



PERALTA COMMUNITY COLLEGE DISTRICT

Board of Trustee's Meeting

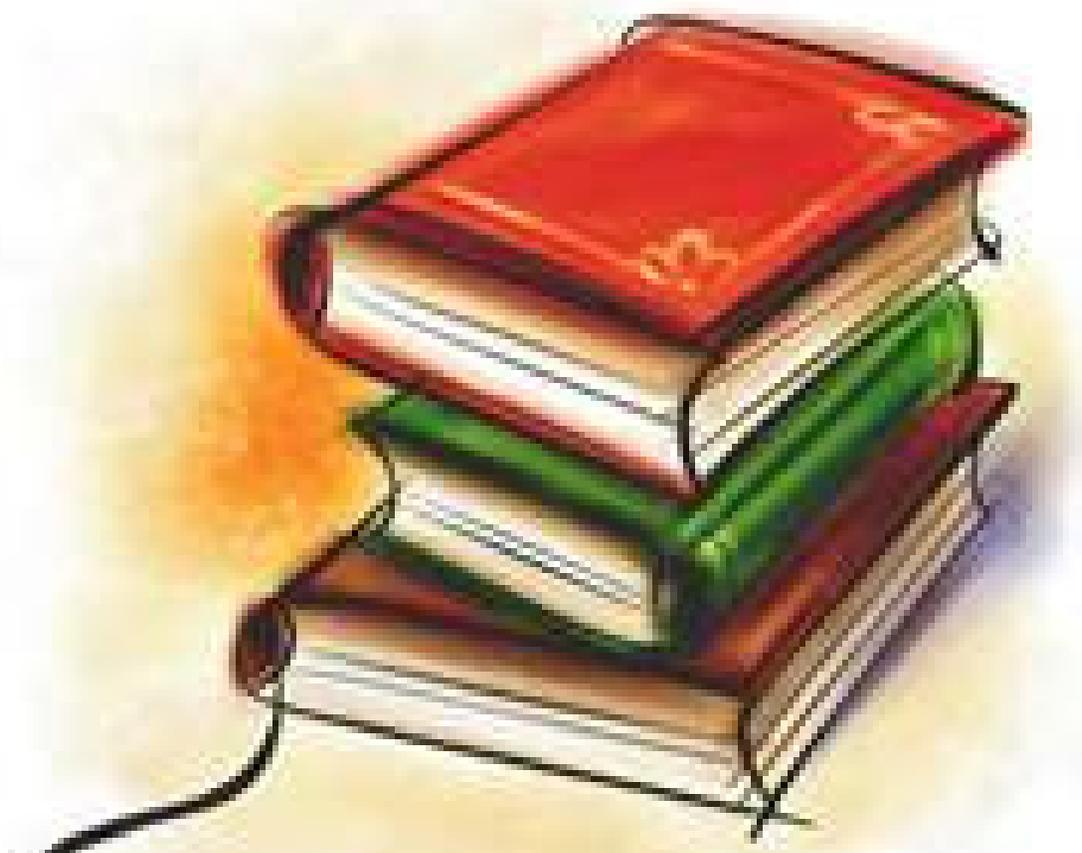
July 16, 2013

7:00 PM



PURCHASING AND THE LAW:

