



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

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**CONSTRUCTION COMMITTEE
EXECUTIVE MANAGEMENT COMMITTEE
MARCH 19, 2015**

**SUBJECT: U.S. DEPARTMENT OF TRANSPORTATION 12-MONTH PILOT LOCAL
HIRE CONTRACTING INITIATIVE**

ACTION: RECEIVE AND FILE

RECOMMENDATION

Receive and File report on the Federal Transit Administration's Federal Register on local hire initiatives issued on February 9, 2015 and the Local Hiring Contracting Initiative announced by the U.S. Department of Transportation (U.S. DOT) as a pilot program on March 3, 2015.

ISSUE

On February 9, 2015, the Federal Transit Administration released its Federal Fiscal year apportionments in the Federal Register outlining how it intends to allow geographic hiring preferences in construction contracts that are advertised or awarded in Federal Fiscal Year 2015, which ends on September 30, 2015.

In addition, on March 3, 2015, the U.S. Department of Transportation (U.S. DOT), on a phone call with Mayors throughout the country, including Metro Board Chair and Mayor of the City of Los Angeles Eric Garcetti, announced a Local Hire Pilot Program that allows Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) grantees to utilize social and/or economic contracting requirements, such as local hire or other geographic labor hiring preferences and economic-based labor hiring preferences (i.e., low-income workers) for contracts advertised during the one-year period of the Pilot. This report summarizes the potential impact to an estimated \$2 billion to \$2.5 billion of federally funded Metro procurement opportunities during the 12-month pilot period.

BACKGROUND

Federal Procurement regulations have not permitted agencies like Metro to require bidders to meet local hiring goals or geographical preferences on federally-assisted contracts. The historical rationale for this prohibition is that the federal gas tax (18.4 cents per gallon) is collected nationally and therefore all individuals and companies in the United States should have access to any given Project.

This Federal Procurement regulation does not take into account the new reality of how transportation projects are financed, which today, is often through a majority of funds

being derived from local dollars. This new reality created a sound rationale for a change to this Federal Law.

As a result, in September 2011, the Metro Board of Directors adopted a policy position that added reforming federal local hire rules to our Agency's successful America Fast Forward Initiative. In December 11, 2014, Congress adopted a Consolidated Appropriations Bill for Federal Fiscal Year 2015 (Public Law No. 113-235) that included language from The Local Hire Act authored by Congresswoman Karen Bass (D-CA) on November 22, 2013. On February 9, 2015, the Federal Transit Administration released its Federal Fiscal year apportionments in the Federal Register outlining how it intends to allow geographic hiring preferences in construction contracts that are advertised or awarded in Federal Fiscal Year 2015, which ends on September 30, 2015.

DISCUSSION

The Pilot Local Hire Initiatives:

- Enable Metro to utilize local hiring requirements on both Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) contract opportunities advertised during the one-year pilot period. This includes construction projects, as well as rolling stock procurements.
- Contracts advertised under the pilot program may continue to utilize any approved contract requirements through the life of the project.
- On FTA construction contracts advertised on or before September 30, 2015 pursuant to Section 418 of the Consolidated Appropriations Bill for federal fiscal year 2015, Metro will be able to institute the local hiring goals without obtaining FTA approval; however, after that date, and until the pilot project is concluded in February 2016, Metro would need to obtain such approval from FTA. Further, even though Metro is not required to obtain prior approval for construction contracts from FTA during FY 2015, Metro is required to notify FTA Region IX prior to advertising any contracts that include local preferences.
- On FTA funded rolling stock projects, Metro must obtain U.S. DOT and FTA approval prior to the application of the local hire requirement.
- The Pilot Program is not retroactive and will not apply to contracts that have already been awarded.