

MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors
FROM: F.C. "Rocky" Rockholm, Supervisor District 1
DATE: August 24, 2010
SUBJECT: Amendment to Placer County Purchasing Policy Manual

ACTION REQUESTED

Adopt a Resolution amending the Placer County Purchasing Policy Manual to add a provision prohibiting any requirement for project labor agreements on County public projects.

BACKGROUND

The Purchasing Policy Manual ("Manual"), last updated, May 8, 2007 establishes policy and procedures for purchasing activities in Placer County. There are numerous objectives in the Manual including, among other things, seeking value that offers the best combination of price, quality and service. Placer County, as with many government agencies facing budgetary constraints and the need to maximize tax payer dollars, acknowledges that competition in contracting is fundamental in securing value.

In support of promoting competition in contracting and fairness to all contract bidders, as well as reducing the risk of cost increases in public works projects and protecting the interests of the taxpayers of Placer County, the Manual can be amended to prohibit requirement for bidders of County public projects from having to comply with or negotiate a Project Labor Agreement ("PLA").

A PLA is a contractually binding pre-hire collective bargaining agreement negotiated between a construction project contractor, owner, or developer with labor unions. They have existed for decades in jurisdictions as a means to set the terms of employment on a large scale construction project, negotiated before any employees are hired, and can become part of the bid specification in contracting. While some may contend the PLA offers the benefit of promoting labor harmony through "no-strike provisions" and avoidance of disputes during the course of the project, potential exists for cost inefficiency through limitation of competitive contracting by nonunion contractors. PLAs may constrict the number of bidders on a project as compared with those without PLA's.

Other jurisdictions have recognized the need to restrict the use of PLAs, and have taken action to prohibit their use. For example, In March of 2010, San Diego County Board of Supervisors took action to approve an ordinance to prohibit PLAs. The ordinance generally stipulates that with the exception as otherwise provided in state or federal law or as a condition of receipt of state or federal funding, the county shall not require a contractor on a construction project to execute or otherwise become party to a PLA as a condition of bidding, negotiating, awarding or performance. Also, Orange County Board

of Supervisors approved an ordinance October 27, 2009 prohibiting PLAs on county funded construction projects and, June 2010 the voters in the cities of Chula Vista and Oceanside approved ballot initiatives that prohibit local entities from requiring PLAs on city-funded construction projects. Information regarding these actions suggest voter or elected official support of the action due to interest in securing best public construction at the best price and/or avoidance of anti-competitive agreements.

RECOMMENDATION

Recommendation is to amend Section 1.2 of the current Manual to prohibit requirement of PLA's within the bidding process, consistent with the attached Resolution.

FISCAL IMPACT

There is no adverse fiscal impact anticipated with this action. Savings may be realized by promoting competitive contracting processes unencumbered by PLAs.

Attachment: Resolution

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

Resol. No: _____

**A RESOLUTION AMENDING THE PLACER
COUNTY PURCHASING POLICY MANUAL
TO ADD A PROVISION PROHIBITING
ANY REQUIRMENT FOR PROJECT LABOR AGREEMENTS
ON COUNTY PUBLIC PROJECTS**

The following **RESOLUTION** was duly passed by the Board of Supervisors of the

County of Placer at a regular meeting held **August 24, 2010**, by the following

vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Kirk Uhler
Chairman, Board of Supervisors

Attest: _____

Ann Holman
Clerk of the Board

WHEREAS, the Board of Supervisors finds that, to promote competition in contracting, to reduce the risk of cost increases in public works projects in Placer County, and to protect the interests of the taxpayers of Placer County, it is in the public interest to prohibit the County from requiring persons or firms bidding on County public projects from having to comply with or negotiate project labor or pre-hire agreements, and

WHEREAS, the Board of Supervisors has adopted a County Purchasing Policy Manual which contains rules and regulation setting forth how contracting activities are to be conducted by the County, and

WHEREAS, the Board of Supervisors determines that it is appropriate to amend the Purchasing Policy Manual to include a policy prohibiting the use of project labor agreements by the County,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Placer that Section 1.2 of the Purchasing Policy Manual shall be amended to add subsection (j) thereto, which shall read as follows:

(j) Except and unless as otherwise required by State or federal law as a contracting or procurement obligation or as a condition of the receipt of State or federal funds, the County shall not require a contractor on a County public project to execute or otherwise become a party to a project labor agreement as a condition of bidding, negotiating, award or performance of the public project.

Nothing in this subsection shall be construed as prohibiting private parties that may perform work on County public projects from voluntarily entering into project labor agreements or engaging in activity protected by law.

For the purposes of this subsection, a “project labor agreement” shall mean any pre-hire, collective bargaining or similar type agreement entered into with one or more labor organizations, employees, or employee representatives that establishes the terms and conditions of employment on a County public project.

RESOLVED FURTHER, by the Board of Supervisors of the County of Placer that this Resolution shall take effect from and after the date of its adoption.