AN INTRODUCTION

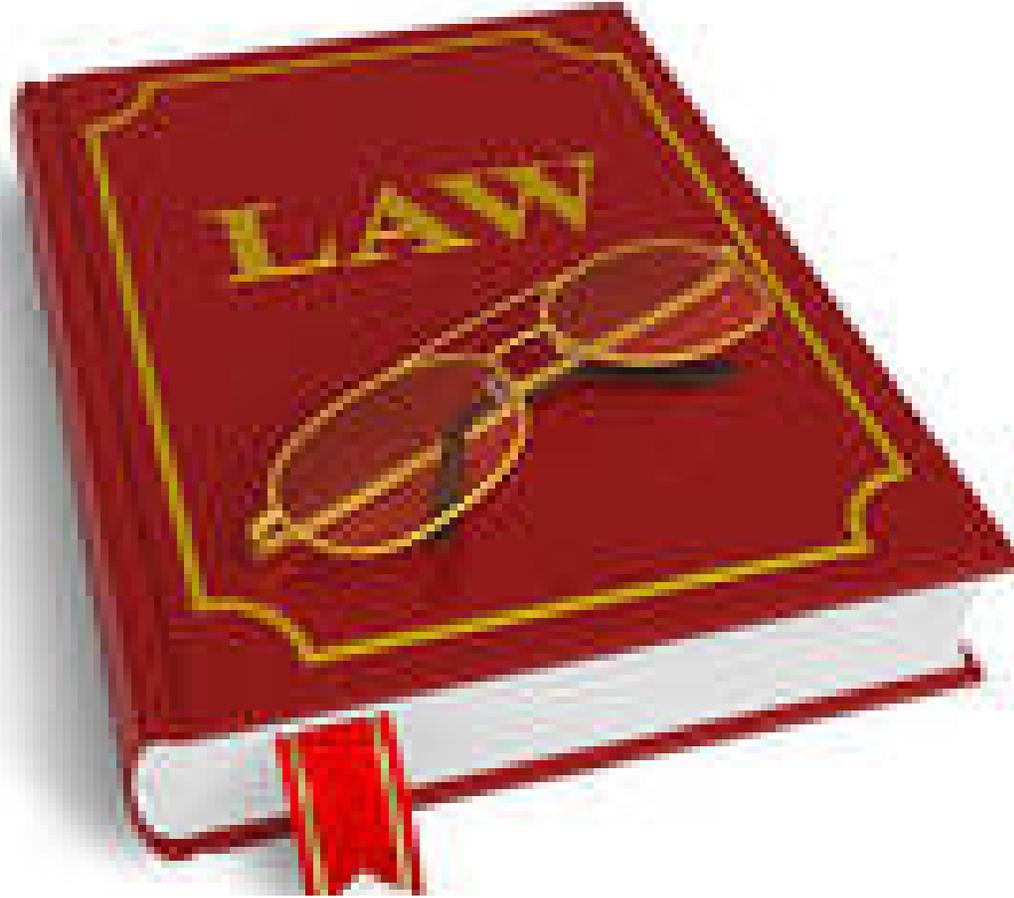


CALIFORNIA CODES FOR PUBLIC PROCUREMENT

The California Public Contract Code

California Education Code

Government Code



CALIFORNIA PUBLIC CONTRACT CODE

What is the PCC?

The California Public Contract Code (PCC) 100 provides:

The Legislature finds and declares that placing all public contract law in one code will make that law clearer and easier to find. Further, it is the intent of the Legislature in enacting this code to achieve the following objectives: (a) To clarify the law with respect to competitive bidding requirements. (b) To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds. (c) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices. (d) To eliminate favoritism, fraud, and corruption in the awarding of public contracts.

(Cont.) What is the PCC?

Further, the Code 101 and 102 of the California Public Contract Code (PCC) provides:

California public contract law should be efficient and the product of the best of modern practice and research. To encourage competition for public contracts and to aid public officials in the efficient administration of public contracting, to the maximum extent possible, for similar work performed for similar agencies, California's public contract law should be uniform.



THE CALIFORNIA EDUCATION CODE

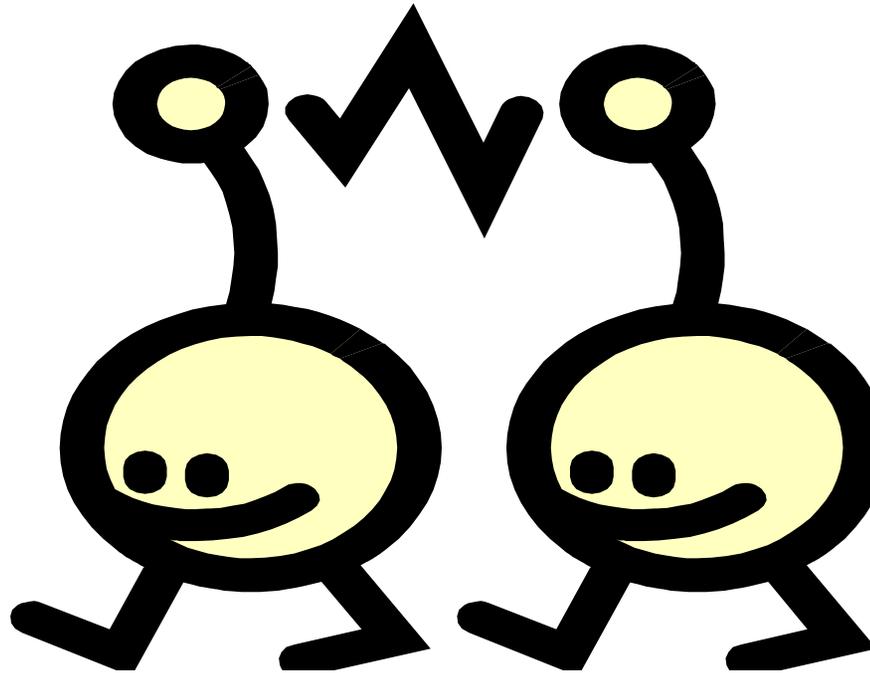
It's intent and purpose.

