



*City of Arts & Innovation*

# Economic Development, Placemaking and Branding/Marketing Committee

---

**TO: ECONOMIC DEVELOPMENT, PLACEMAKING AND BRANDING/MARKETING COMMITTEE MEMBERS**      **DATE: APRIL 15, 2021**

**FROM: FINANCE DEPARTMENT**      **WARDS: ALL**

**SUBJECT: WORKSHOP TO RECEIVE INPUT FROM STAKEHOLDERS AND THE PUBLIC ON A POLICY SPECIFIC TO LOCAL PREFERENCE FOR REQUEST FOR PROPOSALS ON CITY-OWNED SURPLUS LAND TO INCLUDE IN THE LOCAL PREFERENCE PROCUREMENT POLICY EXPANSION**

## **ISSUES:**

Receive input from stakeholders and the public on a policy specific to Local Preference for Request for Proposals (RFP's) on City-Owned Surplus Land to include in the local preference procurement policy expansion.

## **RECOMMENDATIONS:**

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

1. Discuss and provide input for local preference procurement policy expansion; and
2. Direct staff to incorporate stakeholder and public feedback, as well as discuss determinations for policy and legislative revisions.

## **BACKGROUND:**

On November 19, 2020, the City Manager's Office presented the Local Preference and Disadvantaged Business Enterprise Procurement Policies and potential new policy implementation overview to the Economic Development, Placemaking, and Branding/Marketing Committee resulting in the receiving and filing of the overview and requested staff prepare an organizational plan that incorporates stakeholders and topics and information on the request for proposals of City-Owned surplus land.

On January 21, 2021, the Finance Department presented to the Committee an organizational plan for local preference procurement and Disadvantaged Business Enterprise (DBE) policies incorporating stakeholders' topic and information on request for proposals of City-Owned surplus land. The committee unanimously and without formal motion received and ordered filed the organizational plan.

On February 18, 2021, Chair Fierro presented to the Committee a clarification of policy objectives, stakeholder engagement process options and a revised expedited timeline for local preference policy revisions for RFP's on Surplus Land. The committee requested the Finance Department to bring an informal task update to the Committee on March 18, 2021. The Committee voted unanimously with revisions to the schedule to combine the March 18, 2021 preliminary research report and presentation with a workshop on April 15, 2021.

On March 18, 2021, the Finance Department presented the Committee with updates on the Procurement Local Preference 10 tasks and objectives. The Purchasing Division formulated data requirements to meet 4 goals to review Vendor Data, Contract Award Date, Vendor Opinions on Local Preference Programs and Stakeholder Involvement.

## **DISCUSSION:**

### **Current Local Preference Policy**

During the November 19, 2020 meeting the Committee received information on the City's current Local Preference policies, along with examples of other Agency Preference Procurement Policies and DBE Programs. For this workshop and your reference, the City of Riverside's current Procurement Local Preference Policy is provided below.

**Purchasing Resolution 23256, Section 604. Preference Policy:** Purchasing Manager is authorized to give preferences for Goods, Services or Construction as chartered cities are required to give by applicable State or Federal Law, or such preferences as are permitted by such law and specifically provided for from City Council resolution or ordinance.

**Purchasing Resolution 23256, Section 605. Local Preference:** Procurement of Goods, preference shall be given to those vendors who have a local presence in the City of Riverside, provided that price, quality, terms, delivery and service reputation are determined to be equal by the Manager under the criteria set forth in Section 508(b), which states that a Contract for Goods may be awarded to a local Responsive Bidder who is not the Lowest Responsive Bidder but who has certified that it is a local vendor pursuant to Section 604 hereof and who is subject to taxation under the City's "Uniform Local Sales and Use Tax Ordinance" (Chapter 3.08 of the City Municipal Code) if the Bid difference amount between the local Responsive Bidder and the Lowest Responsive Bidder does not exceed five percent (5%) of the Lowest Responsive Bid.

