

PROPOSAL

(Pages LBPP-1 through LBPP-6)

LOS ANGELES WORLD AIRPORTS (LAWA)

REQUEST FOR PROPOSALS - LOCAL BUSINESS PREFERENCE PROGRAM  
(LBPP)

Board of Airport Commissioners Resolution No. 25919

Effective: April 1, 2016

Local Business Prime	8%
----------------------	----

Or

Local Business Subcontractor (s)	Up to 5%
----------------------------------	-------------

## **MANDATORY LOCAL BUSINESS PREFERENCE PROGRAM (LBPP) FOR USE ON LAWA-FUNDED CONTRACTS GREATER THAN \$150,000.**

### **A. General**

This program is subject to the policies and requirements established by the Board of Airport Commissioners (BOAC). LAWA established the LBPP to be consonant with the provisions of Article 21, Section 10.47 et seq. of the City of Los Angeles Administrative Code and as part of its commitment to help local business participation in LAWA contracts. LAWA's LBPP seeks to leverage funds expended under contracts to stimulate local business activities, encourage businesses to set up operations locally, and to augment local job creation efforts. It will also lay a foundation for a sustainable local economic development by promoting the creation, expansion, and retention of local businesses.

**LAWA shall opt out of the LBPP when the contract is funded by a grant or is federally funded and funding regulations prohibit the funding recipient from implementing the LBPP on the resulting contract. LAWA can opt out of the program when full and open competition is limited because of a sole source vendor, provider, or supplier. Finally, LAWA is entitled to determine at any time that it is not in LAWA's best interest to grant a Proposal preference to a qualifying Local Business, Local Subcontractor, or Provisionally Qualified Local Business.**

**Failure to comply with the LBPP shall result in investigations by the Bureau of Contract Administration/Office of Contract Compliance (BCA/OCC) in its role as the Designated Administrative Agency.**

### **B. Participation Criteria for Local Business Preference Program**

To be eligible for participation in this program, the BCA/OCC requires that the prospective local business submit an affidavit attesting as such on the Los Angeles Business Assistance Virtual Network (LABAVN) website. An affidavit form is available to be downloaded on the LABAVN website at <http://www.labavn.org>. Determination of qualification as a local business by any entities other than BCA/OCC, or by any other means other than submission of an affidavit on LABAVN shall not be accepted for purposes of participation in the LBPP. Affidavit forms are prioritized according to the date they are received. The local business must be listed on LABAVN as such prior to the proposal deadline in order to participate in the LBPP. In cases where the affidavit was submitted prior to the proposal deadline but has not been verified by BCA/OCC and the local business designation would result in a change of award recommendation, status as a local business will be based on the date it was submitted.

### **C. Definitions**

1. "Awarding Authority" means the Board of Airport Commissioners.
2. "Contract" means a written agreement involving consideration in excess of \$150,000 for the purchase of goods, equipment or services, including construction, by or for the benefit of the City or its residents.
3. "Contractor" means the person, business or entity awarded the Contract by the Awarding Authority.

