Executive Summary

At the August 15, 2016, Economic & Workforce Working Group meeting, the members discussed how the city can proactively recruit and hire from communities where there are large development projects scheduled, for example the National Western Center, and/or when organizations are moving into developing areas of the city and need individuals to fill positions. Councilmember Ortega suggested that Denver consider what other cities have done legislatively, to pass an ordinance requiring local hiring, especially in areas where there is known economic disadvantage in certain communities. In addition, Councilmember Gilmore identified a skills gap for residents, noting that a late notification of potential positions that will open and the period of time for a resident to receive training to qualify for those positions is present.

Councilmember Brooks requested Council staff look at other national city ordinances relative to local hiring.

Background & Methodology

In 2011, Councilmember Lopez attempted to pass a local preference ordinance (LPO) to assist with local economic recovery and to support local businesses and hiring within the metro area. Initially, his proposal only applied to request for proposal (RFP) contracts generated by the General Services Dept. The ordinance would have applied to all agency contracts, the preference would have added a 5% award to any firm qualifying as a “local” business, and a 3% preference to State of Colorado businesses. By June 22, 2011, the Business, Workforce & Sustainability Committee heard the final proposal of establishing a 5% local preference on professional service contracts generated by General Services. Many questions were posed and the legislative proposal was held in Committee and did not move any further. The proposed legislation included metro area counties as part of the “local” definition.

In 2011, the following policy issues were identified:
- Define local and what is the process for affirming addresses that are considered local;
- What is the fiscal impact/implementation costs, if any;
- Some preferences cannot be applied to certain federal monies, language would need to identify those exceptions;
- Ordinance must be drafted to avoid constitutional challenges under the Equal Protections Clause or the Commerce Clause;
- Local preference might result in lesser qualified individuals; and
- What is the feedback from the business community on this proposal?

First Source Hiring Programs became a familiar tool for cities to use to connect economically disadvantaged individuals with entry-level jobs since the late 1990’s. For example, Denver Urban Renewal Authority utilizes this hiring tool. First Source Hiring Programs are the foundation of various national cities programs that have been created for targeted and priority hiring ordinances, project labor agreements (PLA), resident’s preference programs, and community benefit agreement programs (CBA). The following cities were surveyed to see how they pursued the next steps in hiring residents and development of programs that were created to assure accountability and training of the unemployed or underemployed residents of their respective cities: Atlanta, GA; Cleveland, OH; Milwaukee, WI; Pittsburgh, PA; San Diego, CA; San Francisco, CA; and Seattle, WA. A summary of their respective programs is outlined below.

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<th>City</th>
<th>Policy</th>
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<tr>
<td>San Francisco</td>
<td>March 25, 2011 – local hiring ordinance (85-14) requires all PW contracts to utilize federal or state funds. Applies to construction projects within 70 miles of the C&amp;C of San Francisco. A legislative review decided on maintaining a 30% requirement until March 25, 2017 (15-16 Annual Report).</td>
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<td>Pop. 838,000</td>
<td>Two Pronged approach – First Source Hiring and Targeted Disadvantaged. <strong>CityBuild Academy</strong> was created and funded through General Fund. PW contracts and bond proposals have local hiring language included. Reciprocity agreements among bordering counties are also implemented to address those commuting outside the 70-mile radius.</td>
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<td>Atlanta</td>
<td>February 2013 – Ordinance 10-0-0928 created Atlanta CityBuild (modeled after San Francisco). 10 goals associated with this program are primarily focused on low income residents and pre-apprenticeship programs to identify in advance the construction skills training that will be needed by future contracts.</td>
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<td>Pop. 467,000</td>
<td>The Atlanta CityBuild program focuses on pre-apprenticeship, apprenticeship and skilled labor programs. Annual funding is subject to appropriation of the Mayor and Council.</td>
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| Cleveland | Cleveland Resident Employment Law (Fannie Lewis Law) implemented in January 1, 2004, requires every public improvement construction contract entered into by the City have 1 or more residents perform 20% of the total construction worker hours and requires that a contractor and any subs use significant effort to ensure that no less than 4% of the total construction hours be performed by low-income persons.

Cleveland operates under a **Community Benefit Policy/Agreement**. A contract signed by community groups and a real estate developer that requires the developer to provide specific amenities and/or mitigations to the local community or neighborhood. In exchange, the community groups agree to publicly support the project, or at least not oppose it. Contracts are established with unions who provide apprenticeship programs to develop skill sets for trades jobs. A local high school dedicates classes to trades jobs. Any development project that receives incentives or governmental dollars (within criteria) is subject to CBA.

