

Section 3.02.135: LOCAL PREFERENCE FOR SERVICES

This section applies to contracts for personal, professional and consultant services when procured through requests for proposal or qualifications. FORA's policy is to grant local preference where able, but not at the expense of demonstrated competence and qualification for the types of services to be performed. Nothing in this Section shall limit the authority of the Board to reject the recommendations of staff and make any such award it determines best meets the demonstrated competence and qualifications at a fair and reasonable value to the Agency.

- (i) In every case where FORA seeks personal, professional and consultant services through the Request for Proposal or Request for Qualification process, FORA staff shall grant preference points to a **qualified responsible local provider** which submits a fully responsive proposal or meets the qualifications of the solicitation request. Up to **five percent (5%)** of the total points awardable will be made for local preference. The award of total points may be allocated between the location of a **local office** of a provider and the use of **local workforce** in any response submitted.
 - a. When using an award of points evaluation, greater emphasis shall be placed upon the use of local workforce and/or local sub-consultants or subcontractors in performing requested services:
 - i. Proposals or **qualified providers** who certify to use 86%-100% of local workforce shall receive **80%** of the preference points awardable;
 - ii. Proposals or **qualified providers** who certify to use 71%-85% of the local workforce shall only receive **70%** of the preference points awardable;
 - iii. Proposals or **qualified providers** who certify to use 51-70% of the local workforce shall only receive **60%** of the preference points awardable; and
 - iv. Proposals or **qualified providers** who use between 25-50% of the local workforce shall receive **40%** of the preference points awardable;
 - v. Proposals or **qualified providers** who have a local office, for a **two year** period prior to the request for proposal or qualification shall receive **20%** of the total preference points awardable.
- (ii) Each solicitation for proposals or qualifications made by the FORA staff shall contain terms expressly describing the application of local preference as outlined in this Section. Local preference shall not be granted, unless a responder to a solicitation for proposal or qualifications verifies and certifies under penalty of perjury information sufficient to meet the qualifications for application of the preference as outlined herein.
- (iii) Local preference shall not apply where precluded by state or federal law or regulation or in any case where funding for said services may be withdrawn as a result of the application of local preference.
- (iv) **Definitions.**
 - a. "Local" as used in this Section shall mean located within the tri-county area of Santa Cruz, Monterey, or San Benito County.
 - b. "Qualified provider" means a provider's quality, fitness, and capacity to perform or otherwise meet the particular requirements of the contract, purchase order or that there has been a demonstrated competence and qualification for the types of services requested.
 - c. "Workforce" means an independent contractor, employee, or sub-consultant whose residence address is located within the tri-county area of Santa Cruz, Monterey or San Benito County.
 - d. "Responsive proposal or qualifications" means compliance with the instructions and requirements established by FORA and set forth in the request for proposals or qualifications.

RESOLUTION NO. 17-xx

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY AUTHORIZING AMENDMENT OF THE MASTER RESOLUTION DELETING SUBSECTION (d) from SECTION 3.03.040

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A. WHEREAS, the Fort Ord Reuse Authority ("FORA") Board of Directors established a local preference policy on or about July 14, 1995 by adopting Ordinance No. 95-01; and
- B. WHEREAS, FORA has had an informal policy of providing local preference where it is legally available; and
- C. WHEREAS, the FORA Board of Directors desire to formalize local preference policies in order to address the devastating economic effects of the closure of the Fort Ord Base on the local region, and promote the hiring of local vendors and suppliers of services where available; and
- D. WHEREAS, the FORA Board of Directors has heard testimony that clarifying and amending the language of the Master Resolution would further the implementation of local jobs; and
- E. WHEREAS, the FORA Board of Directors finds that the overall economic recovery to local contractors and businesses has not occurred as quickly as originally anticipated in 1995 when it adopted the procurement code; and
- F. WHEREAS, the FORA Board of Directors intends this language to take effect from and after the date of adoption of this Resolution.

