



Legislation Text

File #: 030721, **Version:** 2

030721
SUBSTITUTE 2

ALD. PRATT

A substitute ordinance relating to the city residents preference program.

309-41 rp

355 cr

Currently, the residents preference program only applies to construction contracts administered by the department of public works. This ordinance requires that all contracting departments ensure that 25% of the worker hours on most construction and services contracts, with the exception of professional services contracts, awarded by the city be performed by unemployed residents of the community development block grant area. Each contracting department shall be responsible for the implementation and enforcement of this program, and the appropriate level of participation is presumed to be 25%, unless the contracting department determines there is sufficient reason to impose a lesser requirement.

Whereas, Between 1991 and 2000 in the city of Milwaukee, there was a 21.4% decline in the number of manufacturing jobs while the number of jobs in all sectors grew by only 0.4% over the same period; and

Whereas, Between 1995 and 2000, the number of jobs in the metropolitan area grew by 52,496 while the total number of jobs in the city of Milwaukee declined by 678, which indicates that all of the net job growth for the metropolitan area occurred outside of the city of Milwaukee; and

Whereas, The unemployment rates for the first 9 months of 2003 were 9.7% for the city of Milwaukee; 7.1% for Milwaukee county; 4.2% for the metropolitan area; 4.9% for the state of Wisconsin; and 6.1% for the U.S.; and

Whereas, The unemployment rate in 2000 for the Community Development Block Grant (CDBG) area was 14.7%, and 7 of the 17 designated Neighborhood Strategic Planning (NSP) areas which comprise the CDBG area had unemployment rates greater than 20%; and

Whereas, Based upon 2000 Census statistics, the city and county unemployment rates excluding the CDBG area would have been as low as 5.6% and 4.3%, respectively; and

Whereas, While the city of Milwaukee in 2000 contained 56.6% of the county's labor force and 33.6% of the metropolitan area's labor force, the city had over 77% of the county's and 55% of the metropolitan area's unemployed residents; and

Whereas, While the CDBG area in 2000 contained 41.3% of the city's labor force and 24.9% of the

county's labor force, the CDBG area had over 64% of the city's and 53% of the county's unemployed residents; and

Whereas, The percentage of persons in 1999 living below the federal poverty line was 21.3% for the city of Milwaukee, 10.6% for the metropolitan area and over 40% in 8 of the 17 NSP areas comprising the CDBG area; and

Whereas, The median household income in 1999 in the CDBG area was \$22,649, which was approximately 70% of the city of Milwaukee's median, 59% of county's median, and 50% of the metropolitan area's median; and

Whereas, The higher unemployment rate in the CDBG area severely impacts the economic well-being of the entire city by negatively affecting the city's property tax base, revenues and expenditures for city services; and

Whereas, The high unemployment in the CDBG area has translated into neighborhood problems, including high housing vacancy rates, increasing evidence of boarded-up units and declining rates of owner occupancy; and

Whereas, The CDBG area is characterized by the deteriorated state of housing and commercial areas and a concentration of the poorest households in the city; and

Whereas, The city and its residents have been harmed by the existing unemployment rate, particularly in the CDBG area, which has been caused in part by the employment of nonresidents in city public works and services contracts; and

Whereas, Such harm includes, but is not limited to, the inability of unemployed city residents to pay property taxes which support the provision of city services to residents of the city; and

Whereas, Such harm also includes an increase in demand for city-funded services by unemployed residents, such as increased needs for services provided by the city's health, building inspection and police departments; and

Whereas, The city finds that there are at present qualified unemployed residents residing in the CDBG area in sufficient numbers to work on most public works and services contracts; and

Whereas, A requirement that CDBG area residents make up at least 25% percentage of the worker hours on most public works and services contracts will benefit all city residents by alleviating the CDBG area's unemployment problem, will equalize the unemployment rates among the various jurisdictions in the area, and will diminish the harm suffered by the city and city residents from the employment of nonresidents on public works and services contracts without a substantial increase in cost to the city; and

Whereas, The city of Milwaukee through its contracting function has a significant impact on local economic activity; and

