



## the pros and cons of **Geographic Preferences On Public Construction**

In periods of economic downturn, local governments often attempt to assist their constituents by passing ordinances which give geographic preferential treatment to local contractors. While the concept of geographic preference is superficially appealing for the assistance it allegedly offers to local companies, the long-term impact to those companies and to the taxpayers is grievous. ABC strongly oppose any form of Geographic Preference ordinance as we believe they limit competition, limit the available talent pool, hurt smaller companies, and drive up costs on public projects. Especially at a time when taxpayers are demanding financial accountability by public officials, any effort by the government that leads to increased costs to the taxpayers must be closely scrutinized and reviewed.

When a local jurisdiction establishes a geographic preference policy they are effectively shutting their doors to outside businesses and workers. Surrounding areas will likely respond by enacting their own preferential system. This is one of many unintended consequences of geographic preferences; when contractors go from their home county to another county in Florida to bid work, they may be penalized by geographic preferences enacted in the other counties. What this does is balkanize the Florida economy. It's building walls to open competition.

Proponents argue that local governments can enter into "reciprocal" agreements with surrounding areas, but in reality those agreements are rarely honored and these companies and employees who once benefited from preferential treatment will likely find themselves out of work.

While Geographic Preference ordinances can come in a variety of forms, perhaps the most egregious is the Geographic Price Preference option. This form of financial assistance impacts public projects at their most critical point – the bottom line. While the standard practice is to award a contract to the lowest **qualified** bidder, this preferential process offers a leg-up to the local company that failed to come in with the low bid. This can happen in a variety of ways. In some cases, where a non-local company has come in with the low bid and a geographic price preference ordinance is in place, the governing body will "bid shop", allowing local bidders the opportunity to match the low bid and re-submit their applications.

In other cases a local company that is not the lowest bidder, but that comes in within a certain percentage above the low bid (usually within 3% to 7%), will be awarded the contract based solely on their location or on the number of local workers they employ.

All of these options will decrease the number of bidders on a project, driving up the cost to taxpayers and unnecessarily increasing public budgets as a result of fewer non-local contractors willing to go through the expense of bidding because they know the likelihood of being awarded the project is slim. In addition, depending on the size of the jurisdiction and the amount of qualified local companies, you could be faced with a situation where one company is being awarded the lion share of the public work, which clearly is not conducive or beneficial to the long term health of the competitive environment in the local area.

Other forms of geographic preference ordinances focus on the hiring of local workers. In some cases a company will be awarded a project only if they employ the largest number of local residents. It's worth **noting** that few government entities which enact such requirements have similar laws governing the hiring of "local" talent for government positions, the purchasing of supplies, the investment of their financial resources, etc. Ironically obtaining the best talent, supplies and highest return on investment is more important in each of these cases than purchasing locally. Still other forms of **geographic** preferences require firms to have a "local" office. Paradoxically it's the larger, out of region contractors which can meet the local requirement by opening a satellite office while the smaller firms next door often times cannot. Nevertheless each of these forms of **geographic** preferences has its own unique problems and places a higher priority on any number of things other than experience, ability to do the job or cost efficiency.

In construction, geographic preferences apply to the general contractors and construction managers. But the bulk of construction spending goes for materials and subcontractors. Even when an out-of-county contractor wins a bid, essentially all of the subcontractors and suppliers are from the local area (most workers tend to live where their job is). For this reason, the geographic price preferences are unnecessary.

**Once more(?)** in Florida a contractor can be issued a state certified license. This means that such contractors can operate anywhere in the state. Geographic preferences based on ones' residency, for this reason and others, is sure to lead to discrimination law suits down the road and further strains on public budgets.

## **SUMMARY**

In this economy especially, few "local" jurisdictions have enough work to sustain their resident companies and workers for extended periods of time. Ultimately local companies and workers will have to bid on work outside of their geographic area. What they will likely experience is being shut out of projects and jobs because they are not a resident of that specific area or a "local" contractor. If the silo system is wide spread enough, these companies and individuals will have to travel far and wide for employment.

These are a few of the numerous unintended consequences that result from geographic preference measures. In addition to increasing the cost and limiting the available competition on a job, these efforts can lessen a companies' competitive advantage, can discriminate against people looking for work, and can put people out of business.

Public construction projects are often large and complex. Sufficient number of local contractors with the necessary experience and expertise in these complicated projects are not always found within the local jurisdiction. Taxpayers have a right to expect that their tax dollars are being spent wisely and prudently.

ABC is opposed to local geographic preferences because they increase the cost of public construction, decrease competition and impede the free flow of commerce.

Associated Builders and Contractors of Florida is a commercial construction trade association consisting of more than two thousand corporate members in Florida. ABC represents every aspect of commercial construction from general contractors and subcontractors to suppliers and affiliated members. ABC members employ more than 200,000 individuals in the industry in this state.