*Effective August 31, 2016 Cleveland legislature passed HB180 restricting cities from imposing hiring requirements or to employ percentages of employment from certain geographic areas. The Mayor of Cleveland in August filed a declaratory judgment, temporary restraining order, and injunction against the State. A judge has allowed Cleveland to operate business as usual for now.*

| Milwaukee | Effective August 10, 2009; Ordinance 080218, Chapter 355, amendment to 1989 legislation enhancing the **Emerging Business Enterprise Program** to increase resident participation on city development and Public Works contracts and created the **First Source Employment Program**. This legislation was created to serve three purposes: 1. Increase participation of City residents in Public Works contracts. 2. Create new employment opportunities and increase community participation on City development projects. 3. Aid in the area of workforce development.

The legislation also created the **Residents Preference Program (RPP)**, established for unemployed or underemployed residents of Milwaukee. One quarter of the unemployed or underemployed resident hours must be from the most impoverished zip codes of the city. RPP provisions require 40% of Worker Hours worked on construction
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<tr>
<th>City</th>
<th>Population</th>
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<td>Seattle</td>
<td>653,000</td>
<td>On January 29, 2015 a new <strong>Priority Hire ordinance</strong> passed by Seattle City Council. City construction projects of $5 million or more will be required to have project hours performed by workers living in economically distressed areas. In addition, City projects will have apprentice utilization requirements and women and people of color aspirational goals. Contractors must ensure that up to 15% of the total contract labor hours are worked by apprentices enrolled in an approved apprenticeship program. The city also utilizes <strong>Community Workforce Agreements</strong> (also known as project labor agreements).</td>
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<td>Pittsburgh</td>
<td>306,000</td>
<td>In 1999, City of Pittsburgh voters approved an amendment to the City Charter requiring that at least 35% of all employee work hours on City-funded construction projects be performed by City residents. <strong>Pittsburgh Works!</strong> was also created, but never implemented. In 2014, the legislation was amended to require that 15% of all project work hours be performed by disadvantaged workers. Require at least 50% of project work hours performed by apprentices to be performed by city residents, with 25% being performed by disadvantaged workers. Added was a requirement to establish First Source Hiring Centers in low-moderate income census tracts to connect residents to training programs and employment opportunities. <strong>Pittsburgh Works! is operated by 3 Rivers Workforce Investment Board</strong> which bridges the gap between people looking for work and companies in need of workers. Twenty-four staff with a board of directors appointed by the Mayor and County Executive which represent employers, unions, policy makers, and the community. (See 2015-2016 Strategic Plan.)</td>
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<td>Portland</td>
<td></td>
<td>Portland’s Office of Management &amp; Finance has oversight of: Adm.-1.20 – <strong>Workforce Training &amp; Hiring Program Administrative Rules</strong>, that establishes rules and procedures for implementing the provisions of the Workforce Training &amp; Hiring Program (WTHP), adopted in 1997, which integrates social equity, based on the principle that certain City contractors and their subcontractors will comply with all applicable laws and regulations in their business activities, promote social justice and better working conditions, and provide clear guidance to entities seeking to comply with these requirements. Workforce Training &amp; Hiring Program requirements apply to City construction projects estimated at $200,000 and above and subcontracts at $100,000 and</td>
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Key program elements include: Ensuring that a minimum of 20% of the labor hours, per trade, are worked by state-registered apprentices; and, striving in good faith to meet the diversity goals of employing women and minority workers (both journey and apprentice level).

In October of 2012, the City of Portland executed its first Community Benefits Agreement (CBA) on two Water Bureau construction projects. The CBA pilot evaluation report on the projects was completed on May 9, 2016. CBA goals are focused on apprenticeship programs and ensuring that public money spent benefits the community it serves.

Analysis

There has been a growing trend for cities to implement First Source Hiring requirements, specifically for underemployed, unemployed geographically identified low-income communities. In addition, the outcomes from legislation or as a result of have led to programs designed to bring job seekers and developers/organizations together for the purpose of fulfilling the need for employment and the need for skilled workers on projects. Primarily, the legislation is focused on construction contracts and percentage requirements for local hiring of residents. Portland, Oregon, which established its policy in 1978, was the first municipality to do so.\(^1\) Many cities throughout the country have adopted hybrid policies for both First Source Hiring and Local Hiring as demonstrated in the sampling chart of this review.