Local bidder is currently defined and must certify to the following at the time of Bid submission:

- Bidder has fixed facilities with employees located within the City limits;
- Bidder has a business street address within the City limits (PO Box or residential address shall not suffice to establish a local presence);
- All sales tax returns for the Goods purchased must be reported to the State through a business within the geographic boundaries of the City and the City will receive one percent (1%) or such percentage of sales tax of Goods purchased as is allocable to the City from

- time to time under then existing state law; and
- Bidder has a City business license.

### **Survey Results**

As per the direction of the Committee, City staff extended and analyzed the Local Vendor Preference Survey, while also discovering how other Agency policies compare with our current policies. The expectation is that this information will assist in the expansion and/or to further define the City of Riverside's Procurement Policy and to possibly develop a City-Owned Surplus Land Local Preference Policy.

The City of Riverside received 678 responses to the Survey issued on February 11, 2021 through February 28, 2021. The following data is based solely on the survey responses.

The first portion of our survey was aimed at obtaining Vendor Data to determine what business industry types, locations and percentages of the business community benefit from the current local preference policy and to analyze data to determine the possible outcomes if the revisions were made based on adding the various industry types that are currently excluded and/or including County and State preferences.

Each respondent was asked to select ALL categories that apply to their business. Below are the responses.

<b>Business Category Type</b>	<b>Respondent Percentage</b>
Sells Goods and Materials	38%
Professional Services	56%
Public Works Construction	26%
Land Development	3%
Technology	16%
Facility Services/Repairs	17%

Of the total business responses, 169 were within the City of Riverside and 324 were within Riverside County. Of these businesses that submitted a response, 65 or 38% benefit from our current local preference policy because they sell Goods and are located within the City. The table below helps illustrate the affects that a policy expansion could have on business contracting with the City.

<b>Business Category Type</b>	<b>Current Percentage Benefitting from Local Preference (City Only)</b>	<b>Percentage if Local Preference is applied to Category for Businesses within the City</b>	<b>Percentage if Local Preference is applied to Category and expanding to Businesses within the County of Riverside</b>
Sells Goods and Materials	38%	38%	38%
Professional Services	0%	57%	55%
Public Works Construction	0%	N/A	N/A

Land Development	0%	3%	3%
Technology	0%	13%	12%
Facility Services/Repairs	0%	16%	19%

The second portion of our survey is to gain a sampling of Contract Award Data. This information set is to provide the statistics of how many contracts have been awarded to vendors under our current policy, compared to those outside of the local business community. The goal would be to determine the percentage of contracts that could be awarded if we add the various industry types and expanding to County and State preferences.

Businesses were asked:

<b>Approximately how many Contract Awards has your firm received from the City of Riverside in the past 3 years?</b>	<b>Responses</b>	<b>% of Responses</b>
0 - 5	619	91%
5 – 10	30	4%
10 – 15	10	2%
15 – 20	10	2%
Greater than 20	9	1%

Of these contracts reported through the survey, 24% were awarded to businesses within the City and 48% were with businesses within the County of Riverside. For the purpose of comparison, the City awarded 160 contracts resulting from the procurement solicitation process for Fiscal Year 2020/2021. Of these contracts, 48 were awarded to local businesses within the City of Riverside.

Below is a sample of the contract award variances when adding local preference to Professional Services, Land Development, Technology and Facility Services/Repair categories and by expanding to the County level. The modifications as shown by this report has the possibility to increase contract awards to local businesses by 58% with the implementation of both.

<b>Business Category Type</b>	<b>City Count</b>	<b>City %</b>	<b>County Count</b>	<b>County %</b>
Goods	65	10%	98	14%
Services	124	18%	178	26%

The next survey section was used to obtain Vendor Opinions on Local Preference Programs. This information is to determine whether change is warranted, how the business community views this type of program and to analyze how the City's current policy affects the bid process.

The majority of business (84%) within City and County respondents stated that Local Vendor Preference doesn't and wouldn't deter them from bidding.

To allow for the most unbiased opinion, businesses were asked to reflect on Local Vendor Preference Benefits as if they were considered a local business and if they weren't considered a local business. The results below indicate that the business community has a divided view on the subject of Local Vendor Preference (LVP). The numbers reflect the historical opposing arguments of vendor preferences and how it limits fair and open competition. Although the survey responses reflect a positive view towards the economic benefits when local preferences

are applied, the results also demonstrate the opinion that local vendors increase their costs when LVP is considered.

