor must obtain and retain documentation evidencing the person's qualification under the applicable standard.~~

- (3) Nothing in this Act shall be construed to require or authorize any Contractor to take any action in violation of an existing collective bargaining agreement or any requirement of state or federal law.

(c) *Implementation.*

- (1) An indication of the Contractor's commitment to be contractually bound to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal pursuant to this section shall be a required item ~~for response~~ in the procurement specifications to demonstrate responsibility for all Covered Contracts for which bids or proposals are initially solicited on or after the effective date of this Act.

- (2) The procurement specifications for Covered Contracts shall include a requirement that Contractors retain for a period of at least one (1) year after expiration or termination of the Covered Contract the following records for all employees hired for Vacancies on Covered Contracts and agree to produce, at the County's request, documents and records sufficient to demonstrate the Contractor's compliance, as well as any good faith efforts to comply, with the First Source Referral Goal and the Qualifying New Hires Goal:

- a. The name and address of each employee hired to fill a Vacancy;
- b. That employee's application for employment;
- c. The job title and classification of the employee;

- 1 d. The beginning and ending date (if applicable) of employment for  
2 each employee hired during the term of the Covered Contract; and  
3 e. Sworn certifications or other documentation sufficient to evidence  
4 the qualifications of all Qualifying New Hires under the applicable  
5 standard(s) at the time of hire, and documentation of the good faith  
6 efforts undertaken in connection with the Qualifying New Hires  
7 Goal.

8 (3) Contractors awarded Covered Contracts shall, by January 31 of each year  
9 during the contract term and within thirty (30) days following completion of  
10 the contract, submit reports ("Workforce Investment Reports") to the  
11 ~~County's Office of Intergovernmental Affairs and Professional~~  
12 ~~Standards~~County and to CareerSource summarizing the data reflected in  
13 the documents required to be retained under this section. Any additional  
14 related information or documentation relating to compliance with this Act  
15 requested by the ~~Office of Intergovernmental Affairs and Professional~~  
16 ~~Standards~~County shall be promptly provided by the Contractor.

17 (4) The record-retention and reporting requirements of this section are  
18 mandatory for all Contractors providing services under Covered Contracts.  
19 All Covered Contracts shall contain language making a failure to timely  
20 comply with this section a material breach of contract.

21 (d) *Compliance and enforcement.* For any Covered Contract, the contract  
22 at issue shall specifically provide that:

- 23 1. The Contractor's failure to demonstrate good faith efforts to meet the First  
24 Source Referral Goal or the Qualifying New Hires Goal shall constitute a

1 material breach of contract, ~~and shall also subject the Contractor to~~  
2 ~~potential suspension or bar from future County contract awards;~~

- 3 2. Failure to demonstrate good faith efforts to meet the First Source Referral  
4 Goal or the Qualifying New Hires Goal shall result in reduction of the total  
5 compensation paid to the Contractor under the Covered Contract in the  
6 amount of ~~one thousand~~ five hundred dollars (\$~~1,500~~) for each newly-hired  
7 employee by which the Contractor fails to meet the Qualifying New Hires  
8 Goal; and

- 9 3. The Contractor shall be paid an additional five hundred dollars (\$500) by  
10 the County above the otherwise-applicable contract amount for each  
11 additional full-time Qualifying New Hire employed by the Contractor for the  
12 duration of the Covered Contract in excess of the Qualifying New Hires  
13 Goal (not to exceed a total additional compensation of ~~\$5,000~~2,500). Any  
14 amount due under this provision shall be paid by the County within thirty  
15 (30) days of the Contractor's submission of the final Workforce Investment  
16 Report.

- 17 (e) *Sunset review.*

18 This Act shall be reviewed by the ~~Office of Intergovernmental Affairs and~~  
19 ~~Professional Standards five (5)~~County two (2) years after it becomes effective. Such  
20 review shall include analysis of (i) the effectiveness of the Act in encouraging the  
21 employment of Qualifying New Hires, including Economically Disadvantaged Workers  
22 and Hard-to-Hire Workers; (ii) Contractors' ability to meet the First Source Referral and  
23 Qualifying New Hires Goals; (iii) the estimated financial impact on the County; and (iv)  
24 any recommendations for amendment or modification of the Act's provisions.



1       Section 2.   SEVERABILITY.

2       If any portion of this Ordinance is determined by any Court to be invalid, the  
3 invalid portion shall be stricken, and such striking shall not affect the validity of the  
4 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion  
5 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),  
6 or circumstance(s), such determination shall not affect the applicability hereof to any  
7 other individual, group, entity, property, or circumstance.

8  
9       Section 3.   INCLUSION IN CODE.

10       It is the intention of the Board of County Commissioners that the provisions of  
11 this Ordinance shall become and be made a part of the Broward County Code; and that  
12 the sections of this Ordinance may be renumbered or relettered and the word  
13 "ordinance" may be changed to "section," "article," or such other appropriate word or  
14 phrase in order to accomplish such intentions.

15  
16       Section 4.   EFFECTIVE DATE.

17       This Ordinance shall become effective as provided by law.

18       ENACTED

19       FILED WITH THE DEPARTMENT OF STATE

20       EFFECTIVE

21       Approved as to form and legal sufficiency:  
22       Joni Armstrong Coffey, County Attorney

23       By \_\_\_\_\_ (date)  
24       René D. Harrod  
      Assistant County Attorney

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