



Legislation Text

File #: 23-0081, **Version:** 2

Recommendation to receive and file a presentation on the Analysis of Local Preference in Contracting;

Direct City Attorney to prepare ordinance amending the Long Beach Municipal Code Section 2.84.030, Local Preference, to raise the preference cap to \$50,000 from \$10,000 in determining the lowest responsible bidder for furnishing materials, equipment, supplies, or non-professional services, as applicable; and

Direct City Manager to develop guidance for City staff to promote and prioritize the use of local vendors as practical for purchases within the discretion of Department Directors and for Requests for Proposals. (Citywide)

The Department of Financial Management (Department) is recommending an update to Long Beach Municipal Code (LBMC) Section 2.84.30, Local Preference, (the Ordinance) to raise the preference cap to \$50,000 from \$10,000 based on a study conducted by the Department as a part of the Extreme Procurement Makeover underway in the Purchasing Division to transform procurement in Long Beach.

Background

The Ordinance was first adopted in 2004 and modified in 2009, with the goal of strengthening local economic activity and offsetting the cost of doing business in the City of Long Beach (City) for Long Beach-based businesses. On March 1, 2022, the City Council expressed an interest in further strengthening the Ordinance to increase opportunities for local businesses to contract with the City and directed the City Manager to work with the Department to conduct an analysis and provide options.

The current Ordinance applies to Invitations to Bid (ITBs), which are solicitations for goods and non-professional services above \$25,000, with exclusions outlined in 2.84.030(D) for purchases of library media, bids for public works capital projects, and purchases with funding restrictions. When eligible businesses (those with a valid City business license and seller's permit showing a place of business within city limits) submit a bid, it is evaluated at a value ten percent lower (preference percentage), up to \$10,000 (preference cap). The ITB is awarded to the lowest-priced responsive and responsible bidder including this preference. The award is made to the bidder at their full bid amount.

Analysis and Recommendations

The following three areas were the focus of the analysis:

1. Strengthen Existing Local Preference Program

The current preference cap is relatively low compared to other California (CA) peer cities and there appears to be room to responsibly consider increasing the preference cap to increase the instances where the policy is applied without exposing the City in the future to unreasonable and unplanned budget increases. Therefore, staff recommends changing the Ordinance to increase the preference cap fivefold, from \$10,000 to \$50,000, while also maintaining the local preference percentage. The local preference percentage applied is ten percent and is in line with or higher than most CA peer cities reviewed. The preference percentage applied can only offset the increased cost of doing business in Long Beach versus other locations and must be justifiable. Any change to the preference percentage would require additional economic impact data (costly to obtain) to confirm its justification.

Staff reviewed past bid data, tested different preference scenarios, and compared the City's regulations to neighboring and similar-sized CA peer cities. We learned that in general, the most critical factor for award decisions to local businesses was bidder participation, and the number of local vendors responding to individual bid invitations. From Fiscal Years 2019 - 2021 (FY), not a single award was decided by the City's local preference percentage or cap. In FY 21, eight percent of bidders for all ITBs for goods and non-professional services were local. However, staff found that when those local vendors bid, they tended to win - regardless of the City's local preference policy - with more than half of bids where local vendors participated in FY 19-21 awarded to those local vendors.

Therefore, staff will continue to increase the focus of resources on vendor outreach and education to increase vendor participation and reduce barriers to participation. As part of the Long Beach Recovery Act (LB Recovery Act), the City added additional outreach techniques to Requests for Proposals (RFPs) and Requests for Qualification (RFQs), such as:

- Forecasting upcoming procurements and publishing the information for the vendor community to know in advance what the City plans to solicit
- Expanding resources to reach new vendors, particularly smaller and local vendors, beyond traditional public postings and print advertisements, including:
 - o "Doing Business with the City" in person and virtual events
 - o Tools such as press releases, flyers, and social media posts, along with our traditional use of direct phone calls and emails to prospective vendors
- Ensuring language access and translation are provided
- Forsaking the mandatory pre-bid meeting structure in favor of voluntary information sessions
- Restructuring response times for core RFPs

- Following up with vendors with post-solicitation surveys to stay informed on the effectiveness of the procurement process

With these combined efforts, the Department yielded significantly higher bid submission rates from local and diverse vendors for LB Recovery Act procurements, more than doubling the overall submission rate compared to prior fiscal year procurements. In addition, submissions from the following business types also increased: Local Business by 41 percent, Minority Business Enterprise by 35 percent, and Woman-owned Business Enterprise by 42 percent. The successes seen by the LB Recovery Act outreach strategies have been coordinated by staff in the Purchasing Division and Recovery and Equity in Contracting Division of the Department, with support from the Recovery Office of the City Manager. Staff will work to include these techniques as appropriate for future procurements, including ITBs, RFPs and RFQs, as resources allow.

