

**RESOLUTION NO. 72-2017**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
ESTABLISHING COUNCIL POLICY STATEMENT 2017-001 – LOCAL PREFERENCE  
FOR BIDDERS**

**WHEREAS**, the Local Government Code, section 271.905 and 271.9051, establishes rules governing the applicability of local preference points; and

**WHEREAS**, it is the policy of the City of Abilene (the “City”) to use local vendors whenever possible for the purchase of the goods and services required by the City; and

**WHEREAS**, it is the policy of the City to place an affirmative duty on City departments to grant a preference to local vendors to the fullest extent allowed by law, unless so doing would be contrary to the best interests of the City; and

**WHEREAS**, nothing in this Council Policy Statement prohibits the City from rejecting any and all bids; and

**WHEREAS**, the following are exceptions to this policy;

1. This policy does not apply to any contract funded in whole or in part by the federal government or where the City acts as a conduit for federal money.
2. This policy does not apply to any contract where the City Manager or City Council fail to determine that that it would be in the City’s best interest to award local preferences.
3. This policy does not apply to any contract procured through a “best value” procurement method or other Alternative Delivery methods as authorized by the Government Code and Local Government Code.
4. Per Texas Local Government Code § 271.9051, this policy does not apply to the purchase of telecommunication services and information services, as defined by 47 U.S.C.A § 153.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

Part 1: It is the policy of the City to use local vendors whenever possible for the purchase of goods and services.

Part 2: It is the policy of the City to place an affirmative duty on City departments to grant a preference to local vendors to the fullest extent allowed by law, unless so doing would be contrary to the best interest of the City.

Part 3: Nothing in this Council Policy Statement prohibits the City from rejecting any and all bids.

Part 4: That this Resolution takes effect immediately upon its adoption.

**ADOPTED this 11 day of May, 2017.**

ATTEST:

  
Danette Dunlap, City Secretary

  
Norm Archibald, Mayor

APPROVED:

  
Stanley Smith, City Attorney

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### PURPOSE

The purpose of this policy is to establish rules governing the applicability of local preference points as authorized in the Texas Local Government Code Chapter 271.905 and 271.9051, and to promulgate the same.

### POLICY AND PROCEDURE

- A. It is the policy of the City of Abilene (the “City”) to use local vendors whenever possible for the purchase of the goods and services required by the City.
- B. It is the policy of the City to place an affirmative duty on City departments to grant a preference to local vendors to the fullest extent allowed by law, unless so doing would be contrary to the best interests of the City.
- C. Nothing in this Council Policy Statement prohibits the City from rejecting any and all bids.

### DEFINITIONS

The words and phrases in this section and used in this policy statement have the following meaning:

Bid means a response to a procurement for goods or non-professional services awarded solely on the basis of price.

Bidder means a responsible person or business entity that submits a responsive bid.

City Manager means the City Manager of the City of Abilene, Texas or his or her designee.

Headquartered means the place where a business entity’s officers direct, control and coordinate the entity’s activities.

Joint Venture means a collaboration of for-profit business entities, in response to a solicitation, wherein two or more independently owned and controlled business firms form a third business entity solely for the purposes of undertaking the completion of a given contract awarded through the solicitation.

Local vendor means a for-profit business with a principal place of business within the city limits.

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Principal Place of Business means a business headquartered for one year or more, or having an established place of business for one year or more in the city limits of the City and from which full-time employees are regularly-based and perform substantial and commercially useful functions for the business.

## METHODOLOGY

## A. Purchases of Personal Property

1. For contracts for personal property not affixed to real property, if the City receives one or more bids from a bidder that is a local vendor and whose bid is within three (3%) percent of the lowest bid price received by the City from a bidder who is not a local vendor, the City may enter into a contract with the bidder that is a local vendor. (Texas Local Government Code § 271.905)
2. In addition, contracts for personal property not affixed to real property that are submitted by a local vendor are eligible to receive a bid award if their bid is within five (5%) percent of the lowest bid received by the City from a bidder who is not a local vendor. This five (5%) local preference is not cumulative of, but is in the alternative of, the three (3%) percent authorized above, and it is only allowed if the total contract award is under \$500,000. (Texas Local Government Code § 271.9051)
3. When a bidder is a joint venture, each joint venture partner must meet the definition of a local vendor to be eligible for the preferences authorized above.
4. In determining whether or not to award the bid to the bidder that is a local vendor through the three (3%) percent or five (5%) percent local preference, the City Council must determine in writing the following: "the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the City and increased tax revenues to the City." Such determination shall be recommended by the City Manager, and confirmed by the City Council by affirmative vote of the City Manager's recommendation.