California Education Code

1. This code shall be known as the Education Code
2. The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.
3. The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments (linked to the PCC and Government Code).
4. Whenever reference is made to any portion of this code or of any other law of this state, such reference applies to all amendments and additions now or hereafter made.

PCC and the Ed. Code

As you may see the PCC is the face of the ED. Code as they are both align with one another.



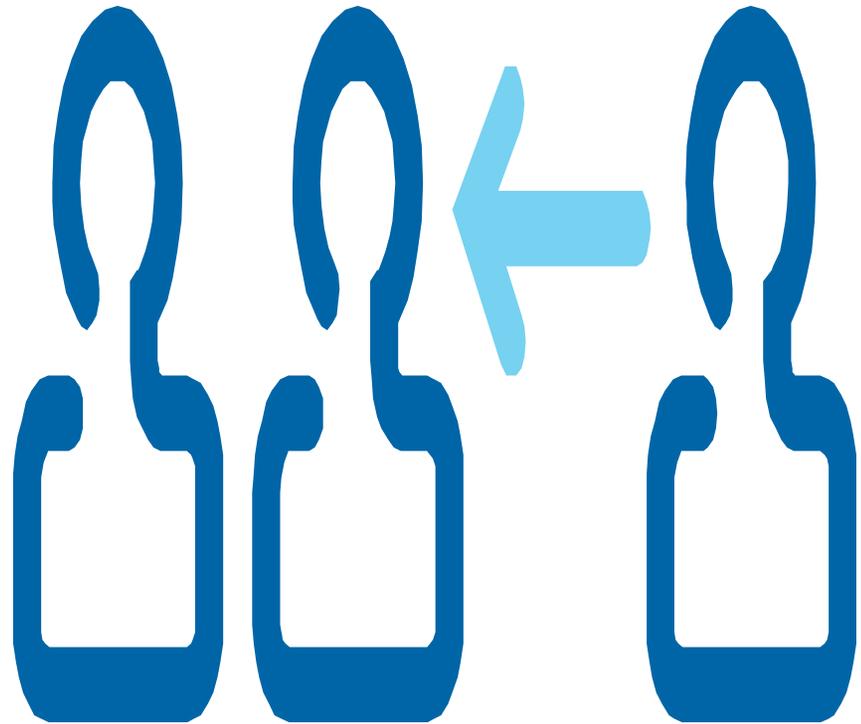


GOVERNMENT CODE

PROVISIONS AND STATUTES

PCC, ED. code and Gov. Code

These are the three Codes which govern the process for public purchasing and contracting in the State of California. These codes are similar and mirror one another. You might say they are a team who work hand in hand.





**PERALTA COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES**

Board Policy Section 6300

The Board of Trustees adopted policies and procedures which are consistent with the State of California Ed. Code Part 49, (commencing with Section 81000) and the State of California Public Contract Code Sections 20651-20660.

Which represent the basic intentions and goals that the Peralta Community College District will be an open competitive and a fair process.

(continue)
Board Policy 6300

The purpose of these policies and procedures is to ensure that goods and services necessary for the operation of the colleges are obtained at competitive prices, to guarantee fairness in the selection of vendors, and to minimize opportunities for corruption. Whereby, the Peralta Community College District will be an open competitive, and fair process.

LABOR AGREEMENTS



DAVIS BACON-ACT



What is the Davis-Bacon Act?

Question: What is the Davis-Bacon and Related Acts (DBRA)?

Answer: The Davis-Bacon Act, as amended, requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates.

