

# Memorandum



CITY OF DALLAS

DATE June 1, 2012

TO Honorable Mayor and Members of the City Council

SUBJECT Local Preference/Contract Limits for Competitive Bidding, Claim Settlement Authority and Council Approval Briefing

On Wednesday, June 6, 2012 you will be presented with a briefing on Local Preference/Contract Limits for Competitive Bidding, Claim Settlement Authority and Council Approval. A copy of the briefing material is attached for your review.

Should you have any questions, please contact me at (214) 670-7804.

A handwritten signature in blue ink that reads "Jeanne Chipperfield".

Jeanne Chipperfield  
Chief Financial Officer

Attachment

C: Mary K. Suhm, City Manager  
Rosa A. Rios, City Secretary  
Thomas P. Perkins, Jr., City Attorney  
Craig D. Kinton, City Auditor  
C. Victor Lander, Administrative Judge  
A.C. Gonzalez, First Assistant City Manager  
Ryan S. Evans, Assistant City Manager  
Jill A. Jordan, P.E., Assistant City Manager  
Forest E. Turner, Assistant City Manager  
Joey Zapata, Assistant City Manager  
Edward Scott, City Controller  
Stephanie Cooper, Assistant to the City Manager, Mayor and Council Office  
Michael Frosch, Director, Business Development and Procurement Services

# Local Preference/Contract Limits for Competitive Bidding, Claim Settlement Authority and Council Approval

Presented to the Dallas City  
Council

June 6, 2012



# Objective

- To seek Council approval to amend Chapter 2 of the Dallas City Code to:
  - Provide that a preference may be given to local businesses in awarding City contracts under certain circumstances;
  - Raise the limits when a contract must be competitively bid or approved by the City Council as authorized by state law; and
  - Provide settlement authority up to \$25,000 for claims against the City

# Outline

- Background
- Local Bid Preference Applicability
- Exemptions to Local Bid Preference
- Changes to Chapter 2, Dallas City Code
- Next Steps

# Background Information

- Recent legislative changes - Summer 2011
  - House Bill 1869 amended Section 271.905 of the Local Government Code to allow all municipalities the option of implementing a 3% local bidding preference on competitively bid contracts for goods
  - House Bill 628 amended Section 271.9051(b) of the Local Government Code to allow a municipality to consider a 5% local bidding preference on certain competitively bid contracts, including construction services (less than \$100,000) and other goods and general services (less than \$500,000)

## Local Bid Preference Applicability – Goods (HB 1869)

- In purchases for goods through competitive bid, a Local Business may be awarded a contract IF the bid received from the Local Business is within 3% of the lowest responsible bid received from a bidder that is not a Local Business
  - No dollar threshold specified

## Local Bid Preference Applicability – Goods and General Services (HB 628)

- In purchases for goods and general services through competitive bid, a Local Business may be awarded a contract IF the bid received from the Local Business is within 5% of the lowest responsible bid received from a bidder that is not a Local Business
  - Limited to contracts less than \$500,000

## Example Bid Tabulation

### Goods and General Services Projects under \$500,000

<i>Bidder</i>	<i>Local Vendor</i>	<i>Base Bid</i>	<i>Local adjustment</i> <i>(Bid + 5%)</i>	<i>Adjusted Bid Price</i>	<i>Award Bid Price</i>
Sample Bidder A	No	\$251,000	\$12,550	\$263,550	
Sample Bidder B	Yes	\$260,000	0	\$260,000	\$260,000
Sample Bidder C	Yes	\$262,000	0	\$262,000	
Sample Bidder D	No	\$265,000	\$13,250	\$278,250	

## Local Bid Preference Applicability – Construction Services or Facility Construction (HB 628)

- In purchases for construction services or facility construction through competitive bid, a Local Business may be awarded a contract IF the bid received from the Local Business is within 5% of the lowest responsible bid received from a bidder who is not a Local Business
  - Limited to contracts less than \$100,000

# Sample Bid Tabulation

## Construction Projects under \$100,000

<i>Bidder</i>	<i>Local Vendor</i>	<i>Base Bid</i>	<i>Local adjustment</i> <i>(Bid + 5%)</i>	<i>Adjusted Bid Price</i>	<i>Award Bid Price</i>
Sample Bidder A	No	\$60,000	\$3,000	\$63,000	
Sample Bidder B	No	\$61,000	\$3,050	\$64,050	
Sample Bidder C	Yes	\$62,000	0	\$62,000	\$62,000
Sample Bidder D	Yes	\$63,000	0	\$63,000	



