



City of San Antonio

Agenda Memorandum

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Agenda Date: January 26, 2023

In Control: City Council A Session

DEPARTMENT: Finance Department

DEPARTMENT HEAD: Troy Elliott

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Changes to Local Preference Program

SUMMARY:

This Ordinance authorizes the acceptance of the recommended changes to the Local Preference Program. Recommended changes include aligning the current Local Preference Program Ordinance with State law and expanding the application of the Local Preference Program to include contracts funded in whole or in part by the federal government or where the City acts as a conduit for federal money to allow application of the Local Preference Program when federal statutes or the federal grantor expressly mandates or encourages geographic preference, and to allow application to non-profit organizations that are competing for City contracts.

BACKGROUND INFORMATION:

In 2011, the Texas Legislature revised the law that allows cities to grant contracting preferences to local businesses when price alone determines the winning bid. The law previously only applied to cities with populations under 200,000. The City's Local Preference Program was approved on March 21, 2013 and was amended on December 5, 2013 and on November 13, 2014.

A local business is defined as a business headquartered within the City of San Antonio or a

business that meets the following conditions: 1) an established place of business for at least one year in the incorporated limits of the City; and 2) from which at least 20% of its full-time, part-time, and contract employees are regularly based or a minimum of 100 employees; 3) and from which a substantial role in the business's performance of a commercially useful function or a substantial part of its operations is conducted. Businesses self-report this information.

The City's current Local Preference Program provides a 3% preference for local vendors for low bid good/supplies, low bid non-professional services and construction contracts at specified amounts. It also provides up to a 10-point preference for discretionary contracts not governed by statute.

Expanding the program to align with State law will increase the preference from 3% to 5% within certain thresholds for low bid good/supplies, low bid non-professional and construction contracts.

As currently written, the Local Preference Program Ordinance specifically prohibits application to contracts funded in whole or in part by the federal government or where the City acts as a conduit for federal money. While there are still prohibitions when using federal funds, it is recommended the City expand application of the Local Preference Program in all areas allowable, such as in instances allowed by applicable federal statutes or where the federal grantor expressly mandates or encourages geographic preference.

In 2014, an outside consultant reviewed the City's preference programs and recommended removal of a local preference for non-profit organizations. It is recommended to amend the Local Preference Program Ordinance to be applicable to non-profits organizations for both low bid non-professional services and discretionary professional services where not restricted by statute.

Staff recommendation is to amend the current ordinance for these changes to use the City's spending powers to maximize the amount of resident tax dollars remaining in the local economy for the benefit its citizens by utilizing available legal opportunities to contract with city businesses.

A staff briefing was presented to City Council on October 18, 2022 outlining the recommended changes. The Chambers of Commerce and key stakeholders were also notified of the proposed changes in mid November. If approved, the proposed changes to this program will become effective immediately, and apply to solicitations with response deadlines after January 1, 2023, to allow for implementation.

ISSUE:

The current Local Preference Program provides a 3% preference for local vendors for low bid good/supplies, low bid non-professional services and construction contracts; prohibits application to contracts funded in whole or in part by the federal government or where the City acts as a conduit for federal money; and does not apply to contracts where non-profit organizations could have the potentially to be awarded. Upon approval of this ordinance, the program will align with State law and will increase the preference from 3% to 5% within certain thresholds for low bid good/supplies, low bid non-professional and construction contracts; expand the application of the

Local Preference Program in all areas allowable, such as in instances allowed by applicable federal statutes or where the federal grantor expressly mandates or encourages geographic preference; and include application of the program to non-profit organizations that are competing for City contracts.

ALTERNATIVES:

Should these proposed changes not be approved, contracts will continue to be awarded in accordance with current parameters of the Local Preference Program. Proposed changes to these programs could positively impact potential contract awards to local businesses and organizations.

FISCAL IMPACT:

Departmental budgets may be impacted when the Local Preference Programs are applied resulting in increased costs.

RECOMMENDATION:

Staff recommends approval of this ordinance amending the current Local Preference Program Ordinance to use the City's spending powers to maximize the amount of resident tax dollars remaining in the local economy for the benefit its citizens by utilizing available legal opportunities to contract with city businesses.