

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
12	01/09/17	Open	Action	01/03/17

Subject: Small and Local Business Preference Program Policy

ISSUE

Whether or not to adopt changes to RT's Small and Local Business Preference Program Policy

RECOMMENDED ACTION

No specific course of action is recommended by staff.

FISCAL IMPACT

None as a result of this item. It is noted, however, that giving preference to local businesses may result in Contract award to a local contractor who does not offer the best price for the goods or services sought by RT. This would result in RT potentially paying a higher price for the goods or services compared to a situation in which local businesses are not given a preference.

DISCUSSION

The current RT Local Business Preference Program requires that a business be "located" within the Sacramento, El Dorado, Placer, Sutter, Yolo or Yuba County, to be eligible to receive program preferences. Businesses that are eligible can receive a 10% Local Business Enterprise (LBE) point preference on RT State and Locally-funded formal procurements for services.

Interested community groups have requested that the Board make changes to the Program, to require that businesses must be "*headquartered*" in the RT Program's defined region in order to be eligible to receive program preferences.

Additionally, questions have been raised by members of the community regarding the Program's defined region as it includes counties outside of RT's system map. The counties specified in RT's LBE Program are within the geographical area established by the state legislature as the Greater Sacramento Region and are the counties within the jurisdiction of the Sacramento Area Council of Governments (SACOG).

At the RT Board meeting of December 12, 2016, staff presented an information item directed to the issue of whether the scope of what constitutes an LBE should be modified and the Board heard public testimony on the matter. Some members of the public have expressed a strong interest in this policy issue for some time and have presented public testimony to the Board several times over the past year.

During the December Board meeting, staff provided alternative policy approaches to the Board for its consideration as follows:

Approved:

Presented:

Final 01/04/17

General Manager/CEO

Fernando Barcena, Manager, Contracts & DBE

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- 1) Leave the Local Business definition unchanged; or
- 2) Change the Local Business definition to allow preference points be given only to firms “headquartered” in the region; or
- 3) Modify the policy to provide different levels of point preferences to business that are headquartered in the region versus just located in the region (e.g. 10% preference points to businesses headquartered in the region and 5% preference points to businesses just located in the region).

The Board directed staff to return at the meeting of January 9, 2017 to frame the issues for a Board discussion and potential policy change.

Staff has further reviewed how some other transit districts and local agencies in California define Local Business. Not many public agencies that RT staff identified and used for comparison purposes have LBE preference programs. Of the six agencies whose LBE programs were reviewed, 3 used “principal place of business” (only) in the definition (County of Sacramento, City of San Francisco, and San Francisco Municipal Transportation Authority (SFMTA)) and 3 used “location” or “satellite office” or “branch office” (City of Sacramento, Alameda Contra-Costa Transit District (AC Transit), and Solano Transportation Authority (STA)), .

The purpose of a preference is to give an advantage to a firm where “all else is equal” (i.e. technical proposal and/or qualifications of the firms are essentially equal as reflected in the evaluation scoring). The intent of providing an aggressive competitive advantage to LBEs may be negatively affected by the application of tiered preferences as suggested in alternative approach 3, where both “located” and “principal place of business” are included in the definition of LBE , What was initially an aggressive 10% preference is in effect reduced to a 5% preference in the case where the pool of proposers includes firms meeting either geographic definition.

If the Board elects to define LBE as a firm with a branch office or whose principal place of business is within the program’s defined region, the definition would read:

Local Business means a business that maintains a branch office or its Principal Place of Business, within the geographical boundaries of Sacramento, El Dorado, Placer, Sutter, Yolo or Yuba counties, and be an established business entity conducting business operations for at least 6 consecutive months prior to the due date of the bid or proposal.

Alternatively, the RT Board may decide to change the current policy to define LBE as a firm whose “principal place of business” is within the program’s defined region In this case the definition of Local Business would read:

Local Business means a business that maintains its Principal Place of Business within the geographical boundaries of Sacramento, El

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Dorado, Placer, Sutter, Yolo or Yuba counties, and be an established business entity conducting business operations for at least 6 consecutive months prior to the due date of the bid or proposal.

The use of the term "principal place of business" instead of the term "headquartered" is consistent with court rulings which refer to a company's principal place of business the "nerve center" of the corporation – the place where the officers direct, control, and coordinate corporate activity.

If the Board is inclined to make a policy change, as a "clean up" item Staff recommends that the Board amend the SBE/LBE policy language to clarify that the phrase "formal and informal procurement," in the context refers to the phrase as defined in RT's Procurement Ordinance.

RESOLUTION NO. 17-01-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

January 9, 2017

**MODIFYING THE DEFINITION OF THE LOCAL BUSINESS DESCRIPTION IN THE
SMALL AND LOCAL BUSINESS PREFERENCE PROGRAM POLICY**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE
SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the definition of Local Business in Sacramento Regional Transit's District
Small and Local Business Preference Program is changed to read

Local Business means a business that maintains a branch office or
its Principal Place of **Business**, within the geographical boundaries
of Sacramento, El Dorado, Placer, Sutter, Yolo or Yuba counties, and
be an established business entity conducting business operations for
at least 6 consecutive months prior to the due date of the bid or
proposal.

THAT, the Sacramento Regional Transit District's Small and Local Business
Preference Program policy language that specifies the dollar value threshold differentiating
formal and informal procurements is changed to mean "formal and informal procurements
as defined in RT's Procurement Ordinance."

JAY SCHENIRER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

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JAY SCHENIRER, Chair

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HENRY LI, Secretary

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