

Memorandum



Date: September 17, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive, flowing style.

Subject: Report on Establishing Local Preference Reciprocity with Broward and Monroe Counties - Directive No. 211675

On July 8, 2021, the Board of County Commissioners (Board) adopted Resolution No. R-664-21 sponsored by Commissioner Rene Garcia, directing the County Mayor or County Mayor's designee to (1) undertake an analysis of and examine the County establishing local preference reciprocity with Broward and Monroe Counties; (2) provide a report on the results of such analysis and examination to establish reciprocity with said counties; and (3) provide recommendations regarding reciprocity, including but not limited to, recommendations on any amendments needed to the County Code or to said counties' code of ordinances to effectuate reciprocity of local preference.

The Board directed that the analysis and examination should include, but not be limited to, reviewing local preference reciprocity extended by other governmental entities such as the Miami Dade Public School Board, an evaluation and assessment of the County's past experiences with local preference reciprocity, and the impact that any such reciprocity would have on Miami-Dade County local businesses.

Recommendation

Broward, Monroe, and Miami-Dade would have to enter into substantial negotiations to institute universal legislation for local preference reciprocity, which would require adopting legislation by each county. Based on the findings, the features and manner in which each of the counties currently apply local preference, the myriad of preferences cannot be equitably extended to vendors of each prospective county without significant harmonization of each County's policies.

If the Board desires to pursue the establishment of an interlocal agreement with Broward, Monroe and possibly Palm Beach, I will direct my staff to commence discussions with these counties. It is anticipated that these discussions may take up to 12 months to complete. A detailed report would be presented to the Board at the conclusion of these negotiations.

Background

The original agreement between Broward County and Miami-Dade County established reciprocity of local preference ordinances and programs. That agreement became effective in June 2002 upon the execution of both parties of a Statement of Substantial Similarity, which attested that Broward County would adopt a local preference ordinance substantially similar to the local preference ordinance of Miami-Dade County.

The terms of the agreement required each county to apply its Local Preference Ordinance to the qualifying local vendors of both counties. The agreement expired on September 30, 2017, as the Board did not further extend the agreement with Broward County.

Research

The Internal Services Department, Strategic Procurement Division conducted comprehensive research on the methodology utilized by Broward, Monroe and Palm Beach Counties, which have developed and enacted policies providing for local preference within their purchasing activities. Although Palm Beach County was not specified in the Board's directive, their information is provided below in order to encompass Florida's southeastern region.

Below is a summary of the research findings, including how each county applies local preference to Invitations to Bid (ITB) and Requests for Proposals (RFP), and recommendations. A review of the Miami-Dade County Public Schools (MDCPS), not shown below, was also conducted. In accordance with School Board policy 6320.05, local preference is given to businesses located in Miami-Dade County for the purchase of goods and services, professional and construction related services in excess of \$50,000 (or the current formal bidding threshold set by statute), when permitted by statute and/or funding source. School Board policy does not include reciprocity with other counties.

Broward County

Broward County's Local Preference Code is based on whether the vendor qualifies as a "local business," a "locally based business," or a "locally based subsidiary."

Qualification Criteria	Applicability	
	ITB	RFP
<p>Local Business is defined as having continuously maintained, for at least the one-year period immediately preceding the bid posting date, as follows:</p> <ol style="list-style-type: none"> 1. Physical business address located within the limits of Broward County, listed on the vendor's valid business tax receipt issued by Broward County (unless exempt from business tax receipt requirements); 2. In an area zoned for the conduct of such business; 3. Vendor owns or has the legal right to use; and, 4. Vendor operates and performs on a day-to-day basis business that is a substantial component of the goods or services being offered to Broward County in connection with the applicable competitive solicitation (as so defined, the "Local Business Location"). 	<p>Price within 10 percent of non-local can submit a best and final offer (BAFO)</p>	<p>N/A</p>
<p>Locally Based Business (LBB) is defined as having met the requirements for a Local Business, and continuously maintained, for at least the one-year period immediately preceding the bid posting date, as follows:</p> <ol style="list-style-type: none"> 1. Local Business Location is the primary business address of the majority of the vendor's employees as of the bid posting date, and/or the majority of the work under the solicitation, if awarded to the vendor, will be performed by employees of the vendor whose primary business address is the Local Business Location; 2. Management directs, controls, and coordinates all or substantially all day-to-day activities of the entity (such as marketing, finance, accounting, human resources, payroll, and operations) from the Local Business Location; 3. Claimed no other location as its principal place of business within the one-year period immediately preceding the bid posting date; and less than 50 percent 	<p>Price within 15 percent of non-local or five percent of local can submit a BAFO</p>	<p>Five percent of available points awarded to each LBB score within five percent of non-local highest ranked total points – LBB deemed highest ranked</p>