Whereas, It is in the best interests of the city of Milwaukee, its labor force and business community that action be taken to create jobs and to alleviate the unemployment situation in the CDBG area;

and

Whereas, The common council of the city of Milwaukee is aware of other studies undertaken by public and private agencies in the area which document the severe unemployment situation in this city, and most particularly in the CDBG area; and finds that the high concentration of unemployment in the CDBG area is detrimental to the economic and social health of the community; and

Whereas, Based upon all of the proceedings and testimony before the economic development committee of the common council, and reports and studies, all of which are part of this file, the common council finds that action must be taken to address the critical unemployment situation in the city of Milwaukee; now, therefore,

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

PART 1. Section 309-41 of the code is repealed.

PART 2. Chapter 355 of the code is created to read:

**CHAPTER 355
RESIDENTS PREFERENCE PROGRAM**

355-1. Definitions. In this chapter:

1. COMMUNITY DEVELOPMENT BLOCK GRANT AREA OR CDBG AREA means that portion of the city designated as such by the common council which is identified by census tracts on maps maintained at the office of the city clerk and the contracting departments.
2. CONSTRUCTION means either new construction work or repair work on any roads, bridges, sewers, streets, alleys, buildings or any other public work whatsoever.
3. CONTRACT means a binding agreement executed by the city in which the city is committed to expend or does expend its funds or other resources.
4. CONTRACTING DEPARTMENT means any city department agency, board or commission that has contracting responsibilities.
5. CONTRACTOR means a separate and distinguishable business entity participating or seeking to participate in the performance of a contract.
6. PROFESSIONAL SERVICE CONTRACT means any contract in which the majority of workers engaged in the performance of the contract perform work which:
 - a. Is predominantly intellectual and varied in nature, as opposed to work which involves routine mental, manual, mechanical or physical labor.
 - b. Requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.
7. RESIDENT means a person who maintains his or her place of permanent abode in the CDBG area within the city. Domiciliary intent is required to establish that a person is maintaining his or her place of permanent abode in the CDBG area. Mere ownership of property is not sufficient to establish domiciliary intent. Evidence of domiciliary intent includes, without limitation, the location where the person votes, pays personal income taxes or obtains a driver's license.
8. SERVICE CONTRACT means any contract with the city, for the provision of services to any city department or agency

with a budget under control of the common council, which has a value exceeding \$5,000.

9. UNEMPLOYED means that the resident has worked less than 1200 hours in the preceding 12 months or has not worked in the preceding 30 days. A resident shall continue to qualify as unemployed for 5 years from the date he or she first participated in a contract under this section. If a resident becomes an apprentice for a city contractor or becomes a member of any verifiable training program as determined by the head of the contracting department immediately after or in the course of performing on a particular city construction contract, he or she shall continue to qualify as unemployed for a period not exceeding 5 years from the date the person became an apprentice or member of such training program.

355-3. Requirements. All construction and service contracts, with the exception of professional services contracts, administered by the contracting department which are funded in whole or in part by city, state or federal funds, where appropriate and consistent with law, shall contain:

- 1.** A requirement that 25% of the worker hours, subject to the provisions of s. 355-5-1-b, shall be performed by unemployed residents of the CDBG area, and that furthermore the contractor shall give fair consideration to all segments of the population including women and minorities. For the purpose of this chapter, "worker hours" includes work performed by persons filling apprenticeship and on-the-job training programs.
- 2.** A provision in which the contractor certifies that it knows of the provisions of this chapter and intends to comply with them.
- 3.** A requirement that the contractor maintain personnel records listing the names and addresses and race and gender of its employees utilized for each contract, and any records demonstrating that the employees utilized by the contractor in meeting the requirements of this chapter are actual residents of the CDBG area. These records shall be maintained for 3 years after the contractor has received final payment under the contract, and shall be made available to the contracting department for inspection upon reasonable notice.
- 4.** A map identifying by census tract the CDBG area of the city of Milwaukee as designated by the office of community block grant administration, department of administration.

355-5. Administration. Each contracting department shall be responsible for the planning, implementation and enforcement of this chapter.

