

Port of Houston Authority
Amended Local Preference Program and Policy
December 2017



I. Purpose

The Amended Local Preference Program and Policy (the “Program”) set out herein is a contracting program that the Port of Houston Authority of Harris County, Texas (“Port Authority”) has approved, enabling it to consider (as a contract selection and award criteria) the impact that a proposed purchase may have on the Port Authority’s ability to comply with statutory requirements and this Program, pursuant to Texas Water Code, Section 60.458(6). It sets out the principles under which preference to local businesses (as may be defined from time to time) may be granted for certain Port Authority procurements.

II. Policy Statement

It is the policy of the Port Authority to use its spending powers in a manner that:

A. Promotes fiscal responsibility and maximizes the effectiveness of local tax dollars by ensuring that a portion of Harris County citizens’ tax dollars remain in the local economy for the economic benefit of those citizens, by utilizing all available opportunities to contract with local businesses;

B. Places an affirmative duty on Port Authority staff to grant a procurement preference to local businesses in accordance with the policy and standards of this Program, unless doing so would be clearly contrary to the best interests of the Port Authority; and

C. Is reasonable and fair.

III. Background

A. The Port Authority seeks to maximize the effectiveness of local tax dollars by ensuring that a portion of the Port Authority’s operating and capital expenditures is directed to local businesses for the economic benefit of the local region.

B. The Program is consistent with the Port Authority’s overall mission: “*To move the world and drive regional prosperity,*” and its Stewardship strategic objective to “*Cultivate productive relationships with all stakeholders.*”

C. The Program also supports the mandates initially placed upon the Port Authority by Chapter 97, Acts of the 40th Texas Legislature in 1927, including the authority and responsibility to acquire, construct, operate, and develop waterways, facilities, and all other aids incident to or useful in the operation or development of ports and waterways or in aid of navigation and commerce on the ports and waterways within the Port Authority’s jurisdiction.

D. Preference offered to local businesses under the Program may also be appropriate

for expenses paid from the Port Authority's Promotion and Development Fund. In accordance with Texas Water Code, Section 60.203, such expenses may be related to

(1) any activity or matter incidental to the advertising, development, or promotion of the district or its ports, waterways, harbors, or terminals; (2) furthering the general welfare of the district and its facilities; or (3) the betterment of the district's relations with steamship and rail lines, shippers, consignees of freight, governmental officials, or others interested or sought to be interested in the ports, waterways, harbors, or terminals.

E. This Amended Local Preference Program and Policy amends and joins together the Local Preference Procurement Program and Local Preference Procurement Program Policy adopted by the Port Commission on November 19, 2013, evidenced by Minute No. 2013-1119-25.

IV. Application of Program

The Program shall apply to formal procurement contracts, excluding sole-source contracts, federally-funded contracts, contracts with other governmental entities, and those contracts for which participation in the Program is otherwise prohibited by applicable law or exempted by the Port Authority.

V. Staff Responsibilities

A. The Port Commission hereby directs staff to prepare and from time to time update reasonable standards and procedures consistent with this Program for staff's administration of such activities, including those matters listed below:

1. Establishment of a point of control and coordination for Local Preference data collection and reporting activities;

2. Assignment of responsibilities for management of the Local Preference Program activities; and

3. Assignment of responsibilities for evaluating activities subject to this Program.

B. Standards and procedures developed by staff are subject to revision by the Port Commission.

VI. Program Authority and Construction

A. Texas Special District Local Laws Code, Chapter 5007

B. Texas Water Code, Chapters 60, 61, and 62, and particularly Section 60.458 as follows:

Sec. 60.458. PURCHASE CONTRACT AWARD CRITERIA. Except as provided by this subchapter, in determining to whom to award a contract, the district may consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses, and on the district's small business development program, local preference program, or other contracting program adopted by the district, if any;
- (7) the total long-term cost to the district to acquire the vendor's goods or services; and
- (8) any other relevant factor specifically listed in the request for bids or proposals.

VII. Policy Responsibilities

A. This Program does not constrain the discretion of the Port Commission, which may amend this Program at any time for any reason.

B. In the absence of a contrary directive by the Executive Director, the Senior Director of Small Business and Education Outreach is responsible for this Program's implementation, and is the contact person for its interpretation.

C. This Program supersedes and replaces any prior programs and policies adopted by the Port Commission regarding Local Preference.

D. This Program, and any standards and procedures established to implement it, is a nonbinding statement of intent, which does not create a property interest in any person, does not constitute a contractual obligation of the Port Authority to others, and does not waive any of the Port Authority's immunities under law, including the Port Authority's immunity from suit and its immunity from liability. Nothing in this Program prohibits the Port Authority from rejecting any and/or all offers received in response to a procurement solicitation. The Port Authority reserves the right to assert every defense to any claim that is available to it under law.

VIII. Adoption

This Amended Local Preference Program and Policy was adopted by the Port Commission on the December 12, 2017 as evidenced by Minute No. 2017-1212-10.

Policy Owner: Finance Division
Policy Version: Amended 1.0