NOW THEREFORE, BE IT RESOLVED by the FORA Board of Directors that the Master Resolution be amended as follows:

1. Subsection (d) shall be deleted from Section 3.03.040 as set forth below.

3.03.040. LOCAL PREFERENCE.

(a) Each Contractor performing construction funded in whole or in part by Authority funds, or funds which, in accordance with a federal grant or otherwise, the Authority expends or administers, and to which the Authority is a signatory to the construction contract, will be eligible for a local preference as provided in the subsection, if such Contractor meets each of the following minimum requirements:

- (1) The Contractor must be licensed by the State of California and be a business, employer, or resident doing business in the Area for the past five years.
- (2) The Contractor must be a business, employer, or resident who has been adversely affected by the closure of the Fort Ord military base.
- (3) Eighty percent (80%) of the work force of the Contractor must be residents of the Area and fifty percent (50%) of the Subcontractors must be residents of the Area.

(b) Each Contractor who is within five percent of the lowest responsible bid and who is eligible for a local preference under this subsection will be provided the opportunity to reduce the Contractor's bid to an amount equal to the amount of the lowest responsible bid. The opportunity to reduce bid amounts will be provided first to the lowest eligible bidder and, if not accepted by such bidder within five business days of the opening of bids, then to each successive eligible bidder in ascending order of the amount of the bids. In the event an eligible Contractor reduces the bid to the amount of the lowest responsible bid, the eligible Contractor will be deemed to have provided the lowest responsible bid and will be awarded the contract.

(c) In the event there is no available and qualified resident of the Area who can fill a specified position, vacancy, or job classification sought to be filled by the Contractor, or by a Subcontractor of the

Contractor, the Contractor may request an exemption for the worker hours performed by a person who fills such position, vacancy, or job classification in computing the percentage of total worker hours performed by residents of the Area for the purpose of determining whether the Contractor has met the minimum requirements specified in this subsection. A Contractor seeking such an exemption must file a written application therefor with the Executive Officer on a form provided by the Executive Officer no later than ten days after the position, vacancy, or job classification for which the exemption is sought is filled by a nonresident of the Area. Such application must include a detailed written statement under oath describing the efforts and action taken by the Contractor, or the Contractor's Subcontractor, in attempting to hire a resident of the Area for the position, vacancy, or job classification for which the exemption is sought, and such further and additional information as may be requested by the Executive Officer.

~~(d) The provisions of this subsection will expire and will no longer be in force or effect on December 31, 1999, unless otherwise extended by the Board prior to such date.~~

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ___ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Ralph Rubio, Chair

ATTEST:

Michael A. Houlemard, Jr.
Clerk

RESOLUTION NO. 17-xx

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY AUTHORIZING AMENDMENT OF THE MASTER RESOLUTION ADDING SECTION 3.02.135 LOCAL PREFERENCE FOR SERVICES

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- G. WHEREAS, the Fort Ord Reuse Authority (“FORA”) Board of Directors established a local preference policy on or about July 14, 1995 by adopting Ordinance No. 95-01; and
- H. WHEREAS, FORA has had an informal policy of providing local preference where it is legally available; and
- I. WHEREAS, the FORA Board of Directors desire to formalize the language in order to address the devastating economic effects of the closure of the Fort Ord Base on the local region, and promote the hiring of local vendors and suppliers of services where available; and
- J. WHEREAS, the FORA Board of Directors has heard testimony that clarifying and amending the language of the Master Resolution would further the implementation of local jobs; and
- K. WHEREAS, the FORA Board of Directors finds that the overall economic recovery on local contractors and businesses has not occurred as quickly as originally anticipated in 1995 when it adopted the procurement code; and
- L. WHEREAS, the FORA Board of Directors intends this language to take effect from and after the date of adoption of this Resolution.

NOW THEREFORE, BE IT RESOLVED by the FORA Board of Directors that the Master Resolution be amended as follows:

Section 3.02.135 shall be added to the Master Resolution as set forth below.

