



OVERVIEW OF LOCAL PREFERENCE PROCUREMENT AND DISADVANTAGED BUSINESS ENTERPRISE PROCUREMENT POLICIES

City Manager's Office

Economic Development, Placemaking and
Branding/marketing Committee
November 19, 2020

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BACKGROUND

1. July 9, 1991 - City Council adopted Resolution 17788 allowing staff to consider a 1% local preference when evaluating bids for the purchase of goods. The 1% represented the sales tax the City would receive associated with a purchase.
2. March 11, 2003 - City Council adopted Resolution 20363 amending portions of resolution 17788 including increasing the local preference to 5% on the purchase of goods.
3. April 17, 2012 - City Council approved a Community Benefit Program specifically for Design-Build contracts.



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DISCUSSION

Local Preference Programs

1. 5% on procurement of goods
2. Charter Section 1109 requires award to lowest responsive bidder on Standard "Design-Bid-Build" contracts
 - A. Best way to maximize opportunities for local person is extensive outreach efforts
3. Currently no benefit with procurement of consultant services



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DISCUSSION

Local Preference Programs (Cont.)

4. Community Benefit Program for "Design-Build" contracts because ordinance allows award on basis of "best value to the City"
 - A. Defines local as within a 50-mile radius but could be evaluated based on project
 - B. Proposals must address local outreach and return to work programs
 - C. At least 50% local labor or must continue to make verified efforts to meet the goal



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DISCUSSION

Race-conscious Disadvantaged Business Enterprise Program

1. DEB Program plan needed to be updated and implemented
2. Airport, Parks, Recreation and Community Services and Public Works updated program with U.S. DOT, 49 Code of Federal Regulations (CFR) Part 26 and included:
 - A. Monitoring of contracts with BE participation
 - B. Reporting DBE accomplishments to semi-annually to FAA, FTA and California DOT
 - C. Implementing program in accordance with law
 - D. Revised admin requirements an implementation measures so easier to follow

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DISCUSSION

Riverside County Programs:

1. Veteran-qualified businesses, small businesses and local businesses receive 5% procurement preference not to exceed a cost of \$25,000
2. Must maintain an inventory of small, local, veteran-owned, minority-owned and/or women-owned business organizations
3. Must participate in business opportunity related meetings, conferences, seminars, etc. with businesses
4. Policies apply to all agreements, contracts, leases, and procurements for materials, services, or consultants paid for, in whole or in part, out of county funds or funds administered by the county.

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DISCUSSION

San Bernardino County Programs:

5% local vendor preference policy to encourage local vendors to provide goods and services needed for the county operations. Vendors must:

1. Have a principal place of business within the county
2. Be established and open for at least 6 months
3. Demonstrate ongoing business activity
4. Have a minimum of 25% of full-time and management employees working from within the county



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DISCUSSION

City of Corona Program:

DBE program in accordance with regulations of the U.S. Department of Transportation, 49 Code of Federal Regulation Part 26.

1. Assures equal opportunity in the award and performance of any contract to all persons without regard to race, color, national origin, or sex.
2. Intent is to eliminate discriminatory practices, ensure discrimination is not occurring, increase participation of DBE's in all contracting activities, and meet DBE participation goals



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DISCUSSION

City of Moreno Valley Programs:

1. A 5% preference is given to local small business vendors for the purchase of nonprofessional services, supplies, materials and equipment, quality and price being equal.
2. Encourages the utilization and participation of Disabled Veterans Business Enterprises in city procurements and to align preference with the State requirements. This policy applies to agreements, contracts, acquisitions leases, and purchase orders for materials, services, professional services, professional consultants or trainers from firms or individuals engaged in "for profit" business activities paid for in whole or in part out of city funds or funds administered by the city.