<p>of the total equity interests in the business are owned, directly or indirectly, by one or more entities with a principal place of business located outside of Broward County; and,</p> <p>4. Verified that the total equity interests in the vendor owned, directly or indirectly, by one or more entities with a principal place of business located outside of Broward County is less than 50 percent.</p>		
Qualification Criteria	Applicability	
<p>Locally Based Subsidiary (LBS) is defined by having met the requirements for a Local Business, for at least the one-year period immediately preceding the bid posting date and, continuously maintained its principal place of business at the Local Business Location, and at least 50 percent of the total equity interests in the business are owned, directly or indirectly, by one or more entities with a principal place of business located outside of Broward County.</p>	ITB	RFP
	<p>Price within 15 percent of non-local or 5 percent of local can submit a BAFO</p>	<p>Three percent of the available points awarded to each LBS score within five percent of non-local highest ranked total points – LBS or LBB deemed highest ranked</p>

Broward County's Code of Ordinances, Section 1.74 provides for reciprocity agreements and reads: *Should Miami-Dade, Palm Beach, Monroe, Martin, or any other South Florida County extend preferences similar to those set forth herein to vendors whose business locations are within the geographic boundaries of Broward County (substantially as described in Section 1-74), the Board may enter into interlocal agreement with such county, wherein the preferences set forth herein shall be extended and made available to vendors whose business location is within the geographic boundaries of such county. In no event shall the amount of the preference afforded by Broward County to non-Broward County vendors exceed the amount of preference that the vendor's home county extends to Broward County vendors competing for its contracts.*

Monroe County

Monroe County's Board of County Commissioners Local Preference Code focuses on relieving the competitive disadvantage experienced by local businesses when competing with non-local businesses, due to the higher costs of doing business in Monroe County.

Qualification Criteria	Applicability	
<p>Local Business is defined by having a valid receipt of the business tax paid, issued by Monroe County's Tax Collector at least one year prior to the notice of request for bids or proposals, as follows:</p> <p>1. Physical business address located within Monroe County from which the vendor operates or performs business on a day-to-day basis that is a substantial component of the goods or services being offered to Monroe County;</p> <p>1a. Physical business address registered with the Florida Department of State, Division of Corporations, as its principal place of business for at least one year prior to the notice of request for bids or proposals. Post</p>	ITB	RFP
	<p>Price within 2.5 percent of non-local proceeds to negotiations</p> <p>Price within 2.5-5 percent of non-local if subcontracts 50 percent to local business proceeds to negotiations</p>	<p>Awarded additional points through evaluation factors</p> <p>Amount of awarded additional points determined by BCC</p>

<p>Office Boxes are not verifiable and shall not be used for the purpose of establishing a physical address; and,</p> <p>2. Submit a copy of current (paid) business tax receipt of the business and affirm in writing, compliance with the foregoing, at time of bid or proposal submission, to be eligible for consideration as a "local business."</p>		
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Monroe County's Code Section 2-349 does not provide for reciprocity agreements.

Palm Beach County

Palm Beach County's Board of County Commissioners Local Preference Code applies to all procurements governed by the Purchasing Code.

Qualification Criteria	Applicability	
	ITB	RFP
<p>Local Business is defined by having a permanent place of business within Palm Beach County, as follows:</p> <ol style="list-style-type: none"> 1. Palm Beach County issued business tax receipt, authorizing vendor to provide the solicited construction or non-construction related goods or services; 2. Business tax receipt was issued prior to the issuance of the IFB or RFQ for which a preference is sought; and, 3. If business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one of the joint ventures/partners meet the test set forth in this section. 	<p>Bid/quote adjusted downward by 5 percent solely for the purpose of determining award</p>	<p>Local vendors will receive 5 points in the scoring criteria for being a local vendor</p>
<p>Glade Business is defined by having a permanent place of business within the Glades, as follows:</p> <ol style="list-style-type: none"> 1. Palm Beach County issued business tax receipt, authorizing vendor to provide the solicited construction or non-construction related goods or services; 2. Business tax receipt was issued prior to the issuance of the IFB or RFQ for which a preference is sought; and, 3. If business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one of the joint ventures/partners meet the test set forth in this section. 	<p>Bid/quote adjusted downward by 5 percent solely for the purpose of determining award for any good or service to be utilized in the Glades and for any construction project located in the Glades</p> <p>The Glades Business Preference shall apply and take precedence over the Local Business Preference</p> <p>A local business which is not a Glades business, but which utilizes Glades subcontractors may be eligible for the preference</p>	

