

ADMINISTRATIVE CODE / DIVISION 10 CONTRACTS / CHAPTER 1 CONTRACTS
GENERAL / ARTICLE 4 SMALL, LOCAL BUSINESS PROGRAM

ARTICLE 4
SMALL, LOCAL BUSINESS PROGRAM

Section

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GENERAL / ARTICLE 4 SMALL, LOCAL BUSINESS PROGRAM / Sec. 10.25. **Small,
Local Business.**

Sec. 10.25. Small, Local Business.

A business entity shall qualify as a “**Small, Local Business**” as used in this ordinance if it:

- (a) Is not (or together with an affiliate) dominant in its field of operations.
- (b) Is independently owned and operated, with its principal office located in the County of Los Angeles and holds a City business license issued by the Tax and Permit Division of the City Clerk’s office, if this firm is subject to the City Business Tax.
- (c) Has requested classification as a Small, Local Business and has been approved as such by the City. In order to be so approved, a business entity shall set forth, under penalty of perjury, such information as is requested by the City on either electronic or hardcopy forms supplied by the City as part of the supplier registration process and/or not less than five (5) calendar days before the last day for submission of the bid or proposal as to which the business entity seeks to qualify as a Small, Local Business. The forms containing the required information shall be submitted to the Department of Public Works, Bureau of Contract Administration. Among the criteria the City shall consider in

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determining whether a business entity so qualifies is whether the business entity, together with any affiliate, has annual receipts which are less than \$3 million for the previous fiscal year. The City may in the alternative request such information for the previous calendar year.

SECTION HISTORY

Added by Ord. No. 153,662, Eff. 6-1-80.

Amended by: Ord. No. 157,595, Eff. 5-15-83, Ord. No. 169,059, Eff. 10-24-93; Ord. No. 173,186, Eff. 5-22-00; Subsec. (c), Ord. No. 174,048, Eff. 8-5-01.

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Definitions.

Sec. 10.26. Definitions.

Definitions for terms used in Section 10.25 are as follows:

(a) “**Affiliate**” means concerns are affiliates of each other when either directly or indirectly one concern controls or has the power to control the other or a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: Provided, however, that restraint imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

In the following circumstances there will be a presumption that concerns are affiliates; however, such presumption may be rebutted by clear and convincing evidence that affiliation in fact does not exist.

(1) If the concern applying for classification as a Small Local Business has been assisted by another concern which is engaged in a similar or commonly related business activity to meet bonding requirements, and the assisting concern is listed or otherwise designated as a subcontractor or supplier for more than 25% of the contract price required to be performed per the prime bid.

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(2) If the controlling or majority owners of concerns which are engaged in similar or commonly related business activity are familially related, as defined herein, and have established a business or financial relationship between them.

Nature of Control. Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative, and it is immaterial whether it is exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern because of the ability to negate actions desired by the other stockholder. Also, the bylaws of a corporation may be drawn up in such a manner which would permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders.

Control Through Stock Ownership. A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls, or has the power to control, is large as compared with any other outstanding block of stock. If two or more parties each owns, controls, or has the power to control less than 50 percent of the voting stock of a concern and such minority block is equal or substantially equal in size, and large as compared with any other block outstanding, there is a presumption that each of such parties controls or has the power to control such concern; however, such presumption may be rebutted by clear and convincing evidence that such control or power to control, in fact, does not exist.

If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

(b) "**Annual receipts**" means the gross income (less returns and allowances, sales of fixed assets, and inter-affiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts,

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percentage or completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern which has been in business more than 12 months changes its accounting period (fiscal year), its annual receipts will be determined from its most recently completed 12-month period in business.

If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts, to include the affiliates receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are to be included if such concern was an affiliate during a portion of the applicable accounting period.

(c) **"Familially related"** means relationships between the following family members; Husband, wife, child, stepchild, mother, father, grandparent, brother, sister, grandchild, stepbrother, stepsister, stepmother, stepfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, and if related by blood uncle, aunt, niece, nephew.