華運會提供
運會的國
舞愛好者參加其
巧。由於參加比
年也將特別安排
表演，包括七十
來後增加晚間的舞
如去年，下午比
派對，派對節目
、冠軍隊表演、
舞會時段，讓所有愛好國標舞的民
眾起舞同樂，須購票。
比賽將於6月16日星期六下午2
時，在菲蒙(Fremont)的Synergy舞蹈
教室(原名星舞俱樂部)舉行。詳情
請見www.tcaat.org。報名截止日期為
5月31日。今年華運會大會開幕式則
將於7月22日在山麓(Foothill)社區學
院舉行，預計將結合台灣小吃，擴
大所有民眾參與。

躍報名參加，有興趣參加比賽的民眾
可電話或email索取報名表。比賽分
少年組(4歲至12歲)及成年組(12歲以
上)。初賽於5月27日星期日上午10
時至下午5時，在慈濟基金會北加州
分會聖荷西志業園區的感恩堂舉行，
決賽則於6月2日星期六在同一時間，
同一地點舉行，獎品豐富。詢問詳
情及報名表請電408-457-6969。email:
TCEventMusic@gmail.com, 慈濟基金
會北加州分會聖荷西志業園區地址是
2355 Oakland Rd. San Jose, CA 95131.

NOTICE INVITING BIDS

The Peralta Community College District is re-issuing and calling for sealed bids for the Berkeley City College Build-Out Phase 3 Project (Bid No. 11-12/19 to be delivered to the Purchasing Department, at 501 5th Avenue, Oakland, California, 94606, until 2:00 pm, on June 13, 2012.

This is a Public Works and Project Labor Agreement (PLA) project, and will require payment of prevailing wages. The successful Bidder will be required to sign a Letter of Assent agreeing to the terms and conditions of the District's PLA. In order to perform the work, Bidders at the time of the Bid Opening and for the duration of the project shall possess a valid California Contractor's license: Class B General Building Contractors License. This project consist of build-out of existing unimproved spaces into Art Studios on the 4th floor; improvements and alterations to lab spaces, classrooms and offices on the 1st, 2nd, 3rd and 5th floors; modifications to mechanical, plumbing, electrical and fire sprinkler systems. All work is to be bid to be performed after campus working hours during the hours of 10:00 P.M. to 6:00 A.M.

A mandatory bidders' conference will be held on **May 22, 2012** at 10:00 a.m. at Berkeley City College – all interested parties to meet in the lobby at 2050 Center Street, Berkeley, CA 94704.

All bids shall be presented in accordance with the bid specifications for this project. Bid documents and specifications will be available for purchase by **May 10, 2012** at cost from ARC Northern California, located at 1700 Jefferson Street, Oakland, CA 94612, phone number 510.287.5485 or fax 510.444.1262, and on-line at www.e-arc.com, or by visiting our website at www.peralta.edu and clicking on "District Office", then "Purchasing" then "Documents- List of Current Bids, RFPs and RFQs" to download the bid packet.

Publication Dates: 5/9/12 and 5/16/12

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任選以上三種方式之一，五分鐘完成！

法律文件

蘋果創始人喬布斯去世，留下巨額財產，但他09年即採取預防措施，用生前信託處理遺產，得以防止遺產公開，房產稅降至最低。現在，您只需花費\$199即可擁有律師起草，量身定製的中英文遺囑/生前信託。保護家人隱私。

