

# **CITY OF LOS ANGELES**



## **RULES AND PROCEDURES**

### **IMPLEMENTING**

## **THE SLAVERY DISCLOSURE ORDINANCE**

REFLECTS ALL CHANGES MADE THROUGH AUGUST 1, 2012

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**RULES AND PROCEDURES IMPLEMENTING  
THE SLAVERY DISCLOSURE ORDINANCE**

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## RULES AND PROCEDURES IMPLEMENTING THE SLAVERY DISCLOSURE ORDINANCE

These Rules and Procedures are promulgated pursuant to Section 10.41 *et seq.* of the Los Angeles Administrative Code (LAAC), hereinafter referred to as the Slavery Disclosure Ordinance (SDO). Each Awarding Authority shall cooperate to the fullest extent with the Designated Administrative Agency (DAA) in the administration of the SDO. The DAA may amend these Rules and Procedures from time to time, consistent with applicable law, as required for the implementation of the Ordinance.

### DEFINITIONS

For purposes of these Rules and Procedures, the following definitions shall apply, including the definitions set forth in LAAC Section 10.41, which are incorporated herein.

- a. **Affidavit** means the form developed by the DAA which may be updated from time to time. The Affidavit need not be notarized but shall require the Company to sign under penalty of perjury that the Company:
  1. Has searched any and all records of the Company, or any Predecessor Company, regarding records of Participation or Investments in, or Profits derived, from Slavery, including Slaveholder Insurance Policies issued during the Slavery Era; and
  2. Has disclosed on the Affidavit, any and all records of Participation in or Profits derived by the Company, or any Predecessor Company, from Slavery, including issuance of Slaveholder Insurance Policies, during the Slavery Era, and identified the names of any Enslaved Persons or Slaveholders described in the records.
- b. **Awarding Authority** means a subordinate or component entity or person of the City, such as a City Department or Board of Commissioners, that has the authority to enter into a Contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.
- c. **Bid** means any application submitted by a Company in response to an Invitation for Bid.
- d. **Company** means any person, firm, corporation, partnership or combination of these.
- e. **Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies or rendering of any service to the City of Los Angeles or the public, which is let, awarded or entered into with or on behalf of the City of Los Angeles or any Awarding Authority of the City.

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- f. **Designated Administrative Agency (DAA)** means the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC).
- g. **Enslaved Person** means any person who was wholly subject to the will of another and whose person and services were wholly under the control of another and who was in a state of enforced compulsory service to another during the Slavery Era.
- h. **Investment** means to make use of an Enslaved Person for future benefits or advantages.
- i. **Invitation for Bids (IFB)** means the process through which the City solicits Bids, including Request for Proposals, Request for Qualifications, or other procurement process.
- j. **Participation** means having been a Slaveholder during the Slavery Era.
- k. **Predecessor Company** means an entity whose ownership, title and interest, including all rights, benefits, duties and liabilities were acquired in an uninterrupted chain of succession by the Company.
- l. **Profits** means any economic advantage or financial benefit derived from the use of Enslaved Persons.
- m. **Slavery** means the practice of owning Enslaved Persons.
- n. **Slavery Era** means that period of time in the United States of America prior to 1865.
- o. **Slaveholder** means holders of Enslaved Persons, owners of business enterprises using Enslaved Persons, owners of vessels carrying Enslaved Persons or other means of transporting Enslaved Persons, merchants or financiers dealing in the purchase, sale or financing of the business of Enslaved Persons.
- p. **Slaveholder Insurance Policies** means policies issued to or for the benefit of Slaveholders to insure them against the death of, or injury to, Enslaved Persons.

### PROCEDURE #1: TIMING AND APPLICABILITY

- a. **IFBs, Contracts, and Contract Amendments Before October 15, 2003**
  - 1. IFBs that were released prior to October 15, 2003, and the Contracts awarded pursuant those IFBs, are not subject to the SDO, until the resulting Contract is subsequently amended as provided for in Procedure #1b.

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2. Contracts and Contract amendments executed before October 15, 2003 are not subject to the SDO until the Contracts are subsequently amended, as provided for in Procedure #1b.

### **b. IFBs, Contracts, and Contract Amendments After October 15, 2003**

1. Unless otherwise exempt, IFBs released after October 15, 2003 are subject to the SDO.
2. Unless otherwise exempt or unless they were awarded pursuant to an IFB that was released prior to October 15, 2003, Contracts executed after October 15, 2003 are subject to the SDO.
3. Unless otherwise exempt, amendments to Contracts previously not subject to the SDO become subject to the Ordinance if the Contracts are amended after October 15, 2003.

### **PROCEDURE #2: AFFIDAVIT REQUIRED IN PROCUREMENT OF CONTRACTS**

- a. **Awarding Authority Issuance of Contracts:** Unless the contract is otherwise exempt, Awarding Authorities shall include in their IFBs language informing Companies that the bidder selected for award of the Contract will be required to submit an Affidavit on [www.labavn.org](http://www.labavn.org) (and have it verified by the DAA) before the Contract can be executed. If no IFB procedure is used to procure a proposed Contract, the Awarding Authority must inform the selected Company that an Affidavit must be submitted on [www.labavn.org](http://www.labavn.org) (and verified by the DAA) before a Contract can be executed.
- b. The SDO Affidavit must only be submitted on BAVN one time, unless there are subsequent changes that would affect a Company's response to any of the questions. Companies are responsible for promptly updating the Affidavit if any such changes occur, including changes in contact information, mergers and acquisitions, etc.