The San Francisco model of CityBuild has been used by other comparable cities and is recognized for its work in building pre-apprenticeship training with educational institutions and employment networking services to get ahead of needs for job seekers and organizations. The city also includes First Source Hiring language in bond projects to assure that local residents get employment where the construction improvements will be done. The city spends significant time working with employers and unions to orient them to city law and how to report back to the city. San Francisco includes 70 miles outside of its city limits in its requirements because some of their agency amenities are annexed outside of the city boundary.

The City of Atlanta in 2013, amended its legislation for First Source Hiring/local resident hiring and created the Atlanta CityBuild Program, modeled after San Francisco’s program. Based on the 2013 amended legislation, the Atlanta CityBuild Program is dependent upon annual appropriations by the Mayor and Council of up to $500,000. The goal of the amended legislation is to provide greater job training and career opportunities.

\(^1\) Frieda Molina, Center for Community Change, Making Connections: A Study of Employment Linkage Programs 20 (1998)
Most cities have implemented a percentage of local hires except for Seattle. Seattle requires 15% of the total contract labor hours are worked by apprentices enrolled in approved apprenticeship programs. The city invested $1 million in the 2016 to fund pre-apprenticeship training programs. Seattle created a Construction Careers Advisory Committee which recommended that priority workers (those residents living in economically distressed areas) percentages be determined on a qualifying project and left to the “director” (a public works type of position) to set the percentage of local hires. The advisory committee based their recommendation on findings that different projects require different construction trades and some trades naturally bring in a diverse workforce.

As noted earlier, Portland was the first city to implement a first source hiring requirement which also created a Workforce Training and Hiring Program, focused on construction trades and access and training for those jobs. It is the city’s obligation to ensure that city-funded projects offer equal opportunity in employment and that expending funds benefits the entire Portland community. Under this program, non-union contractors can also sign up to participate and provide apprenticeship trade assistance through the city’s program. On May 9, 2016, the City of Portland published its Community Benefit Agreements (CBAs) pilot evaluation report. Portland City Council approved the pilot for two water bureau projects and the report reflects lessons learned and goals of CBAs to employ at least 10% of employees from areas designated by the Federal Small Business Administration as Historically Underutilized Business Zone (“HUBZone”), in addition to other target training program numbers and apprenticeship hours. At this time, the Portland Council has not had its briefing on this report.

In 1999, the City of Pittsburgh voters approved a residency rule which included a requirement that at least 35% of all employee work hours on city-funded construction projects be performed by city residents, and the Pittsburgh Works! Program was established (in Charter). In 2014, Pittsburgh Councilman Lavelle amended the legislation to further define percentages to include opportunities for low-moderate income residents, and 15% of all project work hours be performed by disadvantaged workers. Additional language in the amendment included apprenticeship hours of at least 50% of work be performed by city residents. Also, established in the 2014 legislation was the creation of First Source Hiring Centers in low-moderate income areas. Prior to this proposal in legislation, Councilman Lavelle requested a review from Regional Housing Legal Services (RHLS) regarding local hiring and First Source Hiring Policies. This report addresses concerns brought up by Denver attorneys in 2011, when Denver Councilman Lopez attempted the local preference ordinance. Commerce Clause, Privileges and Immunities Clause, and State Preemption impacts were discussed in the report. Cited in the report relative to Commerce Clause was White v. Massachusetts Council of Construction Employers, a case where the Supreme Court rejected a Commerce Clause challenge to a resident hiring preference on construction projects funded entirely by the City of Boston (utilizing both city and federal funds), opining

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2 FRAMEWORK LLC, Consultants to Management in the Public Sector, City of Portland, Oregon, Community Benefits Agreement Pilot Evaluation, Report Appendices (May 9, 2016)
3 RHLS, Regional Housing Legal Services, R. Damewood and Katrina Liu, Pittsburgh, PA, Local Hiring and First Source Hiring Policies: A National Review of Policies and Identification of Best Practices (October 2013)
that Boston was acting as a market participant, an action that the Supreme Court holds that Commerce Clause does not apply.5

Similar to what Denver recently outsourced for workforce development and job seeker work in contract, Pittsburgh established their Three Rivers Workforce Investment Board agency (3 Rivers WIB). 3 Rivers WIB has oversight over Pittsburgh Works Program. The 33-member board, appointed jointly by the Mayor and Allegheny County Executive (City Manager), oversees the 20+ staff that carries out the work for youth development, connecting job seekers to careers, and systematic workforce solutions. This organization laid out its 2015-2016 Strategic Plan Dashboard that identifies goals, problems, tactics, outputs, and outcomes to accomplish their plan (see attachment). Earlier this month, they launched the 3RWIB’s Platform to Employment (P2E) initiative, to assist refugees and foreign-born workers to employment preparation and work. The organization partnered with Jewish Family and Children’s Services and others to create this unique model. 3 Rivers WIB seems to be shaping Pittsburgh’s employment future for all residents.

