

## **ANALYSIS**

This ordinance adds Chapter 2.204 to Title 2 - Administration of the County Code to establish a Local Small Business Enterprise Preference Program. The purpose of the program is to enhance contracting and purchasing opportunities for certified local small businesses within the County of Los Angeles.

In addition, the Chapter establishes procedures to monitor compliance and provides for penalties for improper certification.

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EMC:mv  
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**ORDINANCE NO. \_\_\_\_\_**

An ordinance adding Chapter 2.204 to Title 2 - Administration of the Los Angeles County Code relating to the Local Small Business Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 2.204 is hereby added to Title 2 - Administration of Los Angeles County Code to read as follows:

**Chapter 2.204**

**LOCAL BUSINESS ENTERPRISE PREFERENCE PROGRAM**

**Sections:**

- 2.204.010 Introduction.
- 2.204.020 Purpose.
- 2.204.030 Definitions.
- 2.204.040 Administration.
- 2.204.050 Certification as a local small business enterprise.
- 2.204.060 Responsibilities and standards.
- 2.204.070 Exclusions.
- 2.204.080 Violations and sanctions.
- 2.204.090 Appeals for reconsideration of local small business enterprise certification.
- 2.204.100 Applicability.

**2.204.010. Introduction.** The Board of Supervisors finds that it is of benefit to the County of Los Angeles to promote and facilitate the fullest possible participation by all citizens in the affairs of the County in every way possible. It is also essential that opportunities be provided for full participation in our free enterprise system by small business enterprises. Further, it is the policy of the Board that the County should aid and assist, to the maximum extent possible, the interests of local small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for purchase of goods or services for the County be placed with such enterprises.

**2.204.020. Purpose.** The County of Los Angeles Local Small Business Enterprise Preference Program is a race and gender-neutral program designed to enhance purchasing and contracting opportunities for local small businesses within the County of Los Angeles. The program priorities were developed to promote and foster inclusiveness and economic development; as well as ongoing evaluation to assure all businesses, including local small businesses are provided equal opportunities in County purchasing and contracting activities.

**2.204.030. Definitions.** For the purpose of this Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

A. "County" shall mean the County of Los Angeles or any public entities for which the Board of Supervisors is the governing body.

B. "Department" shall mean the County department, entity, or organization responsible for the solicitation.

C. "Local Small Business Enterprise" shall mean:

1. A business having its principal office located in Los Angeles County for at least one year; and
2. A business certified as a small business by the State of California.

D. "Solicitation" shall mean the County's process to obtain bids or proposals for goods and services.

**2.204.040. Administration.** The Chief Administrative Officer (CAO) with the assistance of County Counsel (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.

**2.204.050. Certification as a local small business enterprise.** OAAC 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 shall certify Local Small Business Enterprises and maintain records of the certified businesses and their participation in County purchasing and contracting.

**2.204.060. Responsibilities and standards.**

A. In order to facilitate the participation of local small business enterprises in County purchases of good and services, County 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 percent (5%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by the CAO.

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 percent (5%) of the cost/price component of the evaluation method, determined according to the instructions issued by the CAO.

D. The Local Small Business Enterprise preference under paragraph B and C shall not exceed fifty thousand dollars (\$50,000) 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.

**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 \$5,000 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 relating to participation in a contract by a minority or women business enterprise as a condition of the receipt of the federal funds.

**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 County 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 County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the County Code (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 OAAC of this information prior to responding to a solicitation or accepting a contract award.

**2.204.090. Appeals for reconsideration of local small business enterprise certification.** OAAC will investigate any complaint of eligibility received by the County concerning the Local Small Business Enterprise Preference Program.

**2.204.100. Applicability.** This chapter shall apply to all solicitations issued ninety (90) days after the effective date of the ordinance.

[220ECCOC]