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DISCUSSION

City of San Bernardino Program:

1. Local business preference extends a bidding advantage in the form of a 1% preference in the evaluation of bids or proposals from the procurement of goods and materials.
2. A local business is defined as a vendor for which the point of sale of the goods or materials shall be within the city limits.
3. Public works contracts under the public contracting code, grant funded contracts or purchases, emergency procurements, sole source contracts, and purchases made under a cooperative purchasing agreement are exempt from this provision.



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DISCUSSION

City of Los Angeles Programs:

1. Certifications or Disadvantaged Business Enterprises, Airport Concessions Disadvantaged Business Enterprises, Minority Business Enterprises, Women Business Enterprises, and Small Local Business Enterprises to promote opportunities for owners who want to participate in city contracting projects.
2. Provides a 10% preference for businesses certified as a small local business applied to contracts of \$100,000 or less.
3. Transitional job opportunity program to recognize transitional employers who provide job opportunities for the hardest-to-employee or long-term unemployed persons as a way for them to re-enter the mainstream workforce. They are granted a preference to contracts that do not exceed \$100,000.



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DISCUSSION

1. City does not currently include requirements for local preference and DBE's within RFP's/RFQ's for developers for City surplus lands
2. City may be able to consider provisions in order to:
 - A. Recruit and employ skilled craft workers with a primary residence located within a certain radius of the City of Riverside; and,
 - B. Support the local economy by sourcing development project-related goods/materials/supplies from businesses within a certain radius of the City of Riverside
3. City can explore this idea, if Committee is interested and if feasible given the restrictions in place due to AB 1486



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DISCUSSION

Policy change is a good start, but outreach programs are also needed

Programs should support policies and incorporate the Cross-Cutting Threads:

1. Community Trust
2. Equity
3. Fiscal Responsibility
4. Innovation
5. Sustainability and Resiliency



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DISCUSSION

League of California Cities suggests:

1. No contact between the vendor and elected officials during the procurement process outside of public meetings;
2. City must demonstrate that the preference is rationally related to a legitimate governmental purpose, such as encouraging local industry;
3. City must have a substantial reason for the program and the program must be narrowly tailored to address underlying reasons;
4. Mandatory local business participation requirements may violate charter requirements to award to the lowest bidder;
5. Local participation with a good faith effort is recommended when using city funds;



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DISCUSSION

League of California Cities suggests (Cont.):

6. Local participation programs can rarely be used when federal or state funds are involved in project funding and therefore the City must indicate program does not apply if it violates federal or state law or grant so as not to jeopardize funding for the project;
7. Local residence requirements cannot impair California Constitutional right to resettle and find a job;
8. Local hire requirements cannot restrain freedom of association or require unfair trade practices, or the city should attempt to obtain union cooperation before bidding a project with a local participation program or use only with negotiated contracts; and
9. Can not provide bonus or incentives if there is specific charter language prohibiting such use of funds.

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DISCUSSION

When implementing Good Faith Effort Programs or Local participation programs consider:

1. Determine the scope and nature of the local participation program;
2. Establish a goal for local participation, but do not require bidders to meet the goal;
3. Require all bidders, including local firms, to undertake outreach to all qualified subcontractors, suppliers and workers including, but not limited to, local firms and individuals;
4. Gather statistics from federal, state and local entities regarding labor statistics, sales tax revenues, etc. to support the need for the program;

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DISCUSSION

When implementing Good Faith Effort Programs or Local participation programs consider (Cont.):

5. Adopt a resolution, ordinance or similar legislative action on the public benefit, specifically addressing the fact that there will be no gift of public funds if an incentive/bonus payment is part of the program;
6. Consider methods of measuring results; and
7. Consider incorporating a sunset date and reporting requirements for projects and review to determine whether programs increased use of locals.



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RECOMMENDATIONS

That the Economic Development, Placemaking and Branding/Marketing Committee:

1. Receive and file this overview of the City of Riverside's local preference procurement and disadvantaged business enterprise policies; and
2. Provide input for potential new policy research and implementation.



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