

POLICY BRIEFING: Local Preference for Vendor Procurement

Current Minneapolis Procurement Landscape

The 2017 Minnesota Joint Disparity Study found that roughly “84 percent of City procurement dollars went to firms with locations in the Twin Cities Metropolitan Area.”¹

Minneapolis currently has the following procurement programs which focus on businesses which meet certain criteria specific to each program.

Small and Underutilized Business Program (SUBP)

- 1) “It is the policy of the City of Minneapolis to provide equal opportunities to all contractors, and to redress the discrimination in the city’s marketplace and in public contracting against women-owned (“WBE”) and minority-owned (“MBE”) business enterprises. The City of Minneapolis shall set contract goals for the participation of eligible MBEs and WBEs based upon their qualifications and availability.

The level of participation of WBEs and MBEs shall be reviewed annually by the director to ensure that:

- a) (The Small and Underutilized Business Enterprise Program remedies no more than the effects of past discrimination;
- b) (The Small and Underutilized Business Enterprise Program does not become an entitlement or quota program for any group; and
- c) The Small and Underutilized Business Enterprise Program does not limit, in any way, the participation of WBEs and MBEs in the marketplace.”²

“The Small and Underutilized Business Program (SUBP) requires all suppliers to make good faith efforts to subcontract with BIPOC owned and/or woman-owned firms (MBEs and WBEs) on larger city-funded projects.”³

For more information, review the [SUBP](#) website.

HUD Section 3 Program

- 1) This program is race and gender neutral and applies only to construction projects that receive certain HUD financial assistance. Qualification is based on income and residency in the service area or the neighborhood of the construction project.

¹ Keen Independent Research. [2017 Minnesota Joint Disparity Study: City of Minneapolis Final Report](#).

² Minneapolis, Minn., Code of Ordinances (MCO) [§§ 423](#). (2011).

³ [City of Minneapolis Guide to Doing Business with the City Guide](#). September 2023.

For more information, review the [HUD Section 3 Program](#) website.

Target Market Program (TMP)

- 1) “The Target Market Program (TMP) is a race- and -gender-neutral program aimed at expanding opportunities for historically underutilized small businesses and stimulating the local economy through increased economic opportunities in the City’s marketplace. Under the TMP, qualified small businesses will have the ability to respond alongside other similarly situated small businesses for City contracts up to \$175,000 instead of competing against larger, more established companies.
- 2) *TMP Eligibility Criteria*
 - a) Principal place of business is located within the 13-county metro area (Minnesota counties of Anoka, Benton, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Stearns, Washington, and Wright)
 - b) Business is independently owned and controlled
 - c) Business is a for-profit business
 - d) Business performs a commercially useful function”⁴ & ⁵

According to City of Minneapolis Procurement, prior to TMP being enacted in 2017, they investigated many program possibilities as part of the Supplier Diversity initiative, with others from the City and the Attorney’s Office. Due to numerous restrictions, they created a gender and race neutral program “through which Procurement was able to bring many local, small and WBE/MBE businesses into a City pool of vendors and give them a chance to compete for city contracts without the large businesses in that market. This has been very successful and is in its 6th year. This program has helped us to increase the participation of small businesses owned by people of color steadily over the years.”

For more information, review the [TMP](#) website.

Saint Paul, Hennepin County, and Ramsey County do not currently have any local preference programs.

Local Preference

Local preference generally refers to giving companies located within certain geographic boundaries (city, county, state, etc.) “an advantage in the bidding process for contract work inside that territory.” The main goals often cited include keeping as much money as possible in the local economy, local job creation, keeping businesses within the geographic area, and increased tax revenues. It is not allowed on projects that use federal funding.⁶

Contractors and business owners can be found both supporting and opposing local preference programs. For example, businesses within Los Angeles have higher labor costs and business taxes than those outside of it, so in their view, a local business preference helps level the playing field.⁷ However, contractors in Maine argue that it harms them because it leads to other states and regions implementing similar policies, negatively

⁴ [City of Minneapolis Guide to Doing Business with the City Guide](#). September 2023.

⁵ Minneapolis, Minn., Code of Ordinances (MCO) [§§ 18A](#). (2016).

⁶ Barrett, Katherine & Greene, Richard. February 27, 2018. [In Government Procurement, Buying Local Is Popular. But Is It Beneficial?](#) *Governing*.

