



## Legislation Text

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**File #:** 101245, **Version:** 2

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101245

SUBSTITUTE 2

ALD. BOHL AND HAMILTON

A substitute ordinance relating to the bid preference for local business enterprises.

365-3-1	rn
365-3-1	cr
365-3-2	rn
365-3-4	cr
365-3-5	cr
365-3-6	cr
365-3-7	cr
365-4-0	cr
365-7-1	rc

Current code grants a local business enterprise a competitive bid preference of 5%. This preference means a local business enterprise is awarded a contract if its bid does not exceed the lowest bid received by more than 5% if that lowest bid was made by a non-local business enterprise. Current code does not require the local business enterprise to lower its bid to match the lowest bid.

This ordinance increases the local business enterprise's competitive bid preference to 10%. It also requires a preference-qualifying local business enterprise to lower its bid to meet the lowest bid before the local business enterprise can be awarded the contract.

Whereas, The city desires to encourage and support local business, yet also must be mindful and prudent in spending city funds; and

Whereas, The city's current local business enterprise preference program, especially with regard to competitive bid contract awards, can result in the city paying as much as 5% more for goods and services than the city might otherwise pay; and

Whereas, Giving a local business enterprise bidding within 10% of the lowest bid an opportunity to win the contract by reducing its bid to match the lowest bid can be expected to support local business while saving money on city purchases; now,

therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 365-3-1 and 2 of the code are renumbered 365-3-2 and 3.

Part 2: Section 365-3-1 and 4 to 7 of the code is created to read:

**365-3. Definition.**

- 1.** COMPETITIVE BID means a bid evaluated and awarded based on the dollar amount of the submitted bid.
- 4.** LOW BID means the lowest dollar amount of a bid submitted by bidder.
- 5.** LOWEST BID means the lowest dollar amount of a group of submitted bids.
- 6.** MATCH THE LOWEST BID means reducing a bidder's low bid to equal the lowest bid.
- 7.** PROPOSAL means the response from a request for proposal evaluated based on a point scale awarded the submitted proposal.

Part 3. Section 365-4 of the code is created to read:

**365-4. Application.** This section shall not apply to any competitive bid contract for the construction, execution, repair, remodeling or improvement of a public work or building, or for the furnishing of supplies or material of any kind for the construction, execution, repair, remodeling or improvement of a public work or building.

Part 4. Section 365-7-1 of the code is repealed and recreated to read:

**365-7. Obligations of Contracting Departments.**

**1. CONTRACT AWARD.**

- a. A contracting department, shall, unless contrary to federal, state or local law or regulation, award a competitive bid contract to a local business enterprise that is otherwise a responsive and responsible bidder, provided its low bid does not exceed the lowest bid by more than 10%, and the local business enterprise agrees to match the lowest bid.
- b. If the bids of 2 or more local business enterprises do not exceed the lowest bid by more than 10%, the contract shall be awarded to the local business enterprise that agrees to match the lowest bid, and, if more than one local business enterprise agrees to match the lowest bid, the contract is awarded to the local business enterprise which submitted a low bid that exceeds the lowest bid by the smallest dollar amount.
- c. If a bid submitted by a non-local business enterprise and a bid submitted by a local business enterprise tie for lowest bid, the contract shall be awarded to the local business enterprise. If the bids of 2 or more local business enterprises tie for lowest bid, or the low bid of 2 or more local business enterprises tie, and each local business enterprise agrees to match the lowest bid as provided in par. b, the contract shall be awarded based on the process established by the city purchasing director for breaking ties.
- d. A contracting department shall, unless contrary to federal, state or local law or regulation, apply an award standard in the composition of scales used to evaluate

proposals submitted in response to formal requests for proposals to procure goods or services. An additional number of points, equal to 5% of the maximum number of points used in the evaluation, shall be applied to increase the total score attained by a local business enterprise.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB 125033  
Aaron Cadle  
07/20/11