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PROJECT LABOR AGREEMENTS

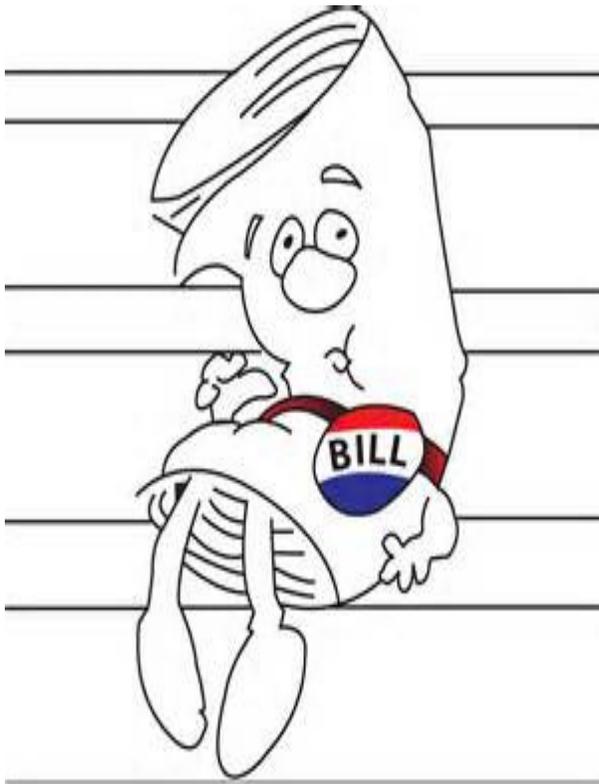


PROJECT LABOR AGREEMENTS

I

IT'S INTENT AND PURPOSE

"Man...I can never get a rest. Now, I'm a part of someone's power slide.... Go figure!"



"U.S. Federal Executive Order 13502, issued on February 6, 2009, announced the federal government's policy to encourage executive agencies to consider requiring the use of project labor agreements in connection with large-scale construction projects where the federal cost exceeds \$25 million. A project labor agreement (PLA) is defined in the Executive Order as a "pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project..."

PUBLIC CONTRACT CODE

SECTION 2500

2500. (a) A public entity may use, enter into, or require contractors to enter into, a project labor agreement for a construction project only if the agreement includes all of the following taxpayer protection provisions:

(1) The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project.

(2) The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.

(3) The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project.

(4) The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project.

(5) The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator. (b) For purposes of this chapter, both of the following definitions apply:

(1) "Project labor agreement" means a prehire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code. (2) "Public entity" means a public entity as defined in Section 1100.

PCCD

PROJECT LABOR AGREEMENT

On July 23, 2009 the Board of Trustees authorized the Chancellor to negotiate and execute PLA's for Capital projects under Resolution 99/00-5.

Once ratification of the PLA was approved by the Board it required that construction work covered by the agreement was to be contracted exclusively to contractors who agreed to be bound by the terms of the PLA. Whereby, the PLA would cover all Measure A projects with exception to seven.

PROJECT LABOR AGREEMENT CONTINUE

Whereas the District entered into agreements with “Union(s)” meaning the Building and Construction Trade Council of Alameda County, AFL-CIO (“Council”) and any other labor organization signing under the PLA.

Thereby, all “Covered Work” which are all construction contract funded in whole or in part by bond funding, State grants, tax increment funding and all other funding that is allocated for construction.

Covered work is defined as, all onsite construction, demolition, alteration, painting or repair of buildings, structures and other works related to activities for a Project that is with the craft jurisdiction of one of the Unions and that is directly or indirectly part of the Project.

PREVAILING WAGE LAW



What is Prevailing Wage?

In addition to the Davis Bacon Act itself, Congress added Davis-Bacon prevailing wage provisions to approximately 60 laws—"related Acts"—under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. (Examples of the related Acts are the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.) Generally, the application of prevailing wage requirements to projects receiving federal assistance under any particular "related" Act depends on the provisions of that law.

The U.S. Department of Labor (DOL) has oversight responsibilities to assure coordination of administration and consistency of enforcement of the labor standards provisions of the Davis Bacon and Related Acts. Under this authority, DOL has issued regulations establishing standards and procedures for the administration and enforcement of the Davis-Bacon labor standards provisions. Federal contracting agencies have day-to-day responsibility for administration and enforcement of the Davis-Bacon labor standards provisions in covered contracts for which they are responsible or to which they provide federal assistance under laws they administer.

Public Contract Code/Labor Code

PUBLIC CONTRACT CODE SECTION 2500-2503

“Project Labor Agreements”

(1) The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project.

(2) The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.

2500. (a) A public entity may use, enter into, or require contractors to enter into, a project labor agreement for a construction project only if the agreement includes all of the following taxpayer protection provisions:

(3) The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project.

(4) The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project.

(5) The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.

(b) For purposes of this chapter, both of the following definitions apply: (1) "Project labor agreement" means a pre-hire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code. (2) "Public entity" means a public entity as defined in Section 1100.

LABOR CODE SECTION 1770-1781

1770. The Director of the Department of Industrial Relations shall determine the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773, and the director's determination in the matter shall be final except as provided in Section 1773.4. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works. This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

SLBE/SBE/WBE ENTERPRISES



SLBE/SBE/WBE/MBE

“The Driving Force”

What really drives the U.S. economy? No, it is not war. Small business -- firms with fewer than 500 employees -- drives the U.S. economy by providing jobs for over half of the nation's private workforce. Small businesses are job creators. Office of Advocacy funded data and research shows that small businesses **represent 99.7 percent of all firms**, they create more than half of the private non-farm gross domestic product, and they create 60 to 80 percent of the net new jobs.

