


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 27, 2018

TO: Honorable Members of the Ad Hoc Committee On Comprehensive Job Creation Plan

FROM: Sharon M. Tso 
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Council File: 15-0850
Assignment Nos.: 17-10-1024
17-10-1022

Proposed Changes to Local Business Preference Program

SUMMARY

On October 26, 2016, the Council approved the Citywide Comprehensive Job Creation Plan (Jobs Plan), which instructed the Chief Legislative Analyst (CLA) to report on various matters related to the Local Business Preference Program (LBPP/Program), including possible changes to the LBPP (C.F. 15-0850). The LBPP provides an eight percent preference to eligible local businesses on requests for goods, equipment, supplies, construction, and personal services greater than \$150,000.

On April 18, 2018, the Ad Hoc on Comprehensive Job Creation Plan Committee (Ad Hoc Jobs Committee) considered a status update to the Jobs Plan, and discussed the positive impacts of the LBPP on communities citywide.

A working group comprised of representatives from various City Departments has met several times to discuss possible changes to the LBPP. The Bureau of Contract Administration (BCA), which administers the LBPP, surveyed all City Departments involved with the implementation of the LBPP to obtain input on recommended changes to the Program.

This report focuses on proposed changes to improve the effectiveness of the LBPP. The proposals are summarized below:

1. Manufacturing of Local Goods

Currently, manufacturers' representatives and distributors can become certified Local Business Enterprises for purposes of qualifying for the LBPP, but are not eligible for the preference because they are not performing the bulk of the work locally. BCA proposes allowing manufacturers' representatives and distributors to receive the LBPP as long as products are manufactured locally. According to the BCA, this proposal will simplify the application of the LBPP.

2. Combine Requirements Relative to Goods and Services

Currently, the LBPP Ordinance states that services must be provided directly by the Local Business or Local Subcontractor using employees whose exclusive, primary working location is in Los Angeles County. For physical goods, the Ordinance states that two-thirds of the work must be performed by the Local Business or Local Subcontractor within Los Angeles County.

The BCA proposes that two-thirds of both goods and services must be produced within Los Angeles County by the Local Business or Local Subcontractor to qualify for the preference. The BCA anticipates that this change will clarify existing requirements and will reduce bid protests.

3. Status of Small, Local Business Program

The Small, Local Business Program (SLBP) requires businesses to be operated within Los Angeles County to receive a preference for City contracts. While the LBPP provides a preference for contracts valued at above \$150,000, the SLBP provides a preference for contracts valued at less than \$100,000.

The BCA recommends that the SLBP threshold be raised to \$150,000 to be consistent with the LBPP. The BCA states that the SLBP was first enacted in 1980 and has not been adjusted for inflation since 2001. Furthermore, the BCA advises that few bidders may qualify for the SLBP since few contracts are valued at less than \$100,000.

The BCA states that the City may wish to consider combining the SLBP and the LBPP to address issues related to the participation of brokers in the LBPP. While the LBPP does not currently allow brokers to receive credit, the SLBP allows brokers to participate. Large manufacturers have set up a one-person business as a broker or manufacturer's representative so that they can qualify for the preference under the SLBP to gain a bidding advantage on products that are not manufactured or provided locally.

Our Office recommends that the BCA be instructed to report on the number of contracts awarded under the SLBP to determine the extent to which this program is currently used and whether it should be modified or continued.

Other Issues

Brokers

The Department of Water and Power (DWP) has expressed concerns related to brokers who have a minimal physical presence within Los Angeles County yet attempt to qualify for the LBPP. DWP advises that the above proposals will address this issue.

Status of Los Angeles County's Social Enterprise Preference Program

On April 18, 2018, as part of its consideration of status update on the Jobs Plan, the Ad Hoc Jobs Committee instructed the LBPP working group to review Los Angeles County's Social Enterprise Preference Program (County Program) and report on the benefits of creating a similar program for the City (C.F. 15-0850).

The County Program was designed to increase contracting opportunities for businesses whose focus is economic, social, and environmental sustainability. Eligible Program participants receive a 15 percent bid price reduction or preference when bidding on certain goods and services. Requirements include the following: a business must be located within the County; provide transitional jobs for at least one year; and, be certified a "green business" by a municipality within Los Angeles County.

On July 3, 2018, the Council instructed the CLA, Board of Public Works, and others to report on various matters related to the City's Transitional Job Opportunities Program (TJOP) which gives a 10 percent preference in the bid process to organizations that hire and provide supportive services to transitional employees on projects less than \$100,000.

Staff are currently reviewing the County Program as part of its report on the TJOP. Staff will report to Council with recommendations relative to the County Program and the TJOP under separate cover (C.F. 18-0255).

We recommend approval of the proposed modifications to the LBPP as proposed by the BCA. The proposed modifications will clarify existing requirements and aid in the administration of the LBPP. We further recommend that the BCA be instructed to report to Council on the next steps required to implement the proposals, and request the City Attorney to prepare the necessary Ordinances.

RECOMMENDATIONS

That the City Council:

1. Approve the following modifications to the Local Business Preference Program (LBPP) and Small, Local Business Program (SLBP):
 - a. Allow manufacturers' representatives and distributors to receive the preference as long as products are manufactured within Los Angeles County.
 - b. Require that two-thirds of both goods and services be produced within Los Angeles County by the Local Business or Local Subcontractor to qualify for the preference.
 - c. Increase the \$100,000 minimum contract threshold for the SLBP to \$150,000 to be consistent with the LBPP and to account for inflation and other factors.
 - d. Combine the SLBP and the LBBP Ordinances.
2. Instruct the Bureau of Contract Administration (BCA) to implement the modifications to the LBPP and SLBP.
3. Request the City Attorney, with the assistance of the BCA and Chief Legislative Analyst (CLA), to prepare and present Ordinance(s) to effectuate the proposed changes to the LBPP and the SLBP, if necessary.
4. Instruct the BCA to report on the number of participants in the SLBP, the feasibility of updating the program, and provide recommendations to effectuate these changes.
5. Instruct the BCA, with the assistance of the CLA and any other necessary City Departments or Offices, to include a discussion on the feasibility of implementing Los Angeles County's Social Enterprise Preference Program as part of its report on the Transitional Job Opportunities Program (C.F. 18-0255).

FISCAL IMPACT STATEMENT

These recommendations will not have a fiscal impact to the General Fund.



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