

ARTICLE XI. - VETERANS CONTRACTING PREFERENCE PROGRAM

Sec. 2-642. - Declaration of policy.

- (a) It is the policy of the city to grant a preference to veteran-owned small businesses in accordance with the program set forth below, unless doing so would be contrary to the best interests of the city.
- (b) Nothing in this article prohibits the city from rejecting any and all bids or offers.
- (c) Nothing in this article requires the city to conduct a competitive solicitation for a contract.

(Ord. No. 2013-12-05-0864, § 1, 12-5-13; Ord. No. 2014-11-13-0924, § 2, 11-13-14)

Sec. 2-643. - Definitions.

The words and phrases defined in this section and used in this article have the following meanings:

Concession contracts mean the renting of city-owned space on a contractual basis for the purpose of making a profit by selling a commodity/service.

Joint venture means a collaboration of for-profit business entities, in response to a solicitation, which is manifested by a written agreement, between two (2) or more independently owned and controlled business firms to form a third business entity solely for purposes of undertaking distinct roles and responsibilities in the completion of a given contract. Under this business arrangement, each joint venture partner shares in the management of the joint venture and also shares in the profits or losses of the joint venture enterprise commensurately with its contribution to the venture.

Respondent means a person or business entity that submits a responsive bid or proposal for a discretionary contract.

Small business means a business that does not exceed the U.S. Small Business Administration's size standards for small business preference eligibility, which vary by work category, as set forth in 13 CFR, § 121.201, as amended.

Veteran, as defined in 38 CFR § 74.1, as amended, is a person who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps or Coast Guard, for any length of time and at any place and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard called to federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as a veteran.

Veteran-owned small business (VOSB), as specified in 38 CFR § 74.1, as amended, is a business that is not less than fifty-one (51) percent owned by one or more veterans, or in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more veterans; the management and daily business operations of which are controlled by one or more veterans and qualifies as "small" for federal business size standard purposes. When used in this article, the term "VOSB" includes service-disabled veteran-owned small business, as that term is specified in 38 CFR § 74.1, as amended.

(Ord. No. 2013-12-05-0864, § 1, 12-5-13; Ord. No. 2014-11-13-0924, § 2, 11-13-14)

Sec. 2-644. - Applicability.

The provisions of this policy apply to procurements of discretionary expenditure and revenue contracts for goods, services, and concessions, where the selection criteria is not limited by state or federal law in a manner that prevents application of the preference provided in this article. This policy

does not apply to any expenditure or revenue contract with a value that is less than the amount that is required to be bid pursuant to state law (V.T.C.A., Local Government Code ch. 252, and as amended), currently fifty thousand dollars (\$50,000.00) or less.

(Ord. No. 2013-12-05-0864, § 1, 12-5-13; Ord. No. 2014-11-13-0924, § 2, 11-13-14)

Sec. 2-645. - Preference provided.

- (a) When conducting a competitive solicitation procedure for a contract to which this policy applies, five (5) percent of the evaluation points (five (5) points, based upon a 100-point scale), shall be awarded to a respondent that is a VOSB.
- (b) If the respondent is a joint venture with a VOSB member who is performing a commercially useful function on the city contract for which the respondent is seeking the preference, the respondent shall be eligible for a percentage of the VOSB evaluation points referenced above, which shall be awarded in direct proportion to the ownership interests of the VOSB in the joint venture.

(Ord. No. 2013-12-05-0864, § 1, 12-5-13; Ord. No. 2014-11-13-0924, § 2, 11-13-14)

Sec. 2-646. - Comparison of qualifications.

The preference established herein does not prohibit or limit the right of the city to compare the quality of services proposed, or qualifications, character, responsibility and fitness of all persons or entities submitting responses to solicitations. In addition, the preference established herein does not prohibit the city from giving any other preference permitted by law in addition to this preference.

(Ord. No. 2013-12-05-0864, § 1, 12-5-13; Ord. No. 2014-11-13-0924, § 2, 11-13-14)

Sec. 2-647. - Responsibilities and enforcement.

- (a) The finance department, purchasing division ("purchasing"), shall establish a methodology for certification as a VOSB. The city may rely on a party's inclusion in the database of VOSBs maintained by the U.S. Small Business Administration, or certification by another public or private entity that uses similar certification procedures.
- (b) The purchasing division shall provide written guidance to departments upon implementation of this article, and shall work with the director of the city's economic development department to provide interpretive guidance and criteria related to joint ventures seeking preferences under this and other city programs to ensure uniform application that meets the intent of this article.
- (c) The submission of documentation by a person or business entity that is required to establish status as a VOSB, or to demonstrate the existence of and participation in a joint venture, that is found to contain false information is grounds for debarment.
- (d) Successor authority. The departmental roles and responsibilities established by this article are extended to any successor department or division that performs comparable duties, in the event of an organizational restructuring or the creation of new or changed departments or divisions, or as otherwise provided by the city manager.

(Ord. No. 2013-12-05-0864, § 1, 12-5-13; Ord. No. 2014-11-13-0924, § 2, 11-13-14)

Sec. 2-648—2-660. - Reserved.