

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Financial Services – Purchasing Division

AGENDA DATE: November 8, 2011

CONTACT PERSON NAME/PHONE: Bruce D. Collins (915) 541-4313.

DISTRICT(S) AFFECTED: ALL

SUBJECT:

That the document entitled “Hire El Paso First – Local Business Purchasing Preference Policy,” be adopted as guidelines for implementing local business purchasing preference when awarding certain contracts, in accordance with Texas Local Government Code Sections 271.905 and 271.9151, and effective as to solicitations for procurements published by the City on or after November 8, 2011.

BACKGROUND / DISCUSSION:

The Texas Legislature has amended Texas Local Government Code Sections 271.905 and 271.9051 to allow for the City’s consideration of location of a bidder’s principal place of business when awarding certain contracts. This allows the City of El Paso to afford a bidding preference to local businesses that are headquartered within the incorporated limits of the City of El Paso as defined within the policy.

SELECTION SUMMARY:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Information copy to appropriate Deputy City Manager

RESOLUTION

WHEREAS, the City Council recognizes that the foundation of a strong local economy are programs to encourage businesses to locate within the local area of the City of El Paso and to hire El Paso residents as employees; and

WHEREAS, the Texas Legislature has amended Texas Local Government Code Sections 271.905 and 271.9051 to allow for the City's consideration of location of a bidder's principal place of business when awarding certain contracts; and

WHEREAS, in the interest of economic development opportunities for the City of El Paso, the City's Purchasing Division has implemented a local business purchasing preference policy in order to infuse additional dollars into the local economy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the document entitled "Hire El Paso First – Local Business Purchasing Preference Policy," attached hereto and incorporated herein for all purposes, be adopted as guidelines for implementing local preference for future City procurement in accordance with Texas Local Government Code sections 271.905 and 271.9151.

ADOPTED this _____ day of November, 2011.

CITY OF EL PASO

John Cook, Mayor

ATTEST:

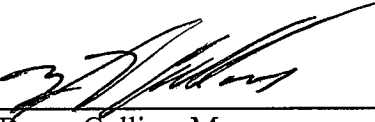
Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:



Elizabeth M. Ruhmann
Assistant City Attorney

APPROVED AS TO CONTENT:



Bruce Collins, Manager
Financial Services, Purchasing Division

HIRE EL PASO FIRST LOCAL BUSINESS PURCHASING PREFERENCE POLICY

Section 1. Statement of Policy.

- (a) It is the policy of the City of El Paso to use the City's spending powers in a manner that promotes fiscal responsibility; maximizes the effectiveness of local tax dollars; ensures that a portion of local tax dollars remain in the local economy for economic development opportunities; and, utilizes all legally-available opportunities to contract with local businesses.
- (b) It is the policy of the City of El Paso to afford a bidding preference to local businesses, unless prohibited by granting agencies, exempted by Federal or State Laws/Codes, Local ordinances or City resolutions, or if doing so would be clearly be disadvantageous to the City.
- (c) It is the policy of the City of El Paso to achieve the goals in subsection (a) above by utilizing a local business purchasing preference in the competitive processes of procuring goods and services.
- (d) Nothing contained herein shall prohibit the City from rejecting all bids, as permitted by law.
- (e) Except as provided by this Local Business Purchasing Preference Policy, the City's policies and procedures governing City procurement shall otherwise remain unchanged.

Section 2. Definitions.

The words and phrases defined in this section have the following meanings:

Economic development opportunities means economic benefits to/for the City of El Paso and its citizens created by the award of a procurement contract, including, but not limited to, the following:

- (1) establishment and support of businesses in the El Paso, Texas local area;
- (2) employment of local residents in the delivery of the contracted service and/or product;
- (2) employment of local residents in the manufacturing/production processes of the products being procured or the delivery of services being rendered;
- (3) increase of tax revenues to the City of El Paso; and
- (4) subcontracting opportunities with/for local businesses.

Local business means a business with its principal place of business within the incorporated City limits of El Paso, Texas

Principal place of business means a business that is headquartered within the incorporated limits of the City of El Paso; or, which has an established place or places of business, including warehouse or manufacturing presence, within the incorporated limits of the City of El Paso, and employs a minimum of three (3) full-time employees at its local business(es).

A location utilized solely as a post office box, mail drop or telephone message center, or any combination thereof, with no other substantial work, manufacturing or warehouse function, shall not be construed as a principal place of business.

Section 3. Procedures for Granting Local Preference in Purchasing and Contracting for Certain Construction Projects, Real and Personal Property, and Services.

- (a) Construction contracts in an amount less than \$100,000. In purchasing *construction services*, if the City receives one or more bids from a bidder that is a local business and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a local business, the City may enter into a contract with a value of less than \$100,000.00 with:
- (1) the lowest bidder; or
 - (2) the bidder that is a local business as defined herein, provided the governing body of the City determines, in writing, that awarding to the local bidder offers the City the best combination of contract price and economic development opportunities.
- (b) Contracts for real or personal property, or services, in an amount of less than \$500,000. In purchasing any real property or personal property that is not affixed to real property, or services, if the City receives one or more competitive bids from a bidder that is a local business and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder that is not a local business, the City may enter into a contract for an amount of less than \$500,000 with:
- (1) the lowest bidder; or
 - (2) the bidder that is a local business as defined herein, provided the governing body of the City determines, in writing, that awarding to the local bidder offers the City the best combination of contract price and economic development opportunities.
- (c) Contracts for real property or personal property in an amount equal to or greater than \$500,000. In purchasing any real property or personal property that is not affixed to real property, if the City receives one or more competitive bids from a bidder that is a local business and whose bid is within three percent (3%) of the lowest bid price received by the City from a bidder that is not a local business, the City may enter into a contract for an amount of \$500,000 or more with:
- (1) the lowest bidder; or
 - (2) the bidder that is a local business as defined herein, provided the governing body of the City determines, in writing, that awarding to the local bidder offers the City the best combination of contract price and economic development opportunities.

Section 4. Responsibilities and Enforcement.

- (a) All businesses seeking to qualify under this policy must provide proof of qualification as shall be established by the City's Purchasing Division and included within the applicable bid specifications.
- (b) Any entity claiming to be a local business shall be required to submit to the City the necessary proof of qualification at the time of submission of the bid. The City's Purchasing Division will reject improper and/or insufficient proof of qualification submitted pursuant to section (a) above.

- (c) When the criteria under this policy for local business purchasing preference are met, the City's Purchasing Manager will post on the City Council agenda the local bidder as the recommended vendor.
- (d) The submission of proof of qualification pursuant to section (a) above that is found to contain false information is grounds for debarment and/or a City Council determination of Non-Responsibility, which may result in the entity being prohibited from doing business with the City for no less than three years from the said determination by City Council.
- (e) The Purchasing Division shall produce annual Spend Analysis, commencing July 1, 2012, summarizing the dollar amount of procurements awarded to local businesses under this policy.

Section 5. Exceptions.

- (a) This program does not apply to any contract in which the federal government participates in the form of a grant or loan, or the City acts as a conduit for federal money.
- (b) In accordance with Local Government Code section 271.9051, this program does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

Section 6. Effective date.

This program shall be effective as to solicitations for procurements published by the City on or after November 8, 2011.