Section 3.02.135: LOCAL PREFERENCE FOR SERVICES

This section applies to contracts for personal, professional and consultant services when procured through requests for proposal or qualifications. FORA’s policy is to grant local preference where able, but not at the expense of demonstrated competence and qualification for the types of services to be performed. Nothing in this Section shall limit the authority of the Board to reject the recommendations of staff and make any such award it determines best meets the demonstrated competence and qualifications at a fair and reasonable value to the Agency.

- (v) In every case where FORA seeks personal, professional and consultant services through the Request for Proposal or Request for Qualification process, FORA staff shall grant preference points to a **qualified responsible local provider** which submits a fully responsive proposal or meets the qualifications of the solicitation request. Up to **five percent (5%)** of the total points awardable will be made for local preference. The award of total points may be allocated between the location of a **local office** of a provider and the use of **local workforce** in any response submitted.
 - a. When using an award of points evaluation, greater emphasis shall be placed upon the use of local workforce and/or local sub-consultants or subcontractors in performing requested services:
 - i. Proposals or **qualified providers** who certify to use 86%-100% of local workforce shall receive **80%** of the preference points awardable;
 - ii. Proposals or **qualified providers** who certify to use 71%-85% of the local workforce shall only receive **70%** of the preference points awardable;

- iii. Proposals or **qualified providers** who certify to use 51-70% of the local workforce shall only receive **60%** of the preference points awardable; and
 - iv. Proposals or **qualified providers** who use between 25-50% of the local workforce shall receive **40%** of the preference points awardable;
 - v. Proposals or **qualified providers** who have a local office, for a **two year** period prior to the request for proposal or qualification shall receive **20%** of the total preference points awardable.
- (vi) Each solicitation for proposals or qualifications made by the FORA shall contain terms expressly describing the application of local preference as outlined in this Section. Local preference shall not be granted, unless a responder to a solicitation for proposal or qualifications verifies and certifies under penalty of perjury information sufficient to meet the qualifications for application of the preference as outlined herein.
- (vii) Local preference shall not apply where precluded by state or federal law or regulation or in any case where funding for said services may be withdrawn as a result of application of local preference.
- (viii) Definitions.**
- a. "Local" as used in this Section shall mean located within the tri-county area of Santa Cruz, Monterey, or San Benito County.
 - b. "Qualified provider" means a provider's quality, fitness, and capacity to perform or otherwise meet the particular requirements of the contract, purchase order or that there has been a demonstrated competence and qualification for the types of services requested.
 - c. "Workforce" means an independent contractor, employee, or sub-consultant whose residence address is located within the tri-county area of Santa Cruz, Monterey or San Benito County.
 - d. "Responsive proposal or qualifications" means compliance with the instructions and requirements established by FORA and set forth in the request for proposals or qualifications.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ___ day of _____, _____, by the following vote:

AYES:
 NOES:
 ABSTENTIONS:
 ABSENT:

Ralph Rubio, Chair

ATTEST:

Michael A. Houlemard, Jr.
 Clerk

3.02.090. PREFERENCE FOR LOCAL SUPPLIERS.

(a) Each local supplier providing goods or supplies funded in whole or in part by Authority funds, or funds which the Authority expends or administers, is eligible for a local preference as provided in this section.

(b) Each local supplier who is within five percent of the lowest responsible bid is provided the opportunity to reduce the local supplier's bid to the amount equal to the amount of the lowest responsible bid. The opportunity to reduce bid amounts is provided first to the lowest eligible local bidder and, if not accepted by such bidder within five business days of the opening of bids, then to each successive eligible bidder in ascending order of the amount of bids. In the event an eligible local supplier reduces the bid to the amount of the lowest responsible bid, the eligible local supplier will be deemed to have provided the lowest responsible bid and will be awarded the contract.

(c) For the purpose of this section, the term "local supplier" means a business or resident doing business as a supplier in the jurisdiction of the Authority for the past five years.

