

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY
THE FINAL, SIGNED ORDINANCE ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

**ADOPTING A VETERAN-OWNED SMALL BUSINESS
PREFERENCE PROGRAM FOR SPECIFIC CONTRACTING
CATEGORIES.**

* * * * *

WHEREAS, the City of San Antonio (the “City”) desires to honor the extraordinary service rendered to the United States by veterans who served in the active service of the Nation’s military, naval or air service, including reserve components thereof, and of the National Guard; and

WHEREAS, the City wishes to express this honor by giving a preference to small businesses owned and controlled by veterans in the award of certain contracts; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby adopts a veterans contracting preference program, to be included in Chapter 2 of the City Code of San Antonio, Texas. Chapter 2 is hereby amended by adding a new article, Article XI. Veterans Contracting Preference Program, which reads as follows:

CHAPTER 2 – ADMINISTRATION.

ARTICLE XI. VETERANS CONTRACTING PREFERENCE PROGRAM

Sec. 2-642. Declaration of Policy.

(a) It is the policy of the City of San Antonio to grant a preference to veteran-owned small businesses in accordance with the program set forth below, unless doing so would be contrary to the best interests of the City.

(b) Nothing in this Article prohibits the City from rejecting any and all bids or offers.

(c) Nothing in this Article requires the City to conduct a competitive solicitation for a contract.

Sec. 2-643. Definitions.

The words and phrases defined in this Section and used in this Article have the following meanings:

Concession Contracts mean the renting of City-owned space on a contractual basis for the purpose of making a profit by selling a commodity/service.

Respondent means a person or business entity that submits a responsive bid or proposal for a discretionary contract.

Veteran, as defined in 38 CFR §74.1, as amended, is a person who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps or Coast Guard, for any length of time and at any place and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard called to Federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as a veteran.

Veteran-owned small business (VOSB), as specified in 38 CFR §74.1, as amended, is a business that is not less than 51 percent owned by one or more veterans, or in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; the management and daily business operations of which are controlled by one or more veterans and qualifies as “small” for Federal business size standard purposes. When used in this Article, the term “VOSB” includes Service-disabled veteran-owned small business, as that term is specified in 38 CFR §74.1, as amended.

Small Business means a business that does not exceed the U.S. Small Business Administration’s size standards for small business preference eligibility, which vary by work category, as set forth in 13 CFR, §121.201, as amended.

Sec. 2-644. Applicability

The provisions of this policy apply to procurements of discretionary expenditure and revenue contracts for goods, services, and concessions, where the selection criteria is not limited by state or federal law in a manner that prevents application of the preference provided in this Article. This policy does not apply to any expenditure or revenue contract with a value that is less than the amount that is required to be bid pursuant to state law (Chapter 252, Texas Local Government Code, and as amended), currently \$50,000 or less.

Sec. 2-645. Preference Provided.

When conducting a competitive solicitation procedure for a contract to which this policy applies, 5% of the evaluation points (5 points, based upon a 100 point scale), shall be awarded to a Respondent that is a VOSB.

Sec. 2-646. Comparison of Qualifications.

The preference established herein does not prohibit or limit the right of the City to compare the quality of services proposed, or qualifications, character, responsibility and fitness of all persons or entities submitting responses to solicitations. In addition, the preference established herein

LOC

//13

Item No.

does not prohibit the City from giving any other preference permitted by law in addition to this preference.

Sec. 2-647. Responsibilities and Enforcement.

(a) The Finance Department, Purchasing Division (“Purchasing”), shall establish a methodology for certification as a VOSB. The City may rely on a party’s inclusion in the database of VOSBs maintained by the U.S. Small Business Administration, or certification by another public or private entity that uses similar certification procedures.

(b) The submission of documentation by a person or business entity that is required to establish status as a VOSB that is found to contain false information is grounds for debarment.

Sec. 2-648 - 2-650. Reserved.

SECTION 2. Outreach and Monitoring.

Purchasing shall establish a procedure to ensure that outreach is conducted to VOSBs for solicitations for which VOSBs may be suited. Purchasing, in coordination with the City’s Small Business Office, shall monitor and track VOSB participation in applicable City contracts. Data collected will be used to evaluate the program and recommend changes, such as the possible implementation of a goals based program, as allowable by law. Purchasing shall produce quarterly reports starting April 1, 2014, summarizing the dollar amount of procurements awarded to VOSBs under this Program.

SECTION 3. Codification.

It is the intention of the City that the provisions of this ordinance shall become and be made part of the City Code of San Antonio, Texas. The article and section numbers may be changed to accomplish such intention.

SECTION 4. Severability.

If any provision, section, subsection, sentence, clause, phrase or portion of this Ordinance, or the application of same, to any person or set of circumstances, is held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, and all provisions of this Ordinance are declared severable for that purpose.

SECTION 5. Effective Date.

This Ordinance shall be effective and apply to solicitations issued after January 15, 2014.

PASSED AND APPROVED this ____ day of _____, 2013.

LOC
//13
Item No.

M A Y O R
Julián Castro

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek
City Clerk

Michael D. Bernard
City Attorney

Draft