⁷ Fine, Richard. September 26, 2010. [Out of Bounds?](#) *Los Angeles Business Journal*.

impacting their ability to work competitively in those areas.⁸

Support

There is evidence of the positive effect of local preference programs, as well as many example programs across the country, which are reviewed further later in this brief. An article in Engineering News-Record Midwest, a national engineering and construction publication, showcased a study presentation⁹ from February 2023, which analyzed “the value of hiring in Pennsylvania for local construction projects. The study by the progressive Keystone Research Center concluded that over 5 years, hiring 10% more in-state contractors on public projects in Pennsylvania created 7,000 jobs, raised local business sales by \$1 billion, increased state and local tax revenues by \$70 million and added \$9 million to local apprenticeship training programs. The study also looked at just one, relatively small project, the rehabbing of the 7th Street Bridge in Pittsburgh. It found that hiring out-of-state workers created 59 fewer jobs for local painters and 10 fewer jobs in other areas; cost local businesses \$1.4 million in lost revenue, generated \$88,000 less in state and local tax revenues and reduced money for local apprenticeship programs by \$31,000 in contributions.”¹⁰

A study in Springfield, Missouri concerning a proposed 8 percent bid credit for local businesses bidding on public works projects was conducted by the pro-organized labor research institute, the Midwest Economic Policy Institute and the Project for Middle Class Renewal (PMCR). It found the following:

- 1) “The City plans to invest \$471 million on infrastructure improvements over the next five years.
- 2) Local workers spend 67 percent of their pre-tax income back in the local economy compared to just 30 percent for nonlocal workers.
- 3) Employing local workers on the City’s Capital Improvements Program projects would boost the economy by \$785 million and save or create jobs for more than 3,200 residents over the next five years.
- 4) However, employing nonlocal workers on the projects would result in local businesses—such as stores and restaurants—missing out on \$71 million in sales and saving or creating jobs for 400 fewer Springfield residents over the next five years.
- 5) Employing local workers on the City’s Capital Improvements Program projects would increase local tax revenues—primarily from sales taxes and property taxes—by \$11.1 million compared with an alternative scenario in which they are completed by nonlocal workers.
- 6) Hiring local contractors would increase investments in local apprenticeship training funds by \$1.4 million over the next five years.”¹¹

Speaking about the study in the ENR Midwest article, one of the authors, Frank Manzo, stated “Hiring non-local and out-of-state contractors can sometimes initially appear penny wise, but ultimately it proves to be pound foolish. ... That’s because instead of saving taxpayer dollars, like it initially appears when you’re putting this out to bid and you’re picking that low bidder, it ends up costing jobs for local residents and costing sales for local businesses.”¹²

⁸ Barrett, Katherine & Greene, Richard. February 27, 2018. [In Government Procurement, Buying Local Is Popular. But Is It Beneficial?](#) *Governing*.

⁹ Herzenberg, Stephen et al. [The Value of Hiring Local on Infrastructure Projects in Pennsylvania](#). *Keystone Research Center*.

¹⁰ Phipps, Jennie. March 13, 2023. [Study Shows Local Preference Bid Laws Favor Keeping Money and Business Close](#). *ENR Midwest*.

¹¹ Bruno, Robert & Manzo, Frank. October 17, 2022. [An Economic Impact Analysis of Hiring Local in Springfield, Missouri](#). *Project for Middle Class Renewal and Midwest Economic Policy Institute*.

¹² Phipps, Jennie. March 13, 2023. [Study Shows Local Preference Bid Laws Favor Keeping Money and Business Close](#). *ENR Midwest*.

However, despite these examples, most municipalities that have local preference programs have not publicly provided quantified data on their impact. Following up with municipalities which have current programs would be an area for further exploration in the future.

Opposition

There is also opposition to these programs across the country from a variety of interested parties. Unsurprisingly, businesses located outside of preference area often view the programs negatively.¹³ Other concerns include impacting the quality of the bids and the difficulties of program implementation,¹⁴ as well as increased costs to taxpayers, limiting competition, defining program parameters,¹⁵ and impeding regionalism.¹⁶

The NIGP: The Institute for Public Procurement has an official position paper regarding its opposition to local preference programs. While City of Minneapolis Procurement staff are members of NIGP and get training and relevant certifications through the organization, they noted that NIGP is a national organization, meaning their guidelines are very general, and the City is not required to adhere to them.