Questions	If you were considered a Local Vendor		If you were considered a Non-Local Vendor	
	Yes	No	Yes	No
LVP Benefits the local economy?	85%	15%		
LVP Benefits the local vendor?	93%	7%		
LVP promotes fair and impartial treatment of all vendors?	58%	42%	50%	50%
LVP promotes fair and open competition?	59%	41%	52%	48%
LVP prepares local vendors to be competitive outside of area and in open market?			43%	57%
LVP may promote local vendors to increase prices?			53%	47%

The following table provides the respondents view on what they consider a local business and how it should be defined.

Business Type	Yes	No	In Favor %	Is the Popular Consensus in Line with Current Policy?
Principle Place of Business	520	158	77%	Yes
Residential Address – Zoned for Conducting Business	141	537	21%	Yes
Commercial Address	300	378	44%	Yes
Permanent Location	247	431	36%	No
Chain Franchise – Owned by Local Investor	83	595	12%	Not specified in policy
Storefront – Headquarters Elsewhere	130	548	19%	Not specified in policy

Lastly, the survey requested information pertaining to Stakeholder Involvement. The purpose is to determine how many vendors are interested in attending workshops to revamp/influence the City's LVP program. Stakeholder responses were received from businesses located in and outside Riverside's city limits and from those currently benefitting and not benefitting from the existing program.

Out of the 678 survey responses, 302 businesses are interested in participating in a Local Vendor Preference Workshop. Of these, 177 are not benefitting from our current local preference program because they aren't within the City of Riverside and/or their business model extends past the "Goods" category.

The Greater Riverside Chambers of Commerce, Finance Department and the Community and Economic Development Department are scheduled to meet with approximately 40 construction, electricians and various labor contractors to discuss the advantages and

disadvantages of a City-Owned Surplus Land policy on April 5, 2021.

The Riverside County Black Chamber of Commerce, Greater Riverside Hispanic Chamber of Commerce, Inland Empire Hispanic Leadership Council and the Inland Empire Labor Council have been contacted to obtain their feedback.

### **Policy Elements to be Determined**

#### **How should “local” be defined?**

The definition of “local” will need to be determined for each possible expansion of the policy. The current definition incorporates the following elements: physical location within the City, City business license, and the City benefitting from sales tax. The sales tax element would be specific to Goods purchases.

The tables above and the additional Agency Research Findings defining the meaning of “Local” for Procurement Policies could be useful when defining local preference for expansion of the City policies.

The City of Santa Ana provides a local preference for Small Businesses within the City and the County, which are as follows:

- City Preference – Headquarters or branch office is within the City and possesses an active Business License and Certificate of Occupancy. In line with the City of Riverside policies.
- County Preference – Headquarters or branch within the County and possesses a Business License to perform work in the City. Not offered in the City of Riverside policies.

The City of San Diego provides local preference for City and County when the “Principal Place of Business” (physical location) is within the boundaries and the firm earns no less than half of its overall customers or sales dollars at the location. There must also be a “Significant Employee Presence”, meaning that no less than a quarter of the firms’ total number of employees must live in the City or County.

- The “Physical Place of Business” is in line with the City of Riverside policies.
- The “Significant Employee Presence” isn’t included in the Purchasing policies. It is mildly addressed for Design Build Projects through the “Community Benefits Program”.

The City of Phoenix defines “Local” as the principal place of business within the City or surrounding Counties.

#### **City-Owned Surplus Land Topics for Consideration**

- Define Local Vendor Preference guidelines for construction labor (Contractors)
  - o Contractors required to staff 30% of the total work hours with workers residing within City of Riverside zip codes;
  - o Contractors to be hired within City/County or a certain geographical mile range limit;
  - o Contractors to work with area state-certified apprenticeship programs to utilize a skilled and trained workforce as per Public Contract Code 2600, et seq.;
  - o Contractors required to provide their employees with health insurance at no cost to the employee;
  - o Contractors required to provide their employees with contributions towards a

retirement plan meeting or exceeding the contributions provided to tradespeople of the same classification, such as Pensions and/or Annuities.

