



Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE: MAY 9, 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) for six months. On April 5, 2012, the 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. 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 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 for six months;
3. Instruct staff to report back to the Board in six months on the Local Business Preference Program; and
4. Adopt Resolution No. \_\_\_\_\_.

**SUBJECT: LOCAL BUSINESS PREFERENCE PROGRAM**

**DISCUSSION:**

Background - On October 14, 2011, the City Council approved an Ordinance establishing a LBPP. Recognizing that the cost of doing business in the City of Los Angeles (City) is more than 10% higher than other cities nationally, the LBPP was designed so that local businesses get an equal opportunity to compete for City business. 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.

Local Business Enterprise - The Harbor Department's definition of a Local Business Enterprise (LBE) differs slightly from the City's LBE definition. In order to qualify as a LBE under the City's LBPP, a business must demonstrate one of the following:

- (a) The business must be headquartered in the County of Los Angeles;
- (b) The business must have at least 50 full-time employees that perform 60% of their work in the County of Los Angeles; or
- (c) At least half of the business' full-time employees must perform 60% of their work in the County of Los Angeles.

The Harbor Department defines a 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.

Since the Harbor Department is governed by the Tidelands Trust, the Harbor Department is obligated to manage the tidelands for the benefit of all of the people of the State. As such, the State Lands Commission objected to the Harbor Department utilizing the City's LBE definition since it only provides a benefit to those businesses in Los Angeles County. Any preference given to LBEs must be regional, encompassing more than just the County of Los Angeles in order to be consistent with the Tidelands Trust Doctrine. As a result, staff recommended that the Harbor Department provide a local preference to businesses located within the five regional counties since (1) Harbor Department operations impact the five regional counties, especially the movement of goods throughout the southland; (2) the Harbor Department conducts business with companies in all five counties; and (3) having these businesses in close proximity to the Port of Los Angeles, makes port operations more efficient.

**SUBJECT: LOCAL BUSINESS PREFERENCE PROGRAM**

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, 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> |

Transmittal 1 is a summary of the Harbor Department's construction, professional service, and procurement contract LBPP expenditures for the period of July 1, 2012 to December 31, 2016 by county. 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 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.

**SUBJECT: LOCAL BUSINESS PREFERENCE PROGRAM**

The Contracts and Purchasing Division (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.

On April 26, 2017, the Audit Committee discussed options regarding the LBPP. The options discussed were as follows:

1. Take no further action – The LBPP would sunset in May and staff would no longer track LBE participation;
2. Take no further action and track LBE participation - The LBPP would sunset in May and staff would track LBE participation and continue to report to the Office of the Mayor, but not include a preference in contract opportunities;
3. Amend the LBPP – The LBPP could be amended to change a) the definition of a LBE, b) the types of contracts or dollar value of contracts where the LBPP would be applied, c) the percentage of the preference; and/or d) the maximum dollar amount paid by the Harbor Department as a result of the application of the LBPP;  
or
4. Extend the LBPP in its entirety as currently adopted.

The Audit Committee recommended extending the LBPP for six months and recommended that staff report back in six months with recommendations regarding continuation and modifications to the LBPP.

**ENVIRONMENTAL ASSESSMENT:**

As an administrative activity, the Director of Environmental Management has determined that the proposed action is 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 \$12,500,000, the Harbor Department could expend an additional \$1,000,000 per project as a result of the local preference. For any project/bid valued at less than \$12,500,000, 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.

DATE: MAY 9, 2017

PAGE 5 OF 5

SUBJECT: LOCAL BUSINESS PREFERENCE PROGRAM

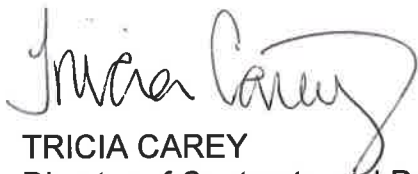
CITY ATTORNEY:

The Office of the City Attorney approves this Resolution as to form and legality.

TRANSMITTAL:

1. Construction, Professional Service, and Procurement LBPP Dollars Awarded

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



TRICIA CAREY  
Director of Contracts and Purchasing



MARLA BLEAVINS  
Deputy Executive Director and  
Chief Financial Officer

APPROVED:

  
FOR

EUGENE D. SEROKA  
Executive Director

Author: TCarey