1. PLANNING AND IMPLEMENTATION. Prior to the commencement of any construction or other project covered by this chapter, the contracting department shall:

- a. Identify the approximate number of job positions involved in the project.
- b. Determine the appropriate level of participation of unemployed residents of the CDBG area for inclusion in the contract specifications. The appropriate level of participation shall be presumed to be 25%, unless the contracting department determines there is sufficient reason to impose a lesser requirement. However, the head of the contracting department may require greater levels of participation if the department head finds that such levels may be warranted for certain contracts.

2. MONITORING AND ENFORCEMENT. Each contracting department shall:

- a. Monitor compliance with the provisions of this chapter.
- b. Require all contractors and subcontractors, prior to commencement of the work, to submit affidavits on forms supplied by the contracting department from employees utilized to meet the requirements of this chapter, stating that the employee is both unemployed and is a resident of the CDBG area.
- c. Require all contractors and subcontractors to submit within 10 days following completion of the work or every 3 months, whichever comes first, contract time reports listing workers by name, residential address, work classification and hours worked.
- d. Arrange for an independent annual audit with respect to the residents preference program, to be performed every 3 years, by a certified accounting firm licensed to perform audits in the state of Wisconsin or by the city comptroller.

e. Maintain racial demographics and residency information regarding job positions in all contracts administered by the contracting department.

355-7. Annual Review. The residents preference program established by this chapter shall be reviewed by the common council, in consultation with the mayor, on or before October 1 of each year, to review the necessity for the continuation of the program and, if necessary, adjust the requirements of the program in an attempt to reduce the disparity between the unemployment statistics for the CDBG area and the rest of the city and the Milwaukee metropolitan area.

355-9. Annual Program Report. 1. DEPARTMENTAL REPORT. Each contracting department shall submit annually to the business operations division - procurement services section - department of administration a residency preference program report on departmental success in achieving the goals of the program. The performance report shall include the following:

- a. The number and dollar amount of all construction and service contracts let.
- b. The number and dollar amount of construction and service contracts which incorporated a residency requirement and the percentage of unemployed resident worker hours required.
- c. If not all construction and service contracts included a residency requirement or if some contracts contained a requirement of less than 25% of worker hours, the department shall state the reason for this difference.
- d. The number and dollar amount of non-construction contracts which incorporated a residency requirement, along with a summary of the reasons for not incorporating a residency requirement in some or all of those contracts.
- e. Full disclosure of the department's reasons for adjusting the participation percentage goal for individual contracts or groups of contracts.
- f. The percentage of total hours worked by city/CDBG area, city/non-CDBG area and non-city residents for contracts which included the residency requirement.
- g. Information to assist the common council in its annual reappraisal of the residents preference program, including the number of individual participants by job type (e.g. laborer, carpenter, electrician, etc.), the number of new CDBG area residents hired during the year under the program and the number of program participants who advanced to apprenticeships.
- h. Unemployment rates in the CDBG area, the rest of the city and the Milwaukee metropolitan area and the sources of the statistics.
- i. Recommendations regarding the necessity for continuation of the program and methods of making the program more successful.

2. CITYWIDE REPORT. The business operations division - procurement services section - department of administration shall incorporate the individual departmental performance reports into a citywide report that shall be submitted annually to the common council.

355-11. Adoption of Resolution. As soon as practicable after review of the residents preference program as provided in s. 355-7, the common council shall adopt a resolution stating the results of its reappraisal of the necessity for continuance of the residents preference program and the required participation percentage goals.

355-13. Sanctions. Every city contract awarded under this chapter shall contain language indicating that if any document submitted to the contracting department by a contractor, subcontractor, bidder or individual contains any false, misleading or fraudulent information, or if a contractor or subcontractor fails to comply with this chapter, the contracting department may direct the imposition of any of the following sanctions:

1. Withholding of payments.
2. Termination, suspension or cancellation of the contract in whole or in part.

3. After a due process hearing, denial of right to participate in future contracts awarded by the city for 2 years.

355-15. Penalty. Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this chapter by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$1,000 or more than \$5,000 together with the costs of prosecution, and upon default of payment, shall be imprisoned in the county jail or house of correction not to exceed 90 days, or until the forfeiture costs are paid.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB03438-3

RGP

11/12/03