

Cities Pave the Way:
Promising Reentry Policies
that Promote Local Hiring of
People with Criminal Records





National League of Cities Institute for Youth, Education, and Families

The Institute for Youth, Education, and Families (YEF Institute) is a special entity within the National League of Cities (NLC).

NLC is the oldest and largest national organization representing municipal government throughout the United States. Its mission is to strengthen and promote cities as centers of opportunity, leadership, and governance.

The YEF Institute helps municipal leaders take action on behalf of the children, youth and families in their communities. NLC launched the YEF Institute in January 2000 in recognition of the unique and influential roles that mayors, city councilmembers, and other local leaders play in strengthening families and improving outcomes for children and youth.

Through the YEF Institute, municipal officials and other community leaders have direct access to a broad array of strategies and tools, including:

- Action kits that offer a menu of practical steps that officials can take to address key problems or challenges.
- Technical assistance projects in selected communities.
- The National Summit on Your City's Families and other workshops, training sessions, and cross-site meetings.
- Targeted research and periodic surveys of local officials.
- The YEF Institute's website, audioconferences and e-mail listservs.

To learn more about these tools and other aspects of the YEF Institute's work, go to www.nlc.org/iyef or leave a message on the YEF Institute's information line at (202) 626-3014.

National Employment Law Project

The National Employment Law Project (NELP) works to restore the promise of economic opportunity in the 21st century economy. In partnership with national, state and local allies, NELP promotes policies and programs that create good jobs, strengthen upward mobility, enforce hard-won worker rights and help unemployed workers regain their economic footing through improved benefits and services.

NELP works from the ground up to build change. Its model is to develop and test new policies at the state and local level, then scale them up to spur change at the national level. NELP partners with strong advocacy networks, grounded in the full range of stakeholders — grassroots groups and national organizations, worker centers and unions, policymakers and think tanks. The NELP staff of lawyers, policy experts and researchers provide:

- In-depth legal and policy analysis;
- Rigorous empirical research;
- Expert legal advice and technical assistance;
- Strategic leadership in coalitions;
- Communications, public education and messaging; and
- Capacity building.

To learn more about NELP, visit www.nelp.org, or contact (212) 285-3025 or nelp@nelp.org.

STEP 3: APPLY THE LOCAL FAIR HIRING REQUIREMENTS TO GOVERNMENT CONTRACTORS

In an attempt to promote model hiring policies in the private sector, several cities have also required employers that receive local government contracts to adopt the same hiring policies used by the city to remove barriers to employment for people with criminal records. For example, Boston, Cambridge and Worcester, Mass., as well as Hartford and New Haven, Conn., now extend their city "ban the box" policies and other local hiring reforms to their vendors.

Boston Extends Model Hiring Reforms to City Vendors

Since 2006, Boston has had in place one of the nation's most expansive local government hiring policies promoting employment of people with criminal records. The policy requires a "good faith" determination of whether a criminal background check is necessary for each city position and postpones screening for a criminal record until the job applicant is found to be "otherwise qualified" for the position. In addition, all private vendors that enter into new contracts with the city (estimated to total 50,000) are required to adopt "policies, practices and standards that are consistent with city standards." Moreover, each city agency that issues a covered contract has to review the vendor's policies and follow up to ensure that the policies are properly implemented as part of the process of evaluating the vendor's performance under the contract.¹⁵

IV. Leverage Development Funds to Target Jobs for People with Criminal Records

In addition to addressing their own employment policies and those of their contractors, more cities across the country are adopting promising strategies that leverage local development funds to create employment opportunities for residents facing the greatest difficulties entering the labor market. These initiatives take many forms, ranging from local hiring preferences for targeted groups of city residents to "project labor agreements" negotiated with local unions and "community benefit agreements" negotiated with the help of community-based organizations. ¹⁶ In some cities, these hiring policies specifically target people with criminal records, bringing together training and other resources with a commitment of employment on city-funded development projects.

These policies often apply to construction projects and the growing number of investments in green jobs made possible with new federal grants for weatherization and other energy conservation projects. In fact, the federal government strongly endorses these innovative strategies in projects funded with ARRA dollars, stating in federal guidelines that localities should "maximize the economic benefits of a Recovery Act-funded investment in a particular community by supporting projects that seek to ensure that the people who live in the local community get the job opportunities that accompany the investment."¹⁷

Newark's First Source Hiring Ordinance

The City of Newark, N.J., passed its "first source" or local hiring ordinance in 2000. The ordinance requires construction contractors doing business with the city to take affirmative steps to employ Newark residents in 40 percent of their positions.¹⁸ The residents can be employed as apprentices, trainees, helpers or full-fledged journeymen. Both construction contractors and developers are required to comply with the ordinance or otherwise demonstrate "best

¹⁵ The full text of Boston's ordinance is available at http://nelp.3cdn.net/dc937c758c0ad0c931 fem6bxk1e.pdf.

