



Legislation Text

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PURCHASINGXXXX1LOCALPREFERENCE

Purchasing

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Revised

Amending the Toledo Municipal Code by repealing Section 187.34, Local Preference, and enacting a new Section 187.34, Local Preference; making certain findings; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo has a responsibility to work with and support private enterprise to foster and advance maximum employment opportunities for the residents of Toledo and Lucas County. The City also has a responsibility to encourage the growth of local businesses. Both of these ends not only benefit the local economy, but also generate additional tax revenue for the City. The benefits of those revenues extend to the population at large.

Amending the local preference language in the Toledo Municipal Code will serve the public interest because the growth and development of businesses whose primary location is within the corporate boundaries of the City of Toledo will have a significant positive impact on the economic health of the City. The public interest would be served by encouraging businesses to locate and remain in Toledo by adding an order of precedence to the preference for primary Toledo businesses in the award of City contracts, as is already done for all other business types in the existing code. This addition will also serve the goal of rewarding those businesses that contribute the most to the local economy. The preference, in affording businesses a competitive advantage when bidding on City contracts, does not exclude any potential contractor.

Formal bids and Request for Proposals will continue to be awarded based upon a determination of the "lowest and best" bidder. These considerations will also help foster full employment and encourage local growth.

The fiscal impact of this ordinance is as follows:

- The amount of funds requested: \$0
- The expenditure budget line item: n/a,
- New revenue generated (operational revenue, grants, if any): n/a
- Revenue budget line item (if any): n/a
- Are funds budgeted in the current fiscal year (yes/no)? n/a
- Is this a capital project (yes/no)? n/a
- If yes, is it new or existing (new/existing)? n/a
- What section of the City's Strategic Plan does this support:
 - o Excellence in Basic Services (yes/no) yes
 - o Quality Community Investment (Livable City, Development) (yes/no) yes
 - o Workplace Culture & Customer Service (yes/no) no
 - o Environment (yes/no) no

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Council finds and determines that it is in the City's best interest to insure that local persons, entities and businesses have a fair opportunity to meaningfully compete for and participate in City of Toledo projects and that increased participation by local entities in these projects will have beneficial economic effects for the City of Toledo.

SECTION 2. That Section 187.34 to Chapter 187 of the Toledo Municipal Code, entitled "Purchases and Supplies", which reads as follows:

187.34. Local preference.

Except as limited by subsection (f) herein, and except for any contract supported in whole or in part by the State or a contract financed in whole or in part by contributions or loans from any agency of the United States government, the price of any vendor's or contractor's bid or proposal for goods or services, shall be evaluated as though those proposed by local bidders were either five percent (5%), four percent (4%), three percent (3%), three and one-half percent (3.5%), two and eighty-five hundredths percent (2.85%), two and three quarters percent (2.75%), and two and one quarter percent (2.25%) lower than actually proposed in accordance with the following schedule:

(a) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies, businesses or individuals whose principal place of business is within the corporate boundaries of the City of Toledo shall be evaluated on a three percent (3%) reduction basis.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies, businesses or individuals whose principal place of business is within the corporate boundaries of the City of Toledo shall be evaluated on a five percent (5%) reduction basis.

(b) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies, businesses or individuals that are located in the City of Toledo but do not have their principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a two and eighty-five hundredths percent (2.85%) reduction basis.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies, businesses or individuals that are located in the City of Toledo but do not have their principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a four percent (4%) reduction basis.

(c) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies, businesses or individuals that are located outside the City of Toledo but within Lucas County shall be evaluated on a two and three-quarters percent (2.75%) reduction basis, when not competing against a City of Toledo bidder.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies, businesses or individuals that are located outside the City of Toledo but within Lucas County shall be evaluated on a three and one-half percent (3.5%) reduction basis, when not competing against a City of Toledo bidder.

(d) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies, businesses or individuals that are located outside the City of Toledo and Lucas County but within the Northwest Ohio 10 County Area shall be evaluated on a two and one quarter percent (2.25%) reduction basis, when not competing against a City of Toledo bidder or a Lucas County bidder.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies, businesses or individuals that are located outside the City of Toledo and Lucas County but within the Northwest Ohio 10 County Area shall be evaluated on a three percent (3%) reduction basis, when not competing against a City of Toledo bidder or a Lucas County bidder.

(e) (1) A vendor, bidder or contractor principal place of business in Toledo is an individual or business entity whose principal place of business is located within the corporate limits of the City of Toledo. Registration of principal place of business in official documents filed with the Secretary of State, State of Ohio, or a valid vendor's license which indicates that the principal place of business is located within the corporate limits of the City of Toledo is prima facia proof of principal place of business. When proof of situs is required the local bidder or contractor must provide proof of principal place of business to the Mayor in order to receive a preference provided herein.

