County of Los Angeles
INTERNAL SERVICES DEPARTMENT
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"To enrich lives through effective and caring service"

September 13, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ORDINANCE AMENDING LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)

SUBJECT

Approve an Ordinance amending Title 2, Chapter 2.204 of the Los Angeles County Code, Local Small Business Enterprise Preference Program.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve an Ordinance amending Title 2, Chapter 2.204 of the Los Angeles County Code, Local Business Enterprise Preference Program, increasing the Local Small Business Enterprise (LSBE)preference from five percent to eight percent, with the preference percentage increase in countywide solicitations to become effective on November 1, 2011; and to

2. Clarify the administration of the LSBE preference program.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On July 19, 2011, your Board directed the Internal Services Department (ISD) and its Office of Small Business to work with County Counsel to: (1) update and amend the applicable provisions of the Los Angeles County Code, Section 2.2004, Local Small Business Preference Program, to increase the LSBE preference from five percent to eight percent, (2) update this information on its website and

other materials, and (3) work with other departments to ensure that this change is communicated to all existing and potential small business vendors.

The County's Local Small Business Enterprise (SBE) Preference Program is designed to enhance purchasing and contracting opportunities for local small businesses within the County. The program's priorities were developed to promote and foster inclusiveness and economic development as well as ongoing evaluation to assure all businesses including local small businesses, are provided equal opportunities in the County's purchasing and contracting activities (County Code Section 2.204.020).

The Local SBE Preference Program defines a local small business enterprise as a business having its principal office in the County for at least one year and as being certified as a small business by the State of California (County Code Section 2.204.030). It requires that the County provide a price or scoring preference to bids and proposals from qualified Local SBE's (County Code Section 2.204.060).

The proposed ordinance amendment provides for increase in price or scoring preference to bids and proposals from certified LSBE's from five percent to eight percent, and also clarifies the administration of LSBE preference program by replacing references to the Office of Affirmative Action Compliance with ISD, as the responsible department.

If approved by your Board, the proposed amendment to increase the LSBE preference from five percent to eight percent will be implemented in countywide solicitations effective November 1, 2011. This will provide ISD sufficient time to update the website and departmental instructions and training materials, and to coordinate the implementation of the process change among all County departments, and communicate the change to all existing and potential small business vendors.

Implementation of Strategic Plan Goals

Approval of the amended Ordinance will further the County's Strategic Plan Goal of Organizational Effectiveness by ensuring that service delivery systems are efficient, effective and goal-oriented.

FISCAL IMPACT/FINANCING

For Fiscal Year 2010-11, the cost of the existing 5% LSBE bid preference program was approximately $40,000 countywide on purchases of over $4 billion of goods and services. The additional cost results from selecting an LSBE bid over a lower bid from another business. No cost is incurred when an LSBE is the low bidder.

ISD believes that increasing the LSBE preference to 8% will generate additional small business participation, and the higher (8%) preference amount will increase awards to LSBEs. Assuming these factors, ISD estimates the overall countywide costs under an 8% LSBE bid preference to increase marginally. The impact on net County cost would be variable based on actual bid experience.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This Ordinance amendment has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Ordinance amendment will enhance existing contracting and purchasing policies and procedures while providing the appropriate guidance and direction necessary to reach decisions that are consistent with your Board's direction.

Respectfully submitted,

Tom Tindall

TOM TINDALL
Director

TT:JS:j

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Small Business Commission

ANALYSIS

This ordinance amends Title 2 – Administration, of the Los Angeles County Code by:

- Increasing the local small business preference from five percent (5%) to eight percent (8%); and
- Clarifying the administration of the Local Business Enterprise Preference Program.

ANDREA SHERIDAN ORDIN
County Counsel

By Edward Yu for
ELIZABETH FRIEDMAN
Principal County Counsel
Contracts Division

EJF:pt

08/17/11 (Requested)

08/17/11 (Revised)

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ORDINANCE NO. _____

An ordinance amending Title 2 – Administration, of the Los Angeles County Code, relating to the local business enterprise preference program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.204.040 is hereby amended to read as follows:

2.204.040 Administration.

The ~~chief administrative officer (CAO)~~Internal Services Department (ISD) with the assistance of ~~c~~County ~~c~~Counsel ~~(COCO), internal services department (ISD), and the office of affirmative action compliance (OAAC)~~, shall issue interpretations of the provisions of this chapter, and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 2. Section 2.204.050 is hereby amended to read as follows:

2.204.050 Certification as a local small business enterprise.

~~OAAC~~ISD shall be responsible for verifying that a local small business is already certified as a small business by the state of California and that the business has its principal office located in Los Angeles County. ~~OAAC~~ISD shall certify local small business enterprises and maintain records of the certified businesses and their participation in ~~c~~County purchasing and contracting.

SECTION 3. Section 2.204.060 is hereby amended to read as follows:

2.204.060 Responsibilities and standards.

A. In order to facilitate the participation of local small business enterprises in ~~c~~County purchases of goods and services, ~~c~~County departments shall provide for local small business enterprise preferences in their purchase of goods and services where responsibility and quality are equal.

B. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to the local small business enterprise shall be ~~five~~eight percent (8%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by ~~the CAO~~ISD.

C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to price, the preference to the local small business enterprise shall be ~~five~~eight percent (8%) of the cost/price component of the evaluation method, determined according to the instructions issued by ~~the CAO~~ISD.

D. The local small business enterprise preference under subsections B and C of this section shall not exceed fifty thousand dollars ($50,000.00) for any one solicitation and award determination.

E. In order for a local small business enterprise to be eligible to claim the preference, the business must request the preference in the solicitation response.

SECTION 4. Section 2.204.070 is hereby amended to read as follows:

2.204.070 Exclusions.

The local small business enterprise preference shall not be given for the following county purchases:

A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.

B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.40 or a successor provision.

C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.

D. A non-agreement purchase with a value of less than <u>five thousand dollars ($5,000.00)</u> pursuant to the Los Angeles County Purchasing Policy Manual, Section A-03000 or a successor provision.

E. Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government<u>, including those</u> relating to participation in a contract by a minority or women business enterprise<u>,</u> as a condition of the receipt of the federal funds.

SECTION 5. Section 2.204.080 is hereby amended to read as follows:

2.204.080 Violations and sanctions.

A. The information furnished by each solicitation respondent requesting a local small business enterprise preference shall be under penalty of perjury.

B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a local small business enterprise for the purpose of this chapter.

C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a county official or employee for the purpose of influencing the certification or denial of certification of any entity as a local small business enterprise.

D. A business which has obtained certification as a local small business enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the ~~c~~County any difference between the contract amount and what the ~~c~~County' s costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision 1 of subsection D of this section, be assessed a penalty in an amount of not more than ~~10~~ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the ~~c~~County ~~c~~Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and ~~OAAC~~ISD of this information prior to responding to a solicitation or accepting a contract award.

SECTION 6. Section 2.204.090 is hereby amended to read as follows:

2.204.090 Appeals for reconsideration of local small business enterprise certification.

~~OAAC~~ISD will investigate any complaint of eligibility received by the ~~c~~County concerning the local small business enterprise preference program.

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