SLBE/SBE/WBE/MWBE PUBLIC CONTRACTS

Section 10115 – 10115.15 provides: (a) The Legislature finds and declares all of the following: (1) The essence of the American economic system of private enterprise is free competition. **Only through full and free competition can free markets, reasonable and just prices, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of that competition is basic to the economic well-being of this state and that well-being cannot be realized unless the actual and potential capacity of minority, women, and disabled veteran business enterprises is encouraged and developed.** Therefore, it is the declared policy of the state to aid the interests of minority, women, and disabled veteran business enterprises in order to preserve reasonable and just prices and a free competitive enterprise, to ensure that a fair proportion of the total number of contracts or subcontracts for commodities, supplies, technology, property, and services are awarded to minority, women, and disabled veteran business enterprises, and to maintain and strengthen the overall economy of the state. (2) The opportunity for full participation in our free enterprise system by minority, women, and disabled veteran business enterprises is essential if this state is to attain social and economic equality for those businesses and improve the functioning of the state economy.

SLBE/SBE/MWBE/MBE AND THE DISTRICT

- The District is committed to ensuring full and equitable participation by Small Local Business Enterprises (SLBEs) in the provision of all goods and services to the District on a contractual basis.
- For public works projects over \$500,000 the District shall enforce this policy by taking all reasonable steps to ensure that any qualified available business enterprise including SLBEs, have an equal opportunity to compete for and participate in District contracts. SLBEs are businesses with a current City business license located within Alameda County.

PREFERENCES YES OR NO



Point Preferences for Union Contractors



Associated General Contractors of California Inc. v. City and County of S.F.

- In June of 1986 Associated General Contractors argued in the United States Court of Appeals, Ninth Circuit Court that it was illegal for the City and County of San Francisco to establish a preference for its local business. Whereas, District Counsel for the City and County of San Francisco opined that the District could provide a local preference if there was a rational or basis that the preference would reasonably support a legitimate District interest, or support the District's core mission.

(continue)
City and County of S.F.

Whereas, the court concluded it was in the public's interest to encourage local businesses to remain and or locate in the City/County boundaries by providing them with a preference, of 5% when competing against non-local businesses for City/County contracts.

(continue)

City and County of S.F.

- In terms of how the preference is applied, there are two typical methods. For competitive proposals, i.e. RFP's the 5% of the total allotted evaluation points is awarded to those suppliers/firms who meet the definition of a local business. For competitive formal bids/informal quotes, the 5% preference is applied to the lowest responsive, responsible bid/quote, assuming it is from a non-local supplier, then applied to the local business bid/quote to determine if the local business, with the 5% preference would be the lowest and thus awarded the contract. Note: the award is still made at the amount of the local businesses bid/quote, not at the amount of the lowest bid/quote.

SUMMARY



Summary

In summary, more and more Vendors will ask the Chancellor and the Board of Trustees to look into establishing preferences as one of many means to which they believe will help stimulate our local economies. Yet, if called upon to do so, the District has a responsibility to its students, and the community at large to advise our legislative bodies on the “what” and “how” that will withstand public and or legal scrutiny. To that end we should take into consideration the several underlying assumptions.

- Identify who within the community at large will benefit from the preference and how;
- Develop a clear definition of what constitutes a business preference for “Union Vendors”.
- Develop a means to verify and validate the definition of a Union Vendor.

SUMMARY

(Continue)

- Consider the advantages or disadvantages when applying preferences to other than the small local businesses.
- Determine the economical impact upon Students, SBE/SLBE/MBE/MWBE, District and the Community if such a preference is applied.
- Determine what types of contract not restricted by law that may be exempt from applying a preference for “union contractors”.
- Determine if the preference shall apply to small business owners with union affiliations or the Larger scale union.

REMEMBER!

In many industries, employees can and often must join unions in order to advance in the workplace. Unions do provide a range of benefits to employees, from pension plans and legal representation in labor disputes. However, union participation does not necessarily represent a panacea to all the woes of working life. Like unionized workplace, non-unionized workplaces also offer advantages to both employees and the community at large.