Conversely, a unique situation occurred in the City of Cleveland and State of Ohio. On January 1, 2004, the City of Cleveland passed its “Cleveland Resident Employment Law” (Fannie Lewis Law), requiring that residents perform 20% of total construction hours and no less than 4% by low-income residents. Effective August 31, 2016, the Ohio State Legislature passed HB 180, 2016, restricting Ohio cities from imposing hiring requirements, citing that the Fannie Lewis Law prevented residents in the state from getting employment, primarily in Cleveland. Cleveland Mayor on August 23, 2016 instructed the Cleveland Law Department to file a declaratory judgment and temporary restraining order against the State (Governor). Currently, the Judge has allowed Cleveland to operate under business as usual for now.

The City of Cleveland endorses and heavily utilizes Community Benefits Agreements (CBAs). CBAs, created in the late 1990s, are contracts generally signed by community groups and real estate developers that require the developer to provide specific amenities and/or mitigations to the local community or neighborhood. In exchange, the community groups agree to publicly support the project or at least not oppose it. Successfully negotiating CBAs relies heavily upon the formation of a multi-issue, broad-based community coalition including community, environmental, faith-based, and labor organizations. Another key component of CBAs are Community Workforce Agreements (CWA). CWAs are legally binding labor-management agreements negotiated between public or private construction users, and local Building Trades Council, and prime contractors performing projects in geographically defined areas.

Ms. Tracey Nichols, Director of Cleveland’s Dept. of Economic Development, noted they have done substantial work over many years to develop CBA Policy which includes facets of prevailing wage, small business and local producer sustainable development, the resident law, and living wages. The Mayor’s Office of Equal Opportunity provides bi-monthly reports on the utilization of workers in the resident and low income categories. Ms. Nichols stressed that starting first source hiring initiatives begins with trust and respect challenges and requires political, labor, contractor, developer, and community will to work together to ensure that the laws and programs are improving the lives of city residents.

Recommendations

Resident/local hire legislation has become a growing trend in US cities. As the sampling indicates, cities are combining first source hiring requirements with local hiring requirements to maximize resident employment opportunities. In addition, CBAs are also being included with hiring requirements to assist with collaboration among all stakeholders to ensure participation, responsibility, and accountability. San Francisco includes first source hiring language in bond proposals to be in front of larger development projects coming down the road for potential jobs. Denver is planning a 2017 General Obligation Bond proposal to voters next fall. If the bond proposal is approved, it would benefit Denver to begin the legislative process for creating local hiring now so that the opportunity is not lost to include local hire requirements for bond projects.

Evaluating these policies, it was found that there is a correlation to specific departments who monitor them and are often associated with economic and workforce programs such as, disparity studies, MBE/WBE, and disadvantaged programs. Rather than inventing the wheel, there are successful organizations and cities that Denver can look to for guidance in developing recruitment/hiring strategies, such as 3 Rivers WIB (Pittsburgh) and San Francisco with their CityBuild Program.

In 2011, the Auditor's Office and Dept. of General Services did not have appropriate reporting capability for payroll monitoring for local hiring. Timely and accurate reporting are essential to effective compliance monitoring and program evaluation. Cities who have implemented local hiring ordinances utilize B2Gnow and LCPtracker software. If Denver still does not have software capability, an analysis is needed from the appropriate agency to evaluate purchase of a system to meet its needs.

Last week, Denver was awarded approximately $422,652 from the Walmart Foundation to assist Denver in helping job seekers and training assistance. Most cities surveyed noted that pre-training is a problem. Funding into recruitment and pre-training programs is a good use of some of this funding, specifically, in low income areas such Globeville, Swansea, Central Denver, and Montbello.

At the Office of Economic Development budget hearing, Executive Director Washington reported that his office and Denver International Airport are preparing to fund the next Disparity Study. Funding is being allocated in 2017 and 2018. Based on correlations to these types of studies and local hiring requirements; it is suggested to include local hiring issues and opportunities in the upcoming disparity study.

The 2011 legislation proposed by Councilmember Lopez was held up in part because Committee members wanted to have more input from other agencies and stakeholders. In moving forward, a stakeholder group should be convened to include city agencies such as the Auditor’s Office, City Attorney’s Office, Dept. of Finance, and others such as developers, Denver Urban Renewal Authority, union representatives, contractors, and representatives from educational institutions. Successful outcomes require collaboration of many constituent groups so that the after-effects are positive for the residents a city serves.