41-2636. Procurement from Arizona industries for the blind, certified nonprofit agencies that serve individuals with disabilities and Arizona correctional industries; definitions

A. The director shall appoint a state set-aside committee to determine those materials and services that are provided, manufactured, produced and offered for sale by Arizona industries for the blind, certified nonprofit agencies that serve individuals with disabilities and Arizona correctional industries and that satisfy the requirements of state governmental units and to establish a fair market price for all approved materials and services offered for sale that meet these requirements. Membership shall include the assistant director for rehabilitation services in the department of economic security or the assistant director's designee and a private sector businessperson appointed by the governor who contracts or employs persons with disabilities in the private sector. At each quarterly meeting the director shall report on new procurement requests or renewal of existing procurement requests for state purchases from lists supplied by set-aside providers and that are within the capability of and that can be supplied by the entities that are prescribed in this section. To qualify for set-aside contracts, certified nonprofit agencies must maintain an employment ratio of at least sixty per cent of program employees with significant disabilities.

B. Materials and services from Arizona correctional industries shall be presented to the committee for approval. Office products, vinyl binders and furniture refurbishing services shall be exempt from this article. State governmental units shall purchase office products, vinyl binders and furniture from Arizona correctional industries if each of the following applies:

1. Such materials and services are readily available.

2. Such materials and services are capable of timely delivery.

3. Such materials and services are of equal quality and price for these same materials and services in the private sector.

C. State governmental units shall purchase approved materials and services if such materials and services are readily available.

D. Notwithstanding the requirements of section 41-2532, state governmental units and local public procurement units may purchase or contract for any products, materials and services directly from Arizona industries for the blind, certified nonprofit agencies that serve individuals with disabilities and Arizona correctional industries without competitive bidding if the delivery and quality of the products, materials or services meet the unit's reasonable requirements.

E. All state governmental units shall endeavor to set aside at least one per cent of their new purchases or contracts for any products, materials and services from the entities that are prescribed in subsection D of this section, except for contracts for care and services for clients of the department of child safety, the department of economic security or the department of health services. The department shall communicate with each state governmental unit regarding its responsibility to comply with this subsection. The committee shall meet quarterly to report progress in increasing state governmental purchases or contracts with the entities that are prescribed in subsection D of this section. The committee shall compile quarterly reports detailing new purchases or contracts that are entered into pursuant to this subsection to the director, each committee member, the governor, the president of the senate and the speaker of the house of representatives.

F. The committee shall meet during the first month of each fiscal year to determine which articles, products or services Arizona correctional industries, certified nonprofit agencies that serve individuals

with disabilities and Arizona industries for the blind should continue to manufacture for state use, to advise such agencies and industries of any changes in specifications and to identify new articles or products that should be manufactured or could be eligible for procurement.

G. For the purposes of this section:

1. "Certified nonprofit agency that serves individuals with disabilities" means a nonprofit activity center that serves individuals with significant disabilities and that satisfies all of the following:

(a) Is organized under the laws of this state or another state, is operated in the interest of individuals with disabilities and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual.

(b) Complies with any applicable occupational health and safety standard required by the laws of the United States and this state.

2. "Individuals with disabilities" means an individual who, because of the nature of the individual's disabilities, is not able to fully participate in competitive employment and for whom specialized employment and training are necessary by a qualified nonprofit organization through the department of economic security or the department of health services.

Memorandum

7.

CITY OF FLAGSTAFF

To: The Honorable Mayor and Council

From: Rick Compau, Purchasing Director

Date: 03/03/2015

Meeting Date: 03/10/2015

TITLE:
Discussion of Procurement Preferences Regarding Carbon Footprint and Disadvantaged Businesses

DESIRED OUTCOME:

This presentation is informational only to obtain Council direction.

EXECUTIVE SUMMARY:

This work session item will provide an overview of potential procurement preferences regarding carbon footprint and disadvantaged businesses and to seek input from Council regarding next steps.

INFORMATION:

Attachments: Procurement Preferences Power Point

Procurement Preferences

City Council Work Session

Tuesday, March 10, 2015

Presented By

Rick Compau, Purchasing Director

Procurement Preferences

Back in August of 2014, City Council posed the following questions:

Carbon Footprint-

- Can the City award additional points to bidders who demonstrate that their use of sustainable practices will result in a reduced carbon footprint?

Disadvantaged Businesses-

- Can the City award additional points to bidders who serve or employ disabled persons?

Procurement Preferences

Carbon Footprint-

- The definition of carbon footprint is the total sets of greenhouse gas emissions caused by an organization, event, product or person.

- Can the City award additional points to bidders who demonstrate that their use of sustainable practices will result in a reduced carbon footprint?

  - **Recommendation**- Not recommended at this time until further research can be conducted.
    - **Reasons**: This type of procurement preference or giving additional points has not yet been adopted by any entity in Arizona.
    - We need to review options to present to Council that are effective and legally enforceable. Some options that have been adopted have received challenges and we need to carefully vet our options.
    - Complex methodologies are used to measure the total carbon footprint and cannot be calculated accurately because of the large amount of data required and carbon dioxide can be produced by natural occurrences.
    - If Council chooses to proceed, we will discuss whether we believe evaluation criteria could be applied to all solicitations or only applicable for RFPs and RSOQs. This will take considerable staff time to conduct this evaluation since this is a novel concept in Arizona.

Procurement Preferences

Disadvantaged Businesses-

- The definition of a disadvantaged business is an entity owned by women, minority, veteran-owned or employ individuals with disabilities and certified by the government of the state in which it is located.
- Can the City award additional points to bidders who serve or employ disabled persons?

  - **Recommendation-** Proceed ahead and revise our City's Procurement Code Manual to incorporate language from A.R.S., 41-2636 that allows procurement preferences for disadvantaged businesses, where the City may "direct select".
    - **Reason**: Social Responsibility

  - **Alternative** – Revise our City's Procurement Code Manual and incorporate language that would set aside a percentage of the City's purchases or contracts to disadvantaged businesses.

Procurement Preferences

Disadvantaged Businesses (Cont'd)

Proposed Language-

- "The City may purchase or contract for any products, materials and services directly from a disadvantaged business without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements".

OR

- "The City may set aside, at minimum, ??% of its purchases or contracts for any products, materials and services directly from a disadvantaged business without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements".

Next Steps

- COUNCIL DIRECTION TONIGHT:

Carbon Footprint-

- If deemed appropriate, conduct additional research on carbon footprint measurement criteria for identifying reliable and equitable standards.

- Additional research will include the impact on small businesses and any challenges these small businesses might experience and whether carbon footprint as an evaluation criterion can be applied to all solicitations.

Disadvantaged Businesses-

- If deemed appropriate, proceed ahead with incorporating new language in the City's Procurement Code Manual allowing a procurement preference for disadvantaged businesses.

- At minimum, set aside a percentage of the City's purchases or contracts to disadvantaged businesses.