4. "Bid Price" means the dollar amount after the proposer's quoted price is adjusted for evaluation in accordance with applicable provisions.
5. "Evaluation Points" are the points awarded to the Proposer by LAWA after full evaluation of the Proposal to calculate the merit of all submitted proposals. The total of the Evaluation Points awarded yields the Proposers "Evaluation Score."
6. "LAWA" means the City of Los Angeles, Department of Airports also known as Los Angeles World Airports.
7. "Local Business" means a business entity that occupies work space within the County, is in compliance with all applicable City and County licensing and tax laws, and can demonstrate one of the following: (1) it is headquartered in the County and physically conducts and manages all of its operations from a location in the County; (2) that at least 50 of its full time employees perform work within the boundaries of the County at least 60 percent of their total regular hours worked on an annual basis; or (3) that at least half of the full-time employees (50%) of the business work within the boundaries of the County at minimum of 60 percent of their total, regular hours worked on an annual basis.
  - a. A business entity with multiple locations within the County can aggregate 50 of its full time employees working at least 60% of their regular hours from its different locations within the County to qualify as a Local Business.
  - b. A business entity awarded a City contract under the LBPP must carry out the services of the contract using employees whose exclusive, primary working location is in Los Angeles County.
  - c. A joint venture must be a legally established entity and be certified as an LBE in order to participate in the LBPP. Individual LBE certification by one or more of the joint venture partners will not be considered sufficient to qualify for participation in the LBPP. (See, Los Angeles Administrative Code Section 10.47 *et seq.*)
5. "Local Subcontractor" means a subcontractor that meets the same criteria as a "Local Business" as defined above.
6. "Provisionally Qualified Local Business" means a business entity that is yet to establish operations within the County, and does not immediately qualify as a local business under the Los Angeles Administrative Code. However, the business is provisionally qualified as a local business because it is undertaking imminent steps to qualify as a local business as defined by Article 21, Section 10.47.3. No later than 30 days after LAWA notifies the proposer of its intent to award the contract to them, the Provisionally Qualified Local Business must demonstrate that it is a party to an enforceable, contractual right to occupy commercial space within the County, that its occupancy will commence no later than 60 days after the date on which the Contract with LAWA is executed, and can demonstrate that before the Contractor is scheduled to begin performance under the contract with the City, the Contractor will satisfy the requirements of Subsection C of Section 10.47.2.

7. "Supplier" and/or "Regular Dealer" means a business that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. Additionally, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as previously described if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

D. Local Business Preference Program Participation Recognition

1. Qualifying contractors who participate in the LBPP by qualifying as a local business will receive an 8%(of the total possible evaluation points) preference credit added to their Evaluation Score provided their proposal is in excess of \$150,000 or in excess of \$1,000,000 if a Provisionally Qualified Local Business.
2. Contractors which do not qualify as a local business, but are qualified because they identify a qualified local subcontractor to perform the work under the contract will receive up to a 5% of the total possible evaluation points added to their evaluation score based upon the following:
  - a. LAWA shall provide 1% of the total possible evaluation points credit, up to a maximum of 5%, to the contractor's evaluation score for every 10% of the total cost of the proposed work to be performed by the local subcontractor. This rule applies to a Local Subcontractor or Local Subcontractors, provided that the work performed is of a commercially useful purpose in execution of the contract and/or performed in the Local Subcontractor's normal course of business. The work performed and all costs of each Local Subcontractor or Local Subcontractors should be clearly specified in the proposal.
3. Preferences shall only be awarded to a Local Business or a Local Subcontractor when the services provided under the contract are directly provided by its employees whose primary work location is in Los Angeles County. Preferences shall only be awarded for equipment, goods or materials when the Local Business or Local Subcontractor acts as a supplier or dealer (not less than two thirds of the time), or designs, manufactures, or assembles the equipment, goods or materials (not less than two thirds of the time), at a business location in the County.
4. A Provisionally Qualified Local Business who participates in the LBPP by qualifying as a local business will receive 8% of the total possible evaluation points credit added to its evaluation score, as long as the proposed contract between the business and the City involves consideration valued at no less than \$1,000,000 and has a duration of no less than three (3) years.

- a. To participate in the program, a proposed Provisionally Qualified Local Business must download and complete a Provisionally Qualified Local Business affidavit form at <http://bca.lacity.org>, which it shall attach and submit with its proposal documents to LAWA.
5. Once a Business asserting to be a Provisionally Qualified Local Business is notified by LAWA of its intent to award a contract, the Provisionally Qualified Local Business shall submit all of the following documentation: (1) an enforceable, contractual right to occupy commercial space within the County, which shall commence no later than 60 days after the date of the execution of the contract; (2) a business plan on its ability to become a Local business; (3) any other sufficient documentation required by LAWA.

All required supporting documentation/evidence demonstrating qualification as a Provisionally Qualified Local Business must be submitted to LAWA within 30 days of request.

