

## 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

  
ELIZABETH FRIEDMAN  
Principal County Counsel  
Contracts Division

EJF:pt

08/17/11 (Requested)

09/13/11 (Revised)

**ORDINANCE NO. 2011-0055**

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 ~~eCounty eCounsel (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 ~~eCounty~~ 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 eCounty purchases of goods and services, eCounty 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.

F. When an applicable statute limits the preference to the local small business enterprise at five percent (5%) or some other amount less than eight percent

(8%), the applicable statute shall determine the preference amount.

**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 five thousand dollars (\$5,000.00) 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, including those relating to participation in a contract by a minority or women business enterprise, 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 eCounty any difference between the contract amount and what the eCounty'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 ~~40~~ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the eCounty eCode (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 AAAGISD 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.**

AAAGISD will investigate any complaint of eligibility received by the eCounty concerning the local small business enterprise preference program.

[2204040EFCC]

SECTION 7. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Mike Antonovich  
Mayor

ATTEST:

Sachi A. Hamai  
Sachi A. Hamai  
Executive Officer -  
Clerk of the Board of Supervisors  
County of Los Angeles

I hereby certify that at its meeting of September 20, 2011 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	<u>Ayes</u>	<u>Noes</u>
Supervisors	<u>Gloria Molina</u>	Supervisors <u>None</u>
	<u>Mark Ridley-Thomas</u>	_____
	<u>Zev Yaroslavsky</u>	_____
	<u>Don Knabe</u>	_____
	<u>Michael D. Antonovich</u>	_____

Effective Date: October 20, 2011

Operative Date: \_\_\_\_\_

Sachi A. Hamai  
Sachi A. Hamai  
Executive Officer -  
Clerk of the Board of Supervisors  
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI  
Executive Officer  
Clerk of the Board of Supervisors

By [Signature]  
Deputy



APPROVED AS TO FORM:  
ANDREA SHERIDAN ORDIN  
County Counsel

By [Signature]  
Leela Kapur  
Chief Deputy County Counsel