The NIGO position paper states, "Upheld by federal and state laws when established to achieve the state interest, the use of such local preference programs present advantages and disadvantages for governments in their quest for quality, savings, fairness, and efficiency in the procurement of goods and services. ... NIGP: The Institute for Public Procurement maintains the position that preference policies, including local preferences, conflict with the fundamental public procurement principles of impartiality and full and open competition. Therefore, NIGP does not support the use of preference policies. ... Acknowledging that governments may in fact adopt local preferences as a tool for improving local economies, NIGP recommends that any local procurement preferences be implemented only as one of several criteria in a 'best value' evaluation and award process. Best value means the most advantageous balance of price, quality, and performance identified through competitive procurement methods in accordance with stated selection criteria."¹⁷

Some states, such as Ohio in 2016, have prohibited residence requirements in public improvement contracts.¹⁸

Types of preferences

The most common types of preferences found throughout the examples include:¹⁹

- 1) *Points* that increase local firms' bids during bid comparisons, (usually 1.5% to 10%)
- 2) *Second chance bidding* for local firms to match the lowest bid of a non-local firm
- 3) *Tie bid* gives local firms preference in a tie situation
- 4) *Reciprocal* means the jurisdiction gives its local bidder the same preference that non-local bidders receive within their own jurisdiction
- 5) *Absolute* where the local bidder must be awarded the contract

Example Cities

There are many examples from cities across the United States, which use some sort of local business

¹³ Fine, Richard. September 26, 2010. [Out of Bounds?](#) *Los Angeles Business Journal*.

¹⁴ Barrett, Katherine & Greene, Richard. February 27, 2018. [In Government Procurement, Buying Local Is Popular. But Is It Beneficial?](#) *Governing*.

¹⁵ NIGP: The Institute for Public Procurement. 2015. [Local Preference in Public Procurement](#).

¹⁶ Yovino, Joe. November 23, 2009. [City faces local preference criticism](#). *The Daily Reporter*.

¹⁷ NIGP: The Institute for Public Procurement. 2015. [Local Preference in Public Procurement](#).

¹⁸ The Ohio Legislature. (2016). [House Bill 180](#).

¹⁹ NIGP: The Institute for Public Procurement. 2015. [Local Preference in Public Procurement](#).

preference or local worker preferences. Included below are just some of many available examples, showing a range of programs. The most detailed example explored is the City of Milwaukee, WI. This provided a particularly thorough case study.

Milwaukee, WI – Local Business Enterprise (LBE) Program

Milwaukee's Local Preference Ordinance went into effect in 2009 and faced some immediate criticism and lawsuits, with disagreement over the definition and application of the term *local business*²⁰ as well as claims of anti-regionalism.²¹ Criticism and attempts to overturn the ordinance continued into 2010, but were unsuccessful.²²

In a 2010 disparity study, write-in concerns reference some potentially unplanned negative consequences for minority-owned businesses, union companies, and small businesses. "A Native-American business owner said, "The Local Bid Preference program inadvertently discriminates against Native American Contractors as there are none domiciled in the City of Milwaukee. The Local bid preference program has cost our company, we lost jobs when we were the low bid." Another owner of a Native-American construction firm said, "We are a union company located in Milwaukee County but not the City of Milwaukee. This makes it difficult to compete with the non-union companies located in the City of Milwaukee. ... This basically means we can no longer compete on bids in the City of Milwaukee and will no longer bid City of Milwaukee work as a prime contractor."

A Hispanic business owner in a similar heavy construction trade shared that the bidding requirement for using local residents puts an undue burden on their employment and hiring practices. ... He said, "The mandatory target area resident requirements preclude us from bidding any more work than we do at this time because, identifying, competent, dependable, experienced, and most importantly, productive employees is very rare. ... There is an expense to our company to conduct both the interview phase and the drug screen that we are exposed to, therefore we can only pursue a limited amount of projects that we can man presently with the manpower we have on hand.""²³

The program parameters are as follows, "If a Local Business Enterprise (LBE) is a responsive and responsible bidder, the LBE shall be awarded the contract provided its bid does not exceed the lowest bid by more than 5% and the difference does not exceed \$25,000. Effective January 01, 2017, if the LBE is certified as a Small Business Enterprise (SBE) with the City of Milwaukee's Office of Small Business Development, the LBE shall be awarded the contract provided its bid does not exceed the lowest bid by more than 10% and the difference does not exceed \$30,000."²⁴

The original 2009 program criteria²⁵ was updated to this current criterion in 2016:

- 1) "Operates a business, or owns or leases property within the geographical boundaries of the City of Milwaukee. Post office boxes shall not suffice to establish status as a Local Business Enterprise.
- 2) A residential address may suffice to establish compliance as a Local Business Enterprise, but only if the business does not operate another business, or own or lease other real property, either within or outside the geographical boundaries of the City of Milwaukee.