# Summary of Threshold Options by Type

Contract Amount	Goods (HB 1869 – Giddings)	Goods & General Services (HB 628 – Callegari)	Construction Services (HB 628 – Callegari)
\$0 to \$50,000	No preference	No preference	No preference
\$50,001 – to under \$100,000	3% preference	5% preference	5% preference
\$100,000 – to under \$500,000	3% preference	5% preference	No preference
\$500,000 plus	3% preference	No preference	No preference

# Recommendation

- To standardize the percentage used in local preference consideration, the City Manager recommends the following:

Contract Amount	Goods	General Services	Construction Services and Facility Construction
\$0 - \$50,000	No preference	No preference	No preference
\$50,001 - to under \$100,000	5% preference	5% preference	5% preference
\$100,000 – to under \$500,000	5% preference	5% preference	No preference
\$500,000 plus	3% preference	No preference	No preference

## Local Bid Preference Applicability (Cont.)

- When using the local preference option, the **City Council must determine, in writing**, that awarding the contract to a Local Business offers the best combination of contract price and additional economic development benefits for the City created by the contract award, including employment of the residents of the City and/or increased tax revenue to the City

# Exemptions to Local Preference

- The following procurement types are exempt from the local preference by state law
  - Competitive sealed proposals (negotiated procurements)
  - Informal solicitations (currently less than \$25,000 but recommend changing to \$50,000)
  - Federal grant funded
  - Sole source
  - Emergency
  - Cooperative agreements
  - Telecommunication services and information services
  - Construction contracts greater than \$100,000

# Local Preference “internal test” – Must answer Yes to move forward

- Is the procurement a competitive (low) bid contract?
- Is the lowest bid not a local vendor?
- Was a bid received from a vendor with a principle place of business in Dallas and is within the local preference respective threshold?
- Does awarding the contract provide an economic benefit to the City?
- No federal funds will be utilized for the contract.

# Council Notice if Local Preference is Recommended to Council

- When recommending award of a contract based on the local preference provision, agenda items will specifically make such notice in the subject section of the agenda
- Agenda Subject wording example:
  - Authorize a three-year service contract, utilizing local preference option, for grounds maintenance services— Company Name in the amount of \$xxxx, most responsible local bidder of four - Total not to exceed \$xxxxxx **OR** Authorize a three-year service contract for grounds maintenance services – Company Name in the amount of \$xxxx, lowest responsible bidder of four - Total not to exceed \$xxxxxx
- The local economic benefit justification will be stipulated in the resolution for Council review and consideration

## Key Definition – Local Business

- Local Business means a business having a Principal Place of Business within the City of Dallas.

# Key Definition – Principal Place of Business

- Principal Place of Business means:
  - (1) the headquarters or the primary executive or administrative office of the business; or
  - (2) an established office, plant, store, warehouse, or other facility where the majority of the business' operations and transactions are conducted and located (does not include a message center, post office box, mail drop or similar non-substantial business service or activity).

# Education and Information

- Informational workshops with strategic partners:
  - City of Dallas – “How to do Business with the City” workshops
  - Schedule training sessions with Chambers of Commerce, industry and advocacy groups
  - Provide information to all Business Assistance Centers (BAC’s)
  - Update City website with FAQ’s related to changes
  - Email to all vendors in the City’s database

# Summary of Local Preference

- Implementing the local preference options provides an opportunity to encourage local companies to do business with the City, thereby providing increased competition and potentially strengthening the economy for Dallas residents and businesses
- Approving the recommended changes allows the City to evaluate each procurement and to recommend for Council approval bids submitted by a Local Business that offers the City the best combination of contract price and additional economic development benefits for the City created by the contract award, including employment of residents of the City and/or increased tax revenues to the City

# Annual Reporting

- Business Development and Procurement Services will track the impact of the proposed changes
  - Summary report will be provided to Council at the conclusion of each fiscal year



**Proposed Changes  
to Chapter 2 - Threshold Increases  
Relating to City Contracts**

# Background

- In 2007, Texas state legislation was changed to increase various thresholds relating to municipal purchases and contracts
- In 2011, Texas state legislation was changed to increase the change order threshold for all contracts
- The proposed changes are detailed on the following pages

## Proposed Competitive Bid Threshold - Goods, General Services, and Construction and Facility Construction

- The city manager is authorized to approve the following by administrative action, without further city council action
  - Contract for the purchase of goods, general services, construction services, or facility construction, or for any other lawful municipal purpose not specifically described, that requires a city expenditure not exceeding \$50,000 ~~\$25,000~~.
  - Contract requiring a city expenditure exceeding \$50,000 ~~\$25,000~~, but not exceeding \$70,000 ~~\$50,000~~, for the purchase of goods, services, or construction services required to be procured through competitive bid or competitive sealed proposal in accordance with Chapter 252, Texas Local Government Code, as amended.
  - Contract for facility construction procured pursuant to Chapter 271, Subchapter H, Texas Local Government Code, as amended, that requires a city expenditure exceeding \$50,000 ~~\$25,000~~, but not exceeding \$70,000 ~~\$50,000~~.