(2) A vendor, bidder or contractor located but not principal place of business in Toledo is an individual or business entity whose physical, viable place of business is located within the corporate limits of the City of Toledo but not principal place of business within the corporate limits of the City of Toledo. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(3) A vendor, bidder or contractor located but not necessarily principal place of business in Lucas County is an individual or business entity whose physical, viable place of business is located within the corporate limits of Lucas County. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(4) A vendor, bidder or contractor located within the Northwest Ohio 10 County Area, excluding Lucas County, is an individual or business entity whose physical, viable place of business is located within the nine (9) Ohio counties of: Williams, Defiance, Fulton, Henry, Wood, Ottawa, Sandusky, Seneca and Erie. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(f) The maximum amount of preference shall be \$300,000 and no bid shall be evaluated based on a reduction basis exceeding \$300,000. Nothing herein shall be construed as increasing or decreasing the actual price of a bid or proposal and the resulting contract in accordance with their terms in this section is intended only to be used for purposes of comparing and evaluating bids and proposals for goods and services. Nothing within this section shall be construed to create any private rights, claims or causes of action on behalf of any person, including but not limited to bidders, proposers and contractors.

is repealed.

SECTION 3. That the Toledo Municipal Code is amended and supplemented by the addition thereto of new Section 187.34 to Chapter 187, entitled "Purchases and Supplies", which reads as follows:

187.34. Local preference.

Except as limited by subsection (f) herein, and except for any contract supported in whole or in part by the State of Ohio or federal government, the dollar amount of any bidder's or proposer's bid or proposal for a public improvement or for goods or services, shall be evaluated as though those proposed by local bidders were either five percent (5%), four percent (4%), three percent (3%), three and one-half percent (3.5%), two and eighty-five hundredths percent (2.85%), two and three quarters percent (2.75%), and two and one quarter percent (2.25%) lower than actually proposed in accordance with the following schedule:

(a) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from bidders or proposers whose principal place of business is within the corporate boundaries of the City of Toledo shall be evaluated on a three percent (3%) reduction basis.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from bidders or proposers whose principal place of business is within the corporate boundaries of the City of Toledo shall be evaluated on a five percent (5%) reduction basis.

(b) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from bidders or proposers that are located in the City of Toledo but do not have their principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a two and eighty-five hundredths percent (2.85%) reduction basis, when not competing against a City of Toledo bidder or proposer whose principal place of business is located within the corporate boundaries of the City of Toledo.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from bidders or proposers that are located in the City of Toledo but do not have their principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a four percent (4%) reduction basis, when not competing against a City of Toledo bidder or proposer whose principal place of business is located within the corporate boundaries of the City of Toledo.

(c) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from bidders or proposers that are located outside the City of Toledo but within Lucas County shall be evaluated on a two and three-quarters percent (2.75%) reduction basis, when not competing against a City of Toledo bidder or proposer.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from bidders or proposers that are located outside the City of Toledo but within Lucas County shall be evaluated on a three and one-half percent (3.5%) reduction basis, when not competing against a City of Toledo bidder or proposer.

(d) (1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from bidders or proposers that are located outside the City of Toledo and Lucas County but within the Northwest Ohio 10 County Area or Southeast Michigan 2 County Area shall be evaluated on a two and one quarter percent (2.25%) reduction basis, when not competing against a City of Toledo or Lucas County bidder or proposer.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from bidders or proposers that are located outside the City of Toledo and outside Lucas County but within the Northwest Ohio 10 County Area or Southeast Michigan 2 County Area shall be evaluated on a three percent (3%) reduction basis, when not competing against a City of Toledo or Lucas County bidder or proposer.

(e) (1) A bidder's or proposer's principal place of business shall be demonstrated by documents filed with the Secretary of State of Ohio, other State agencies which identify as of the date the bids or proposals are due where the principal place of business is located. When proof of situs is required the local bidder or proposer must provide proof of principal place of business to the Mayor in order to receive a preference provided herein.

(2) A bidder or proposer located but not principal place of business in Toledo is a bidder or proposer whose physical, viable place of business is located within the corporate limits of the City of Toledo but not principal place of business within the corporate limits of the City of Toledo. When proof of situs is required the local bidder or proposer must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(3) A bidder or proposer located but not necessarily principal place of business in Lucas County is a bidder or proposer whose physical, viable place of business is located within the corporate limits of Lucas County. When proof of situs is required the local bidder or proposer must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(4) A bidder or proposer located within the Northwest Ohio 10 County Area, excluding Lucas County, is a bidder or proposer whose physical, viable place of business is located within the nine (9) Ohio counties of: Williams, Defiance, Fulton, Henry, Wood, Ottawa, Sandusky, Seneca and Erie. A bidder or proposer located within the Southeast Michigan 2 County Area is an individual or business entity whose physical, viable place of business is located within the two (2) Michigan counties of: Monroe, and Lenawee. When proof of situs is required the local bidder or proposer must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(f) The maximum amount of preference shall be \$300,000 and no bid shall be evaluated based on a reduction basis exceeding \$300,000. Nothing herein shall be construed as increasing or decreasing the actual price of a bid or proposal and the resulting contract in accordance with their terms in this section is intended only to be used for purposes of comparing and evaluating bids and proposals for goods and services. A City of Toledo bidder or proposer is one who has a principal place of business and or a non-principal physical viable place of business located within the corporate limits of the City of Toledo. Nothing within this section shall be construed to create any private rights, claims or causes of action on behalf of any person, including but not limited to bidders, proposers.

is enacted.

SECTION 4. That this Ordinance is declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this ordinance is necessary for the immediate preservation of the public peace, health, safety and property and for the further reason that this ordinance must be immediately effective in order to promote businesses to locate and remain in Toledo that perform work on City of Toledo Projects.

Vote on emergency clause: yeas 12, nays 0.

Passed: April 27, 2021 as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

April 28, 2021
Wade Kapszukiewicz
Mayor