3.02.130. EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENT.

(a) Notwithstanding any provision of this Article to the contrary, the competitive bidding procedures and requirements may be dispensed with in any of the following instances:

(1) When the estimated amount involved is less than \$25,000.00.

(2) When the commodity can be obtained from only one vendor.

(3) When the Board finds that the commodity is unique and not subject to competitive bidding.

(4) The Board may authorize the purchase of materials, supplies, equipment, and services where an emergency is deemed to exist and it is determined that service involving the public health, safety, or welfare would be interrupted if the normal procedure were followed.

(5) Any agreement involving acquisition of supplies, equipment, or service entered into with another governmental entity.

(b) Contracts for personal services, for professional and consultant services, and for other, non-public projects and contractual services may be executed without observing the bidding procedures provided in this Article. The Executive Officer is authorized to enter into such contracts where the amount of the contract does not exceed \$25,000.00, provided there exists an unencumbered appropriation in the fund account against which the expense is to be charged. Where the amount of the contract exceeds \$25,000.00, the contract will be approved by the Authority Board. In the case of professional services, qualifications and experience to the benefit of the Authority will receive first consideration. Upon determination of these factors, a price or fee may be negotiated.

3.03.040. LOCAL PREFERENCE.

(a) Each Contractor performing construction funded in whole or in part by Authority funds, or funds which, in accordance with a federal grant or otherwise, the Authority expends or administers, and to which the Authority is a signatory to the construction contract, will be eligible for a local preference as provided in the subsection, if such Contractor meets each of the following minimum requirements:

(1) The Contractor must be licensed by the State of California and be a business, employer, or resident doing business in the Area for the past five years.

(2) The Contractor must be a business, employer, or resident who has been adversely affected by the closure of the Fort Ord military base.

(3) Eighty percent (80%) of the work force of the Contractor must be residents of the Area and fifty percent (50%) of the Subcontractors must be residents of the Area.

(b) Each Contractor who is within five percent of the lowest responsible bid and who is eligible for a local preference under this subsection will be provided the opportunity to reduce the Contractor's bid to an amount equal to the amount of the lowest responsible bid. The opportunity to reduce bid amounts will be provided first to the lowest eligible bidder and, if not accepted by such bidder within five business days of the opening of bids, then to each successive eligible bidder in ascending order of the amount of the bids. In the event an eligible Contractor reduces the bid to the amount of the lowest responsible bid, the eligible Contractor will be deemed to have provided the lowest responsible bid and will be awarded the contract.

(c) In the event there is no available and qualified resident of the Area who can fill a specified position, vacancy, or job classification sought to be filled by the Contractor, or by a Subcontractor of the Contractor, the Contractor may request an exemption for the worker hours performed by a person who fills such position, vacancy, or job classification in computing the percentage of total worker hours performed by residents of the Area for the purpose of determining whether the Contractor has met the minimum requirements specified in this subsection. A Contractor seeking such an exemption must file a written application therefore with the Executive Officer on a form provided by the Executive Officer no later than ten days after the position, vacancy, or job classification for which the exemption is sought is filled by a nonresident of the Area. Such application must include a detailed written statement under oath describing the efforts and action taken by the Contractor, or the Contractor's Subcontractor, in attempting to hire a resident of the Area for the position, vacancy, or job classification for which the exemption is sought, and such further and additional information as may be requested by the Executive Officer.

(d) The provisions of this subsection will expire and will no longer be in force or effect on December 31, 1999, unless otherwise extended by the Board prior to such date.

3.03.110. MINORITY, FEMALE, AND HANDICAPPED-OWNED BUSINESSES.

The rules and regulations, as amended, promulgated by the Department of Transportation of the State of California pursuant to Section 10115 of the Public Contract Code for the certification and establishment of specified preferences applicable to minority, female, and handicapped-owned businesses are applicable to contracts for construction awarded by FORA.