- Include additional scoring points (5%-10%) in RFP's for LVP for Contractors
- Change existing policy to make reasonable efforts to first offer LVP for Contractors
- Mandate LVP for some percentage of LVP for Contractors
- Include additional scoring points (5%-10%) in RFP's for LVP for buyer/development firm respondents

### What types of contracts should be eligible for a Local Preference?

Current policy limits the local preference to the procurement of Goods only. The Purchasing Resolution distinguishes services into two categories: Services and Professional Services. Examples of Services are advertising, cleaning, gardening, insurance, janitorial, leasing of printing, security, landscaping, and facilities maintenance. (Purchasing Reso., § 100(kk)). Professional Services are advisory, consulting, architectural, information technology, engineering, financial, legal, surveying research or developmental and any other services which involve the exercise of professional discretion and independent judgment. (Purchasing Reso., § 100(bb)).

Agency	Local Preference Type				
	Materials/Goods	Public Works	Professional Services	Non-Professional Services	Surplus Land
Riverside	X				
Santa Ana	X		X	X	
Phoenix	X		X	X	
Long Beach				X	
County of Riverside			X	X	
Oakland					X

If local preference is applied to Professional Services that include architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management then considerations of state law requirements should be noted. Government Code section 4526 requires these types of professional services to be procured based on demonstrated competence and qualifications at fair and reasonable prices. Proposers would still need to demonstrate competence and qualifications.

City Surplus Land programs utilized by other agencies, as well as research on Assembly Bill (AB) 1486, has been completed to fully understand legal hinderances with the purpose of exploring elements of program possibilities; only one policy applicable to surplus land was located for another agency. The City of Oakland adopted a resolution in 2018, directing its staff to research and implement a policy for disposition of surplus land parcels over 5,000 square feet. The policy was centered mainly on the prioritization for affordable housing but included priority for developers that implement local hire programs and priority to projects that support small and local businesses. As of publication, an implementing ordinance has not been adopted by Oakland.

Additionally, AB 1486 procedures will have to be followed prior to applying the local preference

to a sale of surplus real property. This would include offering the property to housing sponsors as defined by Section 50074 of the Health and Safety Code, local housing authorities, park and recreation departments and school districts. Priority is to be given to those entities proposing affordable housing projects. Only if there is no interest expressed in this initial phase would the City be able to issue a Request for Proposal for the sale and development of the surplus property.

### Should the local preference have a dollar amount limitation?

The table and details below provide a basic comparison on what other agencies have implemented pertaining to dollar amount limitations. This information can be used to determine the City of Riverside's benchmarks.

<b>Local Preference Dollar Amount Limitation</b>							
<b>Agency</b>	<b>\$5,000</b>	<b>\$25,000</b>	<b>\$50,000</b>	<b>\$100,000</b>	<b>\$250,000</b>	<b>\$500,000</b>	<b>\$1M or Above</b>
Riverside			Over				
Santa Ana	Between						
San Diego					Between		PW Goal Over
Phoenix			Up To				
Long Beach				Up To			
County of Riverside		Under					
Oakland			Over				

Current policy allows the local preference to be applied only when Formal Procurement is undertaken, which is used for contracts over \$50,000 (Purchasing Reso., §§ 508, 407.)

### Other considerations

State law and City Charter requirements provide some limitations to note. Since Charter section 1109 requires all public works construction contracts to be let to the "lowest responsible bidder," the local preference could not be applied to a construction contract, unless section 1109 were amended to provide for the local preference. Additionally, enterprise funds (water, electric, refuse, sewer) utilizing ratepayer funds subject to Prop. 218 limitations of "cost of service" should not be eligible for a local preference.

### **FISCAL IMPACT:**

There is no fiscal impact associated with the recommendations associated with this report. If new programs are recommended and implemented, the fiscal impact, if any, will be defined during City Council approval for those programs.

Prepared by: Jennifer McCoy, Purchasing Manager  
 Certified as to availability of funds: Edward Enriquez, Chief Financial Officer / City Treasurer  
 Approved by: Moises A. Lopez, Deputy City Manager  
 Approved as to form: Kristi J. Smith, Interim City Attorney