

Chapter 2.75

PREFERENCES FOR LOCAL CONTRACTORS BIDDING ON CITY PROJECTS

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2.75.010 General Application.

Except as otherwise provided in this Chapter, whenever competitive bidding is required by law for any contract involving materials, services and/or labor furnished to the City of Delta for which appropriation or expenditure may be reasonably expected not to exceed five hundred thousand dollars (\$500,000) in the aggregate for any fiscal year, preference shall be given to each qualified local business in the manner more particularly described in this Section.

A. Definition of Qualified Local Business: A qualified local business means an individual or entity who, at the time of submitting a bid for a contract relating to a City of Delta purchase or work project, maintains principal place of business located within the City for primary preference, or within Delta County for secondary preference. Businesses which maintain satellite offices within the City shall not be considered local for purposes of this definition.

B. Award of Specific Contracts: Notwithstanding other provisions of this Chapter, in the course of evaluating bids or proposals pertaining to any contract for the purchase or lease of supplies, materials, equipment, or other personal property and/or any contract for labor to be performed on a public works project and/or any professional services contract, the City shall provide the following percentage preferences for local goods and services provided by local vendors when quality, delivery time and services are judged by the Purchasing Agent to be essentially equal: 5% primary preference for goods/services in the City and 2.5% secondary preference for goods/services in Delta County.

- 1) Each otherwise eligible contract bidder must sufficiently demonstrate ownership of a qualified local business in the related bid proposal documents.

- 2) When applying this provision to specific contract settings, the City will continue to give appropriate consideration and weight to all other relevant information and factors customarily used for comparison of bids in the process of selecting the lowest responsible bidder including, but not limited to, the following:
 - a. the relative quality of any proposed material items and their conformity with pertinent contract specifications;
 - b. the relative benefit to the City of proposed delivery and discount terms and conditions and proposed terms of warranty and repair for material items;
 - c. the overall experience, qualification and reputation of the bidder for performance of similar contracts, etc.
- 3) The City Council may modify these percentage preferences, provided that the modifications are advertised in the "Instructions to Bidders" prior to advertising for the bids for competitive bonded bid purchases, capital construction, capital equipment and plant equipment replacement in excess of one hundred thousand dollars (\$100,000). (Ord. 1, 2022)

2.75.020 Exceptions: The following contracts shall not be eligible for preferences contemplated by Section 2.75.010:

A. Contracts for which application of the provisions of said Section would be prohibited by State or Federal law or regulations, including projects that exceed five hundred thousand dollars (\$500,000), which shall adhere to the requirements of C.R.S. § 8-17-101, as now existing or hereafter amended.

B. Contracts funded in whole or in part by grants, donations or gifts to the City of Delta, the conditions of which prohibit or discourage preferences of the sort allowed by Section 2.75.010.

C. Contracts for redressing emergency conditions in the City of Delta where any delay in completion or performance of the contract would jeopardize public health, safety or welfare, or where in the judgment of the City Manager, or his or her designee, the operational effectiveness of a significant City of Delta function would be seriously impaired if the contract were

not entered into expeditiously without resort to competitive bidding processes.

D. Contracts with any single or sole source supplier for supplies, material, equipment or other personal property.

E. Any other contract setting in which the City determines the application of a preference would be fundamentally adverse to the City of Delta's interests. (Ord. 2, 2022)

2.75.030 Penalties For Providing False Bid Information

If the City Manager, or his or her designee, determines that a person or entity submitting a bid for a City contract has made an intentional misstatement of fact to obtain a contract preference under this Chapter, the City of Delta may pursue all consistent legal and/or equitable remedies afforded by Colorado law and, in addition, may impose the following penalties:

A. A finding of such an intentional misstatement by a contract bidder shall furnish a basis for disqualifying all current and future bids on City contracts from that bidder and his or its related business for a period of at least one full year from the date of the finding.

B. An intentional misstatement made to obtain a price preference under this Chapter shall subject the recipient of any such price preference to a civil penalty of treble the amount of the price preference actually received, or Three Hundred Dollars (\$300.00), whichever is greater. The City may collect such penalty, plus all reasonable attorney fees and costs incurred in the course of collection efforts, through civil proceedings filed in the appropriate Court in Delta County, Colorado. (Ord. 7, 2012)