



**THE PORT  
OF LOS ANGELES**  
Executive Director's  
Report to the

Board of Harbor Commissioners

**DATE: DECEMBER 5, 2017**

**FROM: CONTRACTS AND PURCHASING**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - LOCAL BUSINESS PREFERENCE PROGRAM**

**SUMMARY:**

Staff requests that the Board of Harbor Commissioners (Board) extend the Local Business Preference Program (LBPP) with two modifications: reduce the maximum preference to \$250,000 and exclude professional service contract opportunities. Any financial impact from the LBPP is the responsibility of the Harbor Department.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Authorize the continuation of the Local Business Preference Program, as modified in the Resolution;
3. Instruct staff to report annually to the Board on the financial impact of the Local Business Preference Program and Local Business Enterprise participation; and
4. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

**Background:** On October 14, 2011, the City Council approved an Ordinance establishing a LBPP. The LBPP provides bidders/proposers with an 8% preference on contract opportunities valued in excess of \$150,000. The LBPP aims to encourage businesses to compete for City contracting opportunities, to locate operations locally, to encourage existing local businesses to refrain from relocating to less expensive areas, and to increase local jobs and expenditures.

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On April 5, 2012, the Board of Harbor Commissioners (Board) authorized the implementation of the LBPP. As part of the adoption of the LBPP, the Board recommended that the LBPP sunset five years from the implementation date unless the Board took further action to extend the LBPP. The LBPP was scheduled to sunset in May 2017; however, the Board extended the LBPP for six months and recommended that staff report back with recommendations regarding modifications to the LBPP.

The Harbor Department defines a Local Business Enterprise (LBE) as:

- (a) A business headquartered within Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties; or
- (b) A business that has at least 50 full-time employees, or 25 full-time employees for specialty marine contracting firms, working in Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties.

Local Business Preference Program - The LBPP allows for local businesses to receive an eight percent (8%) preference for any contract opportunity that is competitively awarded. The local preference is applicable to all procurement, professional services, and construction contracts greater than \$150,000. When applying the preference to procurement and construction contracts (contracts awarded based on low bid), the total price bid by a local business will be reduced by eight percent (8%). The reduced bid amount will be deemed the amount bid by that bidder; however, the resulting contract price will be the amount bid by the successful bidder prior to allocating the local preference percentage. The maximum preference may not exceed \$1,000,000. For professional service contracts, the local preference is applied by adding eight percent (8%) of the total possible evaluation points to the local business' score.

Impact of the Local Business Preference Program: Since the inception of the LBPP and through Fiscal Year 2016/17, the Harbor Department has issued 93 Request for Proposals (RFP) and Requests for Bids (RFB) that provided for a local preference, and subsequently awarded approximately \$428.4 million in contracts. Of the \$428.4 million, \$371.6 million or 87% was awarded to LBEs.

The following is a summary of LBE participation:

<b>Contract Type</b>	<b>Non-LBE</b>	<b>LBE</b>	<b>Total</b>
RFP - Services	\$55,771,501	\$154,229,910	\$210,001,411
RFB - Construction	\$0	\$206,043,138	\$206,043,138
RFB - Procurement	\$1,033,588	\$11,287,205	\$12,320,793
	<b>\$56,805,089</b>	<b>\$371,560,253</b>	<b>\$428,365,342</b>

Since the Program's inception, the LBPP has minimally impacted the outcome of contract awards, and has had minimal financial impact on the Harbor Department. The

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primary reason for the limited impact is that the majority of bidders and proposers are qualified LBEs. Of the 33 RFBs where the LBPP was applicable, only three procurement contract awards were impacted by the application of the preference. As a result of the preference, the Harbor Department expended an additional \$352,489 for these three procurement contracts since the contracts were awarded to the lowest bidder after applying the preference. Of the 60 RFPs where the LBPP was applicable, only one contract award was impacted by the application of the preference. There was no financial impact to the Harbor Department because the resulting contract amount was based on what the Division budgeted for the project.

On May 18, 2017, the Board approved a recommendation which extended the LBPP for six months and recommended that staff report back in six months with recommendations regarding continuation and modifications to the LBPP. On November 16, 2017, the Audit Committee discussed and approved staff's recommendations to modify the LBPP as follows:

(1) Reduce the maximum preference to \$250,000 - The maximum preference currently may not exceed \$1,000,000. Staff is recommending that the maximum preference be reduced to \$250,000 to minimize the financial impact on the Harbor Department. Below is an example of how the local preference would be applied to contracts awarded on a low-bid basis and the financial impact to the Harbor Department:

	Non-local Firm	Local Firm A	Local Firm B
Original Bid	\$2,850,000	\$3,000,000	\$3,500,000
8% Preference	N/A	(\$240,000)	(\$250,000) *
Final Bid	\$2,850,000	\$2,760,000	\$3,250,000

\*Maximum Preference

In the example above, Local Firm A was the lowest bidder after applying the local preference. Although the final bid amount is \$2,760,000, the Harbor Department would award a contract based on the original bid in the amount of \$3,000,000. The Harbor Department would have expended an additional \$150,000 on the project as a result of the local preference, when compared to the bid submitted by the Non-local firm.

(2) Exclude Professional Service Opportunities - The majority of the Harbor Department's professional service agreements are for on-call or as-needed services. It is difficult to calculate the appropriate percentage, especially for subconsultant utilization, when exact project directives have not been determined. Staff is recommending that professional service contract opportunities be excluded from the LBPP.

Staff will continue to track and report LBE participation on all contract opportunities, regardless if the preference was applicable. The Contracts and Purchasing Division

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(CPD) currently tracks dollars awarded to Small Business Enterprises, Very Small Business Enterprises, Minority-owned Business Enterprises, Women-owned Business Enterprises, Disabled-Veteran Business Enterprises, and LBEs. Pursuant to Executive Directive 14, CPD is required to submit quarterly participation reports to the Office of the Mayor regarding participation by various Business Enterprises. CPD also submits an annual participation report to the Board.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the extension of the Local Business Preference Program. As an administrative activity, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

For any project/bid valued at more than \$3,125,000, the Harbor Department could expend an additional \$250,000 per project as a result of the local preference. For any project/bid valued at less than \$3,125,000, the Harbor Department could expend an additional 8% as a result of the local preference. Since the implementation of the LBPP, the Harbor Department expended an additional \$352,489 as a result of applying the local preference to a bidder who otherwise would not have won the bid.



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CITY ATTORNEY:

The City Attorney's Office has reviewed this Board Report and determined that it raises no legal issues at this time.

FIS Approval:  (initials)  
CA Approval:  (initials)

  
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