- a. If LAWA is satisfied with the documentation submitted by the Provisionally Qualified Local Business, and it determines that it shall award the contract to the business, then LAWA, prior to the execution of the contract, shall send BCA a memo stating that the business was able to demonstrate that it qualifies as a Provisionally Qualified Local Business. The memo shall also list the documents received by LAWA, with copies attached, and recommend that BCA determine the business to be a Provisionally Qualified Local Business.
6. A Provisionally Qualified Local Business shall lose its status as such when it fails to fully comply as a local business within 60 days after the date on which the Contract with the City is executed. LAWA shall notify the Provisionally Qualified Local Business thirty (30) days after contract award that it comply as a local business or contract award will be rescinded.
7. Loss of status as a Provisionally Qualified Local Business is permanent and forbids a business from qualifying as a Provisionally Qualified Local Business in the future for purposes of proposing on City Contracts.
8. The maximum preference credit for all qualifying Local Businesses, Local Subcontractor(s), and Provisionally Qualified Local Businesses shall not exceed 8% of the total Evaluation Points for any proposal.
9. In the event where a certified Local Business proposes on a City contract, and is determined by LAWA after the proposal deadline to not qualify as a Local Business, the business will be eligible for the Local Subcontractor Preference of up to 5%, if it has identified a qualifying Local Subcontractor(s) to perform work under the contract.
  - a. The above exemption shall only apply where the non-compliance is an error or mistake. It shall not apply to a business that intentionally or fraudulently claims to be a Local Business through misleading or false statements.
  - b. It is the responsibility of the business registered on LABAVN as a certified Local Business to inform BCA via email at [bca.certifications@lacity.org](mailto:bca.certifications@lacity.org), that it no longer meets the certification criteria within 7days of the change. Failure to do so

shall be construed as a misleading and/or false statement.

10. Upon receipt of information believed by LAWA to be reliable and which indicates that the Local Business no longer qualifies as a Local Business for more than 60 days during the entire time of the Contract, LAWA shall withhold or recover funds from the Contractor in an amount that represents the value of 8% of the executed contract.
11. If for any reason the Local Subcontractor, providing the basis for a Local Subcontractor Preference, is unable to, or does not, perform the work under the Contract; the Contractor shall, within 60 days, replace that Local Subcontractor with another Local Subcontractor. If the Contractor is unable to replace the Local Subcontractor specified in the Contract with another Local Subcontractor within 60 days, LAWA shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the work that was pledged to the Local Subcontractor, not to exceed 8% of the Contractor's executed contract.
12. Value of the Proposal Preference may be calculated as the difference between the Proposal price between the Contractor's Proposal and the Proposal of the next most competitive bid. In cases where the value of the awarded Business's proposal price is lower, the value of the Proposal Preference may be calculated as the product of the proposal preference percentage points provided and the submitted proposal price.
13. In the event that investigations reveal that a business fraudulently represents itself as a Local Business for the purpose of gaining a preference under the LBPP, the business shall not be eligible for the Local Business status for up to five years from the date of disqualification. This will also apply to any business that has received a preference, but failed to maintain its Local Business qualification for a cumulative of 60 days during the entire time of the contract.

#### E. Complaints and Protests

1. All complaints and/or protests regarding qualifying local businesses, provisionally qualified local businesses, and local subcontractors claiming non-compliance by LAWA or its failure to maintain certification criteria, shall be made to the BCA/OCC either in writing or by email for further investigations. Complaints must be accompanied by documentation which substantiates complainant's allegations.
2. Any complaints that meet the criteria of Section E.1. above shall be investigated by BCA/OCC in its role as the Designated Administrative Agency.

Submit complaints to:

**By Mail**                      **Office of Contract Compliance**  
**Bureau of Contract Administration**  
**Department of Public works**  
**1149 South Broadway, Suite 300**  
**Los Angeles, CA 90015**

**By Email**                      **bca.biphelp@lacity.org**