## Proposed Competitive Bid Threshold - Personal, Professional, and Planning Services

- The city manager is authorized to approve the following by administrative action, without further city council action
  - Contract for personal, professional, or planning services requiring a city expenditure not exceeding \$50,000 ~~\$25,000~~, except that no formal administrative action is required to execute a contract for real estate appraisal services requiring a city expenditure not exceeding \$50,000 ~~\$25,000~~.

# Proposed Change Order Threshold

- The city manager is authorized to approve the following by administrative action, without further city council action
  - A change order to a contract required by state law to be procured through either competitive bid or competitive sealed proposal that increases or decreases the contract price by \$50,000 ~~\$25,000~~ or less, provided that the original contract price may never be increased by more than 25 percent.

# Amendments to Contracts

- The city manager is authorized to approve the following by administrative action, without further city council action
  - An amendment to a contract not required by state law to be procured through competitive bid or competitive sealed proposal, which amendment increases the contract price by \$50,000 ~~\$25,000~~ or less or causes any decrease in the contract price, except that approval of the city council is required on an amendment that increases the contract price by \$50,000 ~~\$25,000~~ or less if:
    - the original contract price does not exceed \$50,000 ~~\$25,000~~ and the amendment increases the total contract price to an amount greater than \$50,000 ~~\$25,000~~; or
    - the original contract price exceeds \$50,000 ~~\$25,000~~ and the amendment increases the original contract price by more than 25 percent

# Exercising Renewal Options

- The city manager is authorized to approve the following by administrative action, without further city council action
  - Exercise of a renewal option of a contract required by state law to be procured by either competitive bid or competitive sealed proposal, if the city expenditure required during the renewal term does not exceed \$70,000 ~~\$50,000~~.
  - Exercise of a renewal option of a contract not required by state law to be procured by either competitive bid or competitive sealed proposal, if the city expenditure required during the renewal term does not exceed \$50,000 ~~\$25,000~~.

# Threshold Increase Relating to Claim Settlement Authority

- Current Settlement Authority:
  - The following claims may be settled without City Council approval:
    - Personal injury claims up to \$5,000.
    - Property damage claims up to \$10,000.
  - City Council approval is required to settle contract claims.
- Proposed Settlement Authority:
  - Authorize settlement of all personal injury, property damage, and contract claims up to \$25,000 without City Council approval.

# Summary Chart

Type	Award Method	Current	Proposed
Informal Bid	Purchase Order/Administrative Action	< \$25k	< \$50k
Competitive Bid/Proposal	Purchase Order/Administrative Action	< \$50k	< \$70k
Competitive Bid/Proposal	Council Action	≥ \$50k	≥ \$70k
Professional Services	Administrative Action	< \$25k	< \$50k
Professional Services	Council Action	≥ \$25k	≥ \$50k
Change Orders	Administrative Action	< \$25k	< \$50k
Change Orders	Council Action	≥ \$25k	≥ \$50k
Amendments to Contracts	Administrative Action	< \$25k	< \$50k
Amendments to Contracts	Council Action	≥ \$25k	≥ \$50k
Competitive - Renewal Options	Administrative Action	< \$50k	< \$70k
Competitive - Renewal Options	Council Action	≥ \$50k	≥ \$70k
Negotiated - Renewal Options	Administrative Action	< \$25k	< \$50k
Negotiated - Renewal Options	Council Action	≥ \$25k	≥ \$50k
Claim Settlement - Personal Injury, Property Damage, Contract	Administrative	Respectively ≤ \$5k, ≤ \$10k, < 0	≤ \$25k
Claim Settlement - Personal Injury, Property Damage, Contract	Council Action	Respectively > \$5k, > \$10k, > 0	> \$25k

# Transparency in the Procurement Process

- Bid notices are posted on the City's vendor self-service system
- Formal bids are advertised in the Dallas Morning News
- All formal bids are publicly opened and broadcast on public access
- All Administrative Actions, claim settlements and P-card transactions are posted on the City's website

# Recommendation

- Adopt an ordinance amending Chapter 2 of the Dallas City Code to provide that a preference may be given to Local Businesses in awarding City contracts under certain circumstances and raise the limits of when a contract must be competitively bid or approved by the City Council in accordance with state law and increase the threshold amounts relating to claim settlement authority