

An ordinance amending Chapter 2 (“Administration”), of the Municipal Code for the City of Aurora by adding a new Division 5 (“Local Preference in Bidding for City Contracts”).

CHAPTER 2, ARTICLE V, DIVISION 5

Sec. 2-406.-Purpose.

The purpose of this article is to promote local economic conditions by giving preference to local businesses that submit bids for the award of city contracts.

Sec. 2-407.-Definitions.

- (a) “Local business” means a vendor or contractor who has a valid, verifiable physical business address located within the corporate boundaries of the City of Aurora at least twelve months prior to a bid or proposal opening date, from which the vendor, contractor or consultant operates or performs business on a daily basis, including manufacturing production or distribution. The business must disclose the percentage of workforce in Aurora; be registered with the City of Aurora, if applicable; be subject to City of Aurora taxes (inclusive of sales taxes); be current with property tax payments and sales tax payments; not have any outside cited code violations; not have any outstanding debts to the City of Aurora; have adequately qualified and trained staff to service the bid of interest.
- (b) “Nonlocal business” means any vendor or contractor who does not meet the definition of local business.

Sec. 2-408.-Local preference in purchasing and contracting.

Notwithstanding anything to the contrary in this chapter or in this title, the City may give preference to a qualified and responsive local business in the solicitation of bids for supplies, materials and equipment or a contract for any work or public improvement as follows:

- (a) *Competitive bids.* The lowest evaluated bid price from a responsive and responsible local business shall be accepted, provided that the lowest bid is not more than 5% of the lowest evaluated bid price from a nonlocal business, with a cap of \$25,000.
- (b) If the lowest responsible business is not a qualified local business and if a qualified local business has submitted a bid which is within the applicable percentage (as hereinafter set forth) of the lowest responsible bidder for a bid the qualified local business shall be given written notice by the City to that effect.
- (c) *Ties.* In the event of a lowest evaluated bid price tie between a local business and a non-local business, the contract shall be awarded to the local business. In the event of a bid price tie between two or more local businesses, the local business with the greatest number of full-time employees working in the City shall be awarded the contract or receive the first opportunity to negotiate, as applicable. For this section, a tie means the local bidder is not more than 5% above the lowest responsible bid price.
- (d) *Solicitation.* The City shall provide formal notice that the preference established by this article shall be applicable in bid specifications or request for proposals.

- (e) *Claiming preference.* In order for a local business to be eligible to claim the preference as provided in this article, the local business must request such preference in its solicitation response and provide a current copy of its City issued business registration, if applicable.
- (f) *Preference cap.* No contracts shall be awarded to a local business when the local business' bid exceeds the lowest responsive and responsible bid by 5% or maximum \$25,000.

Sec. 2-409.-Exceptions to local business preference.

- (a) Purchases or contracts funded in whole or in part by a governmental entity other than the City, and the laws, regulations or policies governing such funding prohibit the application of a local preference;
- (b) Purchases made or contracts let under emergency or noncompetitive situations.

Sec. 2-410.-Prequalification; local bidder.

- (a) If an interested business would like to prequalify as a "local business", such a business shall complete and submit the prequalification application along with supporting documentation, as listed below, and the applicable fee as set by the city council, to the finance department:
 - a. Evidence that the business has established and maintained a physical presence in the City of Aurora, by virtue of the ownership or lease of all or a portion of a building for a period of not less than twelve (12) consecutive months prior to the submission of the prequalification application; and
 - b. Evidence demonstrating that the business is legally authorized to conduct business within the State of Illinois and the City of Aurora, and has a business registered to operate in the city if required; and
 - c. Evidence that the business is not a debtor to the City of Aurora. For purposes of this subparagraph, a debtor is defined as having outstanding fees, water bills, sales tax or restaurant/bar tax payments that are thirty (30) days or more past due, or has outstanding weed or nuisance abatements or liens, has failure to comply tickets or parking tickets that are not in dispute as to their validity and are not being challenged in court or other administrative processes.
- (b) Within twenty-one (21) days after submittal, after review of the prequalification application and supporting documentation by the finance department, the finance department will notify the business on whether the business qualifies as a local qualified business. A business aggrieved by the decision of the finance department in the failure to qualify as a local business shall have the right of appeal to the Chief Finance Officer or designee (who shall not be a member of the finance department). The appeal shall be taken by filing with the city clerk, within fourteen (14) days after notification of the business's the failure to qualify as a local business, a written statement setting forth fully all of the grounds for the appeal with all supporting documentation. The Chief Finance Officer or designee shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the business in writing not less than five (5) days before the date set for hearing. The decision of the Chief Finance Officer or designee on the appeal shall be in writing within a reasonable period of time. If qualified as a local qualified business, said prequalification shall be valid following the date of certification by the finance department.
- (c) If qualified as a local qualified business, the business shall be required to keep current any information submitted in the prequalification application and/or supporting documentation.

(d) The City of Aurora can periodically ask for additional statistical information on the company and its workforce.

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