²⁰ Wisconsin Law Journal. October 12, 2009. [Contractors: Local company not local.](#)

²¹ Yovino, Joe. November 23, 2009. [City faces local preference criticism.](#) *The Daily Reporter.*

²² Yovino, Joe. February 11, 2010. [Local preference fight fails again.](#) *The Daily Reporter.*

²³ D. Wilson Consulting Group, LLC. December 20, 2010. [Disparity Study for the City of Milwaukee.](#)

²⁴ City of Milwaukee. [Local Business Enterprise \(LBE\) Program.](#) *Purchasing Division.*

²⁵ City of Milwaukee. (2009). [Local Business Enterprise \(LBE\) Program Affidavit of Compliance.](#) *Procurement Services.*

- 3) Leased property shall not suffice to establish compliance as a Local Business Enterprise unless at least half of the acreage of all the real property owned or leased by the business is located within the geographical boundaries of the City of Milwaukee.
- 4) Has been doing business in the City of Milwaukee for at least one (1) year.
- 5) The business is not delinquent in the payment of any local taxes, charges or fees, or the business has entered into an agreement to pay any delinquency and is abiding by the terms of the agreement.
- 6) The business will perform at least 10% of the monetary value of the work required under the contract.”²⁶

More details regarding the program can be found at the [Local Business Enterprise \(LBE\) Program Provisions website](#).

In addition to the LBD, Milwaukee has the following procurement programs:

- 1) [Residents Preference Program \(RPP\)](#)
 - a) “The RPP certification is designed to promote the use of city residents as part of a contractor’s or developer’s workforce on certain city-funded construction and private development projects. Contractors bidding on public works projects and development projects financed with public tax dollars must hire a percentage of RPP-certified City of Milwaukee residents to work on those projects. Typically, projects will include a 40% RPP requirement.”²⁷ Like any program, there are some positives and negatives.²⁸
 - b)
- 2) [Purchase of Milwaukee-Made, Milwaukee County-Made, and American-Made Goods Legislation](#)
 - a) An ordinance that “requires that the city purchase City of Milwaukee-made, Milwaukee-County Made or American-made goods for bids over \$50,000. Contracts shall be awarded to the lowest responsible bidder meeting the requirements of the Ordinance provided the bid does not exceed the lowest bid by more than 12% or \$25,000, which shall be increased by 1% annually by the City Clerk on March 1 of each year.”²⁹
- 3) [Small Business Enterprise Program](#)
- 4) [Socially-Responsible Contractors \(SRC\) Program](#)

Chicago, IL – City-Based Business Preference

- 1) 4 percent of the contract base bid; or
- 2) 6 percent of the contract base bid, if the majority of such prime contractor’s employees are city resident employees; or
- 3) 8 percent of the contract base bid, if such prime contractor is eligible for an incentive under subsection (b)(1)(ii) and the majority of such contractor’s city resident employees are residents of a socio-economically disadvantaged area.

For complete details, including criteria, review [Municipal Code 2-92-412 Contracts – Bid preference for city-based businesses](#).

²⁶ City of Milwaukee. (2016). [Local Business Enterprise \(LBE\) program affidavit of compliance](#). *Procurement Services*.

²⁷ City of Milwaukee. [Residents Preference Program \(RPP\)](#). *Office of Equity & Inclusion*.

²⁸ Shelbourne, Talis. April 12, 2021. [‘A good notion gone bad’: Are participation programs hurting Milwaukee’s minority contractors long-term?](#) *Milwaukee Journal Sentinel*.

²⁹ City of Milwaukee. [Purchase of Milwaukee-Made, Milwaukee County-Made, and American-Made Goods Legislation](#).

Philadelphia, PA – Local Business Entities (LBE) Preference

- 1) For bids of \$1 million or less, there is a 10% preference
- 2) For bids more than \$1 million, there is a 5% preference

For complete details, including criteria, review [Regulations Relating to Local Bidding Preference for Procurement Contracts](#).