Further, it should be noted that Palm Beach County established a reciprocity ordinance, which is codified in Section 2-80.45 of the Code. The code reads as follows: *Should Miami-Dade, Martin, Broward or Hendry counties extend their local preferences to Palm Beach County businesses, the preference for local businesses set forth herein may be made available to those businesses whose permanent place of business are within said counties. However, the bid or quote received from the lowest responsive, responsible local business within Palm Beach County shall not be supplanted by a Miami-Dade, Martin, Broward or Hendry County business utilizing the Palm Beach County local preference.*

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A complete side-by-side comparison chart of the applicability of local preference by county is provided as Attachment A to this report. Attachment A details the intricacies of each County's (to include Miami-Dade) local preference code.

This report will be placed on the next available Board Agenda pursuant to Ordinance No. 14-65. Should you need further information, please contact Alex Muñoz, Director of the Internal Services Department, at 305-375-5893.

Attachment

c: Geri Bonzon-Keenan, County Attorney
Gerald Sanchez, First Assistant County Attorney
Jess McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
Department Directors
Alex Muñoz, Director, Internal Services Department
Yinka Majekodunmi, Commission Auditor
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
Melissa Adames, Director, Clerk of the Board
Eugene Love, Agenda Coordinator

Attachment A - Local Preference Comparison Chart
Miami-Dade County

Miami-Dade County		Applicability	
		ITB	RFP
Local Preference	Section 2-8.5 of the Miami-Dade County Code, Local Business Preference	1) low bidder is locally headquartered 2) low bidder is local, but not locally headquartered, and no bidder is within five percent of the low bid (calculated by using the low bid price and adding five percent) 3) low bidder is local, but not locally headquartered, and a bidder is within five percent of the low bid and is locally headquartered, the low bidder and all locally headquartered bidders that are within five percent of the low bid shall have the opportunity to submit a Best and Final Offer equal to or lower than the low bid. 4) low bidder not local local bidder is within 10 percent locally headquartered bidder is within 15 percent, low bidder and all local bidders within 10 percent and locally headquartered bidders within 15 percent of the low bid shall have the opportunity to submit a Best and Final Offer equal to or lower than the low bid.	If local is within five percent of non-local highest ranked's total score, local shall proceed to negotiations
Locally Headquartered			Not Applicable
Local Certified Veteran's Preference	Section 2-8.5.1 of the Miami-Dade County Code, Local Certified Veteran Business Enterprises Preference	Five percent subtracted from bid price to arrive at the price that will be used for evaluation.	Five percent of total technical points added to the local veteran's technical score. If local veteran is within five percent on non-local highest ranked total score, local veteran shall proceed to negotiations.
Local Business Definition	1) has a physical business address located within the limits of Miami-Dade County from which the firm operates or performs business; 2) has a valid business tax receipt issued by Miami-Dade County at least one year prior to bid or proposal submission or, for firms which are exempt from the business tax receipt requirements, has submitted documentation to the County's satisfaction demonstrating the physical business presence of the firm in Miami-Dade County for at least one year prior to bid or proposal submission; and 3) contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way.		
Locally Headquartered Definition	1) meets the requirements for a local business; and 2) has a principal place of business in Miami-Dade County (principal place shall mean the nerve center, the center of overall direction, control, and coordination of the activities of the firm, or the only business location).		
Local Certified Veteran's Enterprise Definition	Bidder must meet the local preference requirements, be on the state veteran business list, and not have received an SBE bid preference to receive the veteran preference after applying the SBE contract measures, if a bidder meets the veteran preference requirements, subtract five percent from its bid price to arrive at the price that will be used for evaluation.		