2. Expand Application of Local Preference Program

The local preference policy currently only applies to select ITBs, which make up less than half of all solicitations in the City and does not apply at all to micro- and small-dollar purchases under \$25,000. Staff recommends that the City both include local preference in the evaluation of RFPs and apply a ten percent preference to micro- and small-dollar purchases less than \$25,000.

RFPs, unlike ITBs, are evaluated for both price and quality, allowing for professional service contracts to not be simply awarded to the lowest qualified bidder, but to the best overall proposal to meet the City's needs. Through its new RFP template, the City has developed standardized evaluation criteria, including Organizational Capacity and Experience, Method of Approach, Communications and Reporting, and Reasonableness of Cost. Local preference may be considered as a part of these categories and as a strategy to promote the use of local suppliers and service providers, helping to create a sustainable economy, preserve local businesses, retain local dollars within the community, and strengthen employment. Notably, local businesses are frequently awarded RFPs. In FY 21, 43 percent of proposers and 52 percent of awardees of RFPs were local businesses, a stark contrast to ITB competition. Nonprofit organizations most frequently respond to RFPs and would continue to benefit from this approach. Any consideration of local preference in RFPs would not be applied in instances where the project funding source - most often Federal and State grants -- prohibits the application of local preference.

For purchases under \$25,000, staff are asked to source three quotes and to choose the lowest price, with final award at the discretion of that Department's Director. Under the proposed recommendation, staff would apply the ten percent preference to local businesses when evaluating these quotes. The City purchases from thousands of vendors annually, and expanding local preference allows more opportunities for local businesses to compete outside of the formal bidding process. This recommendation does not require

Ordinance changes, but instead will change internal City policy.

3. Expand Reporting and Increase Transparency

Purchasing staff will publish procurement and contracting data annually via the Department's website. The City's new e-procurement system, Long Beach Buys <<https://longbeachbuys.buyspeed.com/bsa/>>, launched in June 2022 and allows the City to: (1) improve vendors' procurement and contracting experiences; (2) report on additional purchasing data; and (3) and better integrate with City financial systems. In addition, the City's Small Business Enterprise program tracks and reports sub-contracting data and is run separately from the Local Preference Program. Through Long Beach Buys and the Purchasing website, the City will continue to report on key contracting performance indicators.

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley on January 3, 2023, Purchasing Agent Michelle Wilson on January 5, 2023, and by Revenue Management Officer Geraldine Alejo on December 1, 2022.

City Council action is requested on January 24, 2023, to ensure timely amendment to the Long Beach Municipal Code.

The recommendation maintains the City's current local preference at ten percent but increases the local preference cap from \$10,000 to \$50,000. Additionally, the recommendation expands the local preference program and applies a ten percent preference to quotes submitted by local vendors for micro- and small-dollar purchases under \$25,000 which are currently exempt under the City's existing local preference program. The maximum cost increase to the City could be \$40,000 per contract award. However, the fiscal impact to the City is currently unknown and will vary annually based on the level of participation by local vendors and the number of solicitations released. Based on recent data of awards impacted by the current program, it is generally anticipated that there will be a minimal impact to departments and fund groups because of this change. However, following implementation, staff will monitor the fiscal impact and the extent to which these recommended changes to the local preference program will require additional funding to continue to support citywide projects. In these cases, the impacted department will return to the City Council with a request for appropriation, offset by funding identified to address any budget shortfall. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. This recommendation is anticipated to have a positive local job impact, although the number of local jobs impacted is unknown at this time.

Approve recommendation.

KEVIN RIPER
DIRECTOR OF FINANCIAL MANAGEMENT

APPROVED:

THOMAS B. MODICA
CITY MANAGER