¹⁶ For more background on these strategies, see Kathleen Mulligan-Hansel, "Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Local Communities" (Partnership for Working Families: June 2008), available at http://www.communitybenefits.org/downloads/Making%20Development%20Work%20for%20Local%20Residents.pdf.

¹⁷ U.S. Office of Management and Budget, Memorandum for the Heads of Departments and Agencies, "Updated Implementation Guidance for the American Recovery and Reinvestment Act of 2009" (April 3, 2009), at page 5.

¹⁸ The Newark First Source Ordinance is codified as 2:4-20 of the City Code, available at https://ndex.ci.newark.nj.us/dsweb/Get/Document-156762/First+Source+Ordinance.pdf.

efforts" in meeting the hiring requirement. Although the ordinance does not specifically target people with a conviction history, one in six adult residents in Newark has a criminal record, 19 and are thus often major beneficiaries of the local hiring policy.

Los Angeles Project Labor Agreement Promotes Union Apprenticeships

The Community Redevelopment Agency of Los Angeles is responsible for spending public dollars to promote development in Los Angeles communities. With the strong support of local community organizations (including the Los Angeles Alliance for a New Economy) and labor unions, the agency negotiated a particularly comprehensive project labor agreement (PLA) on publicly subsidized development projects that promotes local hiring and job quality standards. The PLA targets "disadvantaged workers," including anyone who has a "criminal record or other involvement with the criminal justice system. It also calls on construction unions to "exert their best efforts to recruit and identify Local Residents... and Disadvantaged Workers, and to assist such individuals in qualifying and becoming eligible for... apprenticeship programs."

Portland's Green Jobs Initiative Targets People with Criminal Records

Government officials and key stakeholders in Portland, Ore., have signed on to the "Community Workforce Agreement on Standards and Community Benefits in the Clean Energy Works Portland Pilot Program," which sets up an initial 470-home pilot weatherization program with the potential of reaching 100,000 qualifying homes countywide. The Portland agreement establishes a goal of hiring 80 percent of program employees from the local community. The agreement also seeks to ensure that 30 percent of all those hired under the program represent low-income communities, including "formerly incarcerated individuals seeking new opportunities for responsible citizenship and economic self-sufficiency." Finally, the agreement, which has been endorsed by various city council resolutions, also creates strong standards regulating both the quality of the jobs and the quality of product.

V. Expanding Bid Incentive Programs to Promote Local Hiring Priorities

Another helpful strategy for cities to promote employment of people with criminal records is the local bid incentive process through which private employers compete to win government contracts. The traditional process for awarding construction contracts requires selection of the contractor with the lowest bid price that meets minimum qualifications. However, more cities have adopted "best value contracting," awarding projects to contractors that meet the best combination of price and technical qualifications that take into account local hiring and other policy priorities.²²

Investments in workers, including job training, workplace safety and pension and health care provisions are often addressed in the best value contracting process. In addition, the process provides an opportunity for cities to promote outcomes that benefit the local community, including diversity initiatives, local hiring and apprenticeship requirements. For example, in response to certain labor shortages, Madison, Wisc., adopted this approach to stimulate greater private investments in apprenticeship and training programs for the next generation of skilled workers. ²³ The City of Boston passed a similar ordinance in 1998, also requiring private employers seeking contracts with the city to submit affirmative action plans. ²⁴

¹⁹ Jacobs, Andrew, "Seeking the Key to Employment for Ex-Cons," New York Times (April 27, 2008), available at http://www.nytimes.com/2008/04/27/nyregion/27excons.html?_r=1&scp=1&sq=%22seeking%20 the%20key%20to%20employment%20for%20ex-cons%22&st=cse.

²⁰ The Los Angeles agreement is available at http://74.10.59.52/laane/projects/ConstructionCareers/CRAPLA09062008.pdf.

²¹ The agreement, dated September 24, 2009, is available at http://www.portlandonline.com/bps/index.cfm?a=265161&c=50152. Another helpful "community benefits agreement" targets San Diego's low-income residents. The Ballpark Village Project Community Benefits agreement includes a first-source hiring provision that also requires business tenants in the development area to engage with the "Rehabilitated Ex-Offender Training Program" to promote employment of people with criminal records. The San Diego agreement is available at http://www.communitybenefits.org/downloads/Ballpark%20CBA.pdf.

²² General information on best value contracting is available at http://www.clmcwisc.com/Best_Value_Contracting.htm

²³ See http://www.cityofmadison.com/news/view.cfm?news id=200.