### **PROCEDURE #3: REVIEW OF SUBMITTED AFFIDAVITS**

- a. **Departmental Responsibilities:** Prior to executing any Contract, Awarding Authorities must ensure that the Company selected for award of the Contract has uploaded a completed and signed Affidavit to BAVN. The Awarding Authority must notify the DAA that the form (and any other applicable EEO compliance forms) are ready to be verified. If the DAA is notified and finds an incomplete or inaccurate submission, they will inform the Awarding Authority, who will be responsible for following up with the Company to correct the problem.

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- b. **DAA Responsibilities:** The DAA will verify that the Affidavit is complete, signed, and complies with City requirements. The DAA will update the Company's Affidavit status on BAVN to indicate that the Affidavit was verified.
- c. **Public Record:** Consistent with applicable law, an Affidavit submitted to the City (including any attachments) becomes part of the public record.

### **PROCEDURE #4: EXECUTION OF CONTRACTS AND AMENDMENTS**

- a. **Contracts:** Contracts subject to the SDO may not be executed until:
  - 1. Language obligating the Company to comply with the Ordinance has been incorporated into the Contract;
  - 2. The Company has submitted an Affidavit on BAVN;
  - 3. The DAA has verified the Affidavit; and
  - 4. The Company has satisfactorily complied with all other applicable City requirements.
- b. **Amendments: Contracts executed prior to October 15<sup>th</sup>, 2003, and contracts pursuant to IFBs released** before that date were not subject to the SDO. However, if these contracts are amended after October 15<sup>th</sup>, **2003**, the amendments may not be executed until the Company has complied with SDO requirements.

### **PROCEDURE #5: VIOLATIONS OF THE ORDINANCE OR THESE PROCEDURES**

- a. A Company's alleged violation of the Ordinance or these Rules and Procedures may be reported to the DAA, which shall investigate the matter and make a determination as to whether a violation has taken place.
- b. Upon a finding that a Company has violated the Ordinance or these Rules and Procedures, such violation may be considered a material breach of the Contract. Such breach entitles the City to terminate the Contract and pursue any other remedy available, including the withholding of payments due or to become due under the Contract.
- c. A Company's violations of the Ordinance or these Rules and Procedures may be considered as evidence against the Company in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

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### PROCEDURE #6: EXEMPTIONS

a. **Exemptions Requiring DAA Approval:** The Awarding Authority may apply for an exemption from the SDO Affidavit requirements in the following circumstances:

1. The contract is awarded on the basis of exigent circumstances where the Awarding Authority finds that the City would suffer a financial loss or City operations would be adversely impacted unless exempted from the provisions of the SDO.
2. The Contract is for the furnishing of goods or services covered by letters patent granted by the government of the United States, or where the goods or services are proprietary or only available from a single source

Awarding Authorities requesting exemptions from the Ordinance on these bases should submit the SDO-2 Form and a memorandum to the DAA detailing how the Contract fits one of the categories described above.

Unless additional information is required, the DAA will process the request with an approval or denial of the exemption within five (5) working days of receipt.

b. **Statutory Exemptions Not Requiring DAA Approval:** The following contracts are exempt from the Ordinance and these Rules and Procedures, and do not require DAA approval before contract execution:

1. Contracts for the investment of:
  - (a) City trust moneys or bond proceeds;
  - (b) Pension funds;
  - (c) Indentures, security enhancement agreements for City tax-exempt and taxable financings;
  - (d) Deposits of City surplus funds in financial institutions;
  - (e) City moneys in securities permitted under the California State Government Code and/or the City's investment policy;
  - (f) Investment agreements, whether competitively bid or not;
  - (g) Repurchase agreements; and

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(h) City moneys invested in United States government securities.

2. Contracts involving City moneys in which the Treasurer or the City Administrative Officer finds that the City will incur a financial loss or forego a financial benefit, and which in the opinion of the Treasurer or the City Administrative Officer would violate his or her fiduciary duties.
3. Grant funded Contracts if the application of this article would violate or be inconsistent with the terms or conditions of a grant or Contract with an agency of the United States, the State of California or the instruction of an authorized representative of any of those agencies with respect to any grant or Contract.
4. Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of one of these entities, or a public or quasi-public corporation located in the United States and declared by law to have a public status.
5. Contracts with any Company that has been designated as a non-profit organization pursuant to the United States Internal Revenue Code Section 501(c)(3).
6. Contracts entered into pursuant to Charter Section 371(e)(5), as approved by Council.
7. Contracts entered into pursuant to Charter Section 371(e)(6), as approved by Council.
8. Contracts entered into pursuant to Charter Section 371(e)(7).

Awarding Authorities are encouraged to complete the SDO-2 Form and indicate which of the above statutory exemptions applies to the Contract, and keep the form on file.

### **PROCEDURE #7: EFFECTIVE DATE OF RULES AND PROCEDURES**

- a. These Rules and Procedures take effect October 15, 2003.

Unless otherwise required by law, revisions to these Rules and Procedures, if any, shall be updated once yearly and become effective July 1.