## B. Purchases on Non-Professional Services

1. For non-professional service contracts under five hundred thousand dollars (\$500,000), excluding construction services, if the City receives one or more competitive sealed bids from a bidder that is a local vendor and whose bid is within five (5%) percent of the lowest competitive sealed bid price received by the City from a bidder who is not a local vendor, the City may enter into a contract that requires an expenditure of under five hundred thousand dollars (\$500,000) with the bidder that is a local vendor. (Texas Local Government Code § 271.9051)

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2. For a contract for construction services under one hundred thousand dollars (\$100,000), if the City receives one or more competitive sealed bids from a bidder that is a local vendor and whose bid is within five (5%) percent of the lowest competitive sealed bid price received by the City from a bidder who is not a local vendor, the City may enter into a contract that requires an expenditure of less than one hundred thousand dollars (\$100,000) with the bidder that is a local vendor. (Texas Local Government Code § 271.9051)
3. When a bidder is a joint venture, each joint venture partner must meet the definition of a local vendor to be eligible for the preference authorized above.
4. In determining whether or not to award the bid to the bidder that is a local vendor through the five (5%) percent local preference, the City Council must determine in writing the following: “the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the City and increased tax revenues to the City.” Such determination shall be recommended by the City Manager, and confirmed by the City Council by affirmative vote of the City Manager’s recommendation.

C. Purchases for Professional Services; Revenue and Concession Contracts

1. In procuring professional services under the Professional Services Procurement Act, Government Code § 2254.004, the City Manager may award up to five (5%) percent of the total available points to a respondent based upon the knowledge of, and experience regarding local conditions as part of the qualifications determination.
2. In procuring other professional services not governed by statute, revenue and concession contracts, the City Manager may award up to five (5%) percent of the total available points to a respondent that is a local vendor headquartered within the city limits of the City, or up to three (3%) percent of the total available points to a respondent that is a local vendor not headquartered within the city limits of the City.
3. When a respondent is a joint venture, at least one joint venture partner must meet the definition of a local vendor to be eligible for the point awards authorized above.

D. Additional Provisions:

1. If two or more bidders have bids that are identical in nature and amount, with one bidder being a resident of the City and the other bidder or bidders being non-residents, the City Council must select the resident bidder. (Local Government Code § 271.901(b))
2. The City must give local preference to a local vendor if there are out-of-state bidders that have bid on the contract and the out-of-state bidder or manufacturer is located in a state that discriminates against out-of-state bidders in its bid awards in favor of local bidders. (Government Code § 2252.001 et seq.)

CITY OF ABILENE, TEXAS

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E. Exceptions to this policy

1. This policy does not apply to any contract funded in whole or in part by the federal government or where the City acts as a conduit for federal money.
2. This policy does not apply to any contract where the City Manager or City Council fail to determine that that it would be in the City's best interest to award local preferences.
3. This policy does not apply to any contract procured through a "best value" procurement method or other Alternative Delivery methods as authorized by the Government Code and Local Government Code.
4. Per Texas Local Government Code § 271.9051, this policy does not apply to the purchase of telecommunication services and information services, as defined by 47 U.S.C.A § 153.

F. Reference chart for this policy

<b>Local preference may be awarded up to the following maximum percentages</b>			
<b>Description</b>	<b>Under \$100,000</b>	<b>\$100,000 to under \$500,000</b>	<b>\$500,000 or more.</b>
Personal Property	5%	5%	3%
Construction Services	5%	N/A	N/A
Non-professional Services	5%	5%	N/A