Atlanta, GA – Local Bidder Preference Program (LBPP)

- 1) For bids of \$500,000 or less, there is a 10% preference
- 2) For bids of \$1 million or more, there is a 5% preference

For complete details, including criteria, review [Municipal Code 2-1199.1 – Local preference](#).

Los Angeles, CA – Local Business Preference Program

- 1) 5-12 percent bid preference, not to exceed one million dollars

For complete details on the original program, including criteria, review the [2011 Ordinance No. 181910](#).

For complete details on the current program, including criteria, review the [2021 Ordinance No. 187121](#).

This update combined the Small Local Business, Local Business Preference, and Transitional Job Opportunities into one program.³⁰

Long Beach, CA – Local Business Preference Program

- 1) 10 percent bid preference, not to exceed \$50,000

In 2022, the city considered changing it to a 20 percent bid preference and removing the cap, but it does not appear that they did so.³¹

For complete details, including criteria, review [Municipal Code 2.84.030 – Local Preference](#).

Palmdale, CA – Local Business Preference

- 1) 5 percent bid preference

For complete details, including criteria, review [Municipal Code 3.08.250 Local Business Preference](#).

³⁰ City of Los Angeles. [City Council Adopts Local Business Preference Program Ordinance](#). *Department of Public Works*.

³¹ Singgih, Pierce. March 1, 2022. [Long Beach to explore how it could expand its local preference ordinance](#)
[Long Beach City Council members voted Tuesday, March 1 to explore how it could award more contracts for projects or services to local businesses](#). *Press-Telegram*.

Santa Clarita, CA – Support of Santa Clarita Businesses

- 1) If a local vendor is within 10 percent of the lowest bidder, they are given the opportunity to match the low bid.

For complete details, including criteria, review [Municipal Code 3.12.205 Support of Santa Clarita Businesses](#).

Pasadena, CA – Buy Local and Local Preference

- 1) 1-5 percent bid preference
- 2) A preference to local businesses equal to the amount the city will receive in sales tax revenue

For complete details, including criteria, review the [Pasadena First Buy Local document](#), [Municipal Code 4.08.046 – Local preference for competitively bid contracts](#), and [Municipal Code 4.08.048 - Local and small/micro business preference for competitively selected contracts](#).

Example County Local Preference programs

Many counties around the United States also have local preference programs. Included below are a few examples.

- 1) Santa Clarita County – 5% preference³²
- 2) Los Angeles County – 15% preference³³
- 3) Montgomery County, MD – 10% preference³⁴

The law took effect in August 2021, giving a 10% preference, but with a \$200,000 ceiling. “In the law’s first year, there were 57 applicable local projects, but only 17 of them were given local preference, according to Ash Shetty, chief procurement officer and director for the county. There were no local bidders on a number of projects, because no companies with the necessary skill sets were based in the county, he said.”³⁵

Things to Consider

- 1) There are many ways “local” can be defined, and a few are included below:
 - a) City of Minneapolis
 - b) City of Minneapolis and City of Saint Paul
 - c) Hennepin County
 - d) Hennepin and Ramsey counties
 - e) The 13-county metropolitan area currently used in the Target Market Program³⁶
 - f) Minnesota
 - i) Some localities use a tiered system of preference points (e.g., 5% for Minneapolis, 3% for Hennepin County, etc.)

³² Santa Clarita County. [Policies on Soliciting and Contracting](#).

³³ Los Angeles County. [Solicitations & Contracts](#).

³⁴ Montgomery County, MD. [Local Business Preference Program \(LBPP\)](#).

³⁵ Phipps, Jennie. March 13, 2023. [Study Shows Local Preference Bid Laws Favor Keeping Money and Business Close](#). *ENR Midwest*.

³⁶ City of Minneapolis. [TMP Participation details](#).

- 2) It is important to consider how a Local Preference Program would interact with existing preference programs. Some localities allow “stacking” of preference points within a limit, but most do not allow any stacking of points.
- 3) When local preferences are not allowed, some places do allow how much tax revenue they would receive for a project for local vs. outside in determining the lowest bidder, and that can be taken into consideration when defining the lowest bidder.

Further Resources

Qiao, Y., Thai, K. V., & Cummings, G. (2009). [State and local procurement preferences: A survey](#). *Journal of Public Procurement*, 9(3/4), 371-410.