

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2016-30

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING THE CITY CODE, CHAPTER 2, ENTITLED "ADMINISTRATION," ARTICLE XIII ENTITLED "PROCUREMENT CODE" BY ADDING A NEW SECTION 2-780, PROCEDURE TO PROVIDE A BUY AMERICAN PREFERENCE IN CONTRACTS FOR GOODS AND GENERAL SERVICES; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the City to update the Procurement Code to provide for a Buy American Preference policy to promote the purchase of American Products and Services; and

WHEREAS, the Chief Procurement Officer has analyzed the current Procurement Code, comparing it with other City procurement codes in regard to Buy American Preference Policies, and recommends the amendment contained herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The City Commission does hereby approve an amendment to the City of Coral Gables Code as follows:

Sec. 2-780. Procedure to provide Buy American Preference in contracts for goods and general services.

(a) *Definitions.* For purposes of this section only, the following definitions shall apply:

(1) Bid shall mean a competitive bid procedure established through the issuance of an invitation for bid. The term "bid," as used herein, shall not include requests for proposals (unless specified in the RFP document), requests for qualifications, requests for quotes and requests for information.

(2) General services mean support services performed by an independent contractor requiring specialized knowledge, experience, or expertise.

(3) Goods include, but are not limited to, supplies, equipment, materials and printed matter.

(4) The Buy American Preference shall apply to the following products and services that are: "manufactured" (interpreted to mean to make or process a raw material into a finished product or to turn-out in a mechanical manner; "Assembled" (interpreted to mean to fit or to join parts together into a finished product); "Produced" (interpreted to mean to create or make from raw materials). **To qualify for this preference, 51% of the components of the final produce manufactured, assembled or produced to be sold to the City must be made in the United States.** The Chief Procurement Officer shall administratively resolve any issues relating to Buy American Preferential status, and that decision on whether a vendor is eligible for a Buy American Preference shall be final.

(b) Exemptions.

(1) Purchases or contracts with an estimated cost of \$50,000 or less. The Chief Procurement Officer and Procurement staff will attempt to select products manufactured, assembled or produced in the United States if the quality and price are comparable with other goods.

(2) Professional services, which are defined, for purposes of this section, as any services where the city is obtaining advice, instruction, or specialized work from an individual, firm, or corporation specifically qualified in a particular area, and also those services procured pursuant to F.S. § 287.055, the Consultants' Competitive Negotiation Act.

(3) Bids for the purchase of, or contract for, the construction/renovation of public buildings, facilities, public works, or other public capital construction projects.

(4) Goods or services provided under a cooperative purchasing agreement or utilization of other agency contracts (piggyback contracts).

(5) Purchases made or contracts let under emergency or noncompetitive situations (sole source, or a special procurements/bid waiver), or for legal services.

(6) The business is determined to be unqualified to perform the work as determined by the City.

(7) The business submits a bid that exceeds the projected budget.

(c) *Preference in purchase of goods or general services.* Except where federal, state or county laws, regulations or policies mandates to the contrary, in the purchase of goods or general services by means of a competitive bid, a preference will be given to a responsive and responsible vendor offering American manufactured, assembled or produced goods or general services, who is within five (5) percent of the lowest responsive and responsible bidder, by way of an opportunity of providing said goods or general services for the lowest responsive and responsible bid amount.

(d) *Preference must be asserted.* Said five (5) percent Buy American Preference must be asserted by the party seeking it at the time of the competitive bid with the submittal of documentation supporting the assertion that a product is American manufactured, assembled or produced, and shall be calculated by the Procurement Division in rating competitive bids.

(e) *Comparison of qualifications.* The preferences established herein in no way prohibit the right of the Chief Procurement Officer, City Manager and/or the City Commission, as applicable, to compare quality of goods or general services proposed for purchase and compare qualifications, character, responsibility and fitness of all person, firms or corporations submitting bids. Further, the preferences established herein in no way prohibit the right of the City Manager and/or the City Commission, as applicable, from giving any other preference permitted by law instead of the preferences granted herein.

(f) *Waiver.* The application of the Buy American Preference to a particular purchase, contract, or category of contracts in excess of \$100,000 for goods and general services may be waived upon written recommendation of the City Manager and approval of the City Commission. The application of the Buy American Preference to a particular purchase, contract or category of contracts in excess of \$50,000, but not exceeding \$100,000 may be waived upon written recommendation of the Chief Procurement Officer and approval of the City Manager.

SECTION 3. SEVERABILITY.

If any action, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 4. REPEALER.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made part of the City of Coral Gables Code of Ordinances; and that the sections of this "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. CODIFICATION.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances immediately upon the signing of the Ordinance; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. EFFECTIVE DATE.

That this Ordinance shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-FOURTH DAY OF MAY, A.D., 2016.

(Moved: Lago / Seconded: Keon)
(Yeas: Lago, Quesada, Slesnick, Keon, Cason)
(Unanimous: 5-0 Vote)
(Agenda Item: E-1)

APPROVED:


JIM CASON
MAYOR

ATTEST:


WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY;


CRAIG E. LEEN
CITY ATTORNEY