Indianapolis Bid Incentive Program Targets People with Criminal Records

In September 2008, the Indianapolis City Council unanimously adopted an ordinance to establish a bid incentive program for city procurement that specifically promotes hiring of people with criminal records. The ordinance promotes the policy of the "city and county to employ residents of the county who previously were incarcerated for or convicted of a felony."²⁵ It directs the city's purchasing division to give preference to vendors who train or employ people with criminal records. To comply with the ordinance, employers must also have in place records that ensure effective tracking to determine the success of those qualifying workers who have been employed by the contractor. The ordinance provides for sanctions in the event of contractor non-performance.

VI. Financial Incentives for Private Employers to Create Jobs for People with Criminal Records

In recent years, more cities have also created new financial incentives for private employers to hire people with criminal records in their local communities. These incentives have taken the form of supplemental tax credits that build on the federal Work Opportunity Tax Credit (WOTC) available to employers that hire people with criminal records, ²⁶ and bonding programs that protect employers against certain legal liabilities.

Philadelphia Tax Credit Program Joins Forces with the Reentry Initiative

In January 2008, the City of Philadelphia adopted the Philadelphia Re-Entry Employment Program, which allows any local business that hires someone with a conviction history to apply for a \$10,000 credit for three years against the city's Business Privilege Tax. The tax credit is available for each qualifying employee hired. The Mayor's Office for the Reentry of Ex-Offenders developed the program in partnership with the Philadelphia Workforce Development Corporation and local chamber of commerce. The program, which is capped at 1,000 workers, specifically provides incentives for the hiring of people who are on probation or parole. It also requires that they be employed full time "with an hourly rate, excluding benefits, of at least 150 percent of the federal minimum wage" and receive "an employment benefit package that includes the same benefits" provided to other full-time employees, along with tuition support to advance the employees' educational goals.²⁷

San Francisco Adopts Bonding Program for "At Risk" Workers

In 2007, the San Francisco Board of Supervisors passed an ordinance establishing a fidelity bonding program for employers that hire "at-risk" workers, including people who face barriers to employment based on a criminal history. Fidelity bonds are business insurance policies protecting private employers against damages and liabilities connected with "employee dishonesty," such as theft, forgery, larceny or embezzlement of money or property. The ordinance authorized the city's Department of Workforce Development to enter into a purchase agreement with the Federal Bonding Program to provide bonds up to \$25,000 to prospective employers. The ordinance also requires the city's Public Defender, District Attorney and Probation and Sherriff's Departments to conduct outreach about the program to potential job applicants who avail themselves of city workforce services.²⁸

²⁵ The meeting minutes and language of the Indianapolis ordinance are available at http://www.indy.gov/eGov/Council/Meetings/Council/Documents/09-08-08min.pdf.

²⁶ U.S. Department of Labor, Employment & Training Administration, Work Opportunity Tax Credit Website Resources available at http://www.doleta.gov/business/incentives/opptax/.

²⁷ Information on Philadelphia's program is available online at http://www.phila.gov/Revenue/pdfs/PREP_Application.pdf.

²⁸ The San Francisco bonding policy is available online at http://sfgov.org/site/frame.asp?u=http://www.oewd.org.

VII. Conclusion

Most city governments and private employers have a long way to go in removing barriers to employment for people with criminal records. In just the past five years, however, a growing number of city leaders have made impressive strides in developing and implementing new initiatives that give hope and opportunity to those coming home from prison who need a job to get back on their feet and do right by their communities.

Typically, these policies have been developed as part of a comprehensive, "smart on crime" agenda, often under the leadership of city appointees designated to craft more effective reentry policies or one of a growing number of "reentry councils" and city caucuses that represent the diverse interests and perspectives of the community. In the process, these bold steps by city leaders to reshape their own municipal hiring policies also set an important example for — and send a much-needed signal to — employers in the private sector.

To be sure, severe economic struggles pose yet another challenge for cities seeking to open up employment opportunities for workers from all walks of life, including those who have had contact with the criminal justice system. However, as a result of innovative efforts within cities across the country, a new roadmap now exists to provide full and fair employment options for all members of the community when the economy and job growth rebound.

Acknowledgements

The authors wish to thank the Annie E. Casey Foundation for its generous support for all phases of the reentry collaboration between National Employment Law Project and the National League of Cities (NLC).

Maurice Emsellem, policy co-director at the National Employment Law Project (NELP), served as the author of this paper, with extensive research assistance provided by NELP staff attorney Madeline Neighly. NELP also thanks Jessie Warner, formerly of NELP, for her early work on this project. A survey of municipal hiring practices conducted by Eric Reid, 2008-09 National Urban Fellow at NLC's Institute for Youth, Education and Families (YEF Institute), provided valuable information from surveys of city officials that has been incorporated into the paper. Clifford M. Johnson, the YEF Institute's executive director, provided editorial direction and helpful feedback. Alexander Clarke was responsible for the publication's design and layout.