(d) **"Non-manufacturing"** – for the purpose of purchase of materials, supplies, and equipment made by the Purchasing Agent or its successor in interest means, when concern does not manufacture, produce, or add value to the products required to be furnished by such purchase:

(e) **"Not dominant in its field of operation"** means when it does not exercise a controlling or major influence on a local Statewide basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreement, facilities, sales territory, and nature of business activity.

SECTION HISTORY

Added by Ord. No. 153,662, Eff. 6-1-80.

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Incorrect Supporting Information.

Sec. 10.27. Incorrect Supporting Information.

(a) A firm which has obtained classification as a Small, Local Business by reason of having furnished incorrect supporting information and which by reason of such classification has been awarded a contract to which it would not otherwise be entitled shall:

1. Pay to the City of Los Angeles any difference between the amount paid to the firm pursuant to the contract and what the City's costs would have been if the contract had been properly awarded.
2. At the option of the City be subject to having all or part of the contract terminated.
3. Be ineligible to transact any business with the City for a period of not less than three months and not more than 24 months as determined by the awarding authority.

(b) Prior to the imposition of any sanction under this section the contractor, or vendor, shall be entitled to a public hearing by the awarding authority and to a ten day notice of the time and place thereof. The notice shall state the reason for the hearing.

SECTION HISTORY

Added by Ord. No. 153,662, Eff. 6-1-80.

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of Contracts.**

Sec. 10.28. Award of Contracts.

Any supplier or contractor who qualifies as a "Small, Local Business" and is a responsible bidder or proposer shall be granted a preference as to all contracts of \$100,000 or less, for which bids or proposals were solicited, in an amount equal to 10% of the bid or proposal of the lowest and best responsible bidder or proposer, if that latter bidder or proposer has not qualified as a Small, Local Business. If, after deduction of the 10% preference from the bid or proposal of the Small, Local Business, the bid or proposal is equal to or less than the lowest bid or proposal, the bid or proposal of that Small, Local Business shall be deemed to be the lowest

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bid or proposal.

SECTION HISTORY

Added by Ord. No. 153,662, Eff. 6-1-89.

Amended by: Ord. No. 165,973, Eff. 7-23-90; Ord. No. 173,186, Eff. 5-22-00; Ord. No. 174,048, Eff. 8-5-01.

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Assistance to Small, Local Business and Awarding Authorities.

Sec. 10.29. Assistance to Small, Local Business and Awarding Authorities.

(a) The Mayor's Office of Economic Development will verify eligibility of any business applying for status as a "**Small, Local Business**" and will, to the extent feasible:

(1) Assist small, local business in complying with the procedures for bidding on City contracts;

(2) Work with appropriate State, Federal and private organizations in disseminating information on bidding procedures and the opportunities of small, local business for City contracts;

(3) Assist awarding authorities, as requested, in the performance of the awarding authorities' functions under the City's Small, Local Business Program.

(b) The Mayor's Office of Economic Development will publish and disseminate a list of approved Small, Local Businesses to all City contract-awarding authorities which shall be updated and distributed to City awarding authorities on a regular basis.

SECTION HISTORY

Added by Ord. No. 153,662, Eff. 6-1-80.

Amended by: Ord. No. 169,059, Eff. 10-24-93; Ord. No. 174,048, Eff. 8-5-01.

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Sec. 10.30. Reports.

The Mayor's Office of Economic Development shall submit an annual report to the City Council no later than October 1 of each year for the previous fiscal year, containing the following information:

(1) A list of concerns which were awarded contracts as a Small, Local Business and the dollar amount of each contract.

(2) Any recommendation for changes in the ordinance or City policies to improve opportunities for small, local business.

SECTION HISTORY

Added by Ord. No. 153,662, Eff. 6-1-80,

Amended by: Ord. No. 168,594, Eff. 3-26-93, Ord. No. 169,059, Eff. 10-24-93; Ord. No. 174,048, Eff. 8-5-01.