Attachment A - Local Preference Comparison Chart
Monroe County

Monroe County		Applicability	
		ITB	RFP
Local Preference	Section 2-349 of the Monroe County Code, Local Business Preference	<p>1. Individuals & Firms :</p> <p>1a) low bidder meets all criteria set forth by Monroe County Local preference.</p> <p>1b) a responsive and responsible bidder shall be given Local Business in amount not to exceed two and one-half percent of the lowest nonlocal responsive and responsible bidder. Total bid price shall include the base bid and all alternatives or options to the base bids which are part of the bid and being recommended for award by the appropriate authority.</p> <p>2. Subcontracting of goods, services or construction:</p> <p>2a) If the prime contractor (PC) subcontracts 50 percent or more of the goods, services or construction to other "local businesses". PC shall be given a preference in an amount not to exceed 2.5 percent of the lowest nonlocal bidder.</p> <p>2b) If PC "Local Business" and meets subcontracting of goods, services or construction to other "local businesses" it will be entitled to an additional two and one-half percent preference of the lowest nonlocal responsive and responsible bidder. Any preference under this section shall not exceed five percent of the lowest nonlocal responsive and responsible bidder if all conditions are met.</p>	<p>Local Business may be awarded additional points in the overall scoring system as part of the overall evaluation factors of the selection committee.</p> <p>Additional points amount determined by the board as part of pre-approval agenda item when considering RFP recommendations.</p>
Local Certified Veteran's Preference		<p>Not Applicable (Applicable to Miami-Dade)</p>	
Local Business Definition		<p>1. has a valid receipt of the business tax paid as issued by Monroe County tax collector at least one year prior to the notice of request for bids or proposals for the business to provide the goods, services or construction to be purchased, and</p> <p>2. has a physical business address located within Monroe County from which the vendor operates or performs business on a day-to-day basis that is a substantial component of the goods or services being offered to Monroe County.</p> <p>2a. The physical business address must be registered with the Florida Department of State as its principal place of business for at least one year prior to the notice of request for bids or proposals.</p> <p>2b. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing a physical address.</p> <p>3. Vendors shall submit a copy of their current receipt of the business tax paid and also affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section.</p>	
Locally Headquartered/ Locally Based Definition		<p>Not Applicable (Applicable to Miami-Dade)</p>	
Local Certified Veteran's Enterprise Definition		<p>Not Applicable (Applicable to Miami-Dade)</p>	

Attachment A - Local Preference Comparison Chart
Broward County

Broward County		Applicability	
		ITB	RFP
Local Preference	Section 1.74 of Broward County Code of Ordinances	Local Business submitting a price within 10 percent of non-local can submit a Best and Final Offer (BAFO) equal to or lower than the low bid.	Not Applicable (Applicable to Miami-Dade)
Locally Based Business (LBB)		Local Based Business submitting a price within 15 percent of non-local or five percent of local can submit a BAFO equal to or lower than the low bid.	Five percent of available points awarded to each Locally Based Business . If LBB score is within five percent of non-local highest ranked total points Locally Based Business Locally Based Subsidiary or Local Business shall be deemed highest ranked.
Locally Based Subsidiary (LBS)		Local Based Subsidiary submitting a price within 15 percent of non-local or five percent of local can submit a BAFO equal to or lower than the low price.	Three percent of the available points awarded to each Locally Based Subsidiary (LBS) If LBS score is within five percent of non-local highest ranked total points. Locally Based Subsidiary Locally Based Business or Local Business shall be deemed highest ranked.
Joint Venture			Five percent of available points awarded to each Joint Venture composed solely of Locally Based Business.
Local Business Definition	Continuously maintained, for at least the one year period immediately preceding the bid posting date (i.e., the date on which the solicitation was advertised), i. a physical business address located within the limits of Broward County, listed on the Vendor's valid business tax receipt issued by Broward County (unless exempt from business tax receipt requirements); ii. in an area zoned for the conduct of such business; iii. that the Vendor owns or has the legal right to use; and iv. from which the Vendor operates and performs on a day-to-day basis business that is a substantial component of the goods or services being offered to Broward County in connection with the applicable competitive solicitation (as so defined, the "Local Business Location").		
Locally Based Definition	1. Meets the requirements for a local business; A. has continuously maintained, for at least the one year period immediately preceding the bid posting date (i.e., the date on which the solicitation was advertised); B. The Local Business Location is the primary business address of the majority of the Vendor's employees as of the bid posting date, and/or the majority of the work under the solicitation, if awarded to the Vendor, will be performed by employees of the Vendor whose primary business address is the Local Business Location; C. management directs, controls, and coordinates all or substantially all of the day-to-day activities of the entity (such as marketing, finance, accounting, human resources, payroll, and operations) from the Local Business Location; D. has not claimed any other location as its principal place of business within the one year period immediately preceding the bid posting date; and less than 50% percent of the total equity interests in the business are owned, directly or indirectly, by one or more entities with a principal place of business located outside of Broward County; and E. certifies the total equity interests (<i>by disclosing percentage number</i>) in the Vendor owned, directly or indirectly, by one or more entities with a principal place of business located outside of Broward County, and list Local Business Location.		
Local Subsidiary Definition	Local Business as defined in this section that has, for at least the one year period immediately preceding the bid posting date, continuously maintained its principal place of business at the Local Business Location, and at least 50 percent of the total equity interests in the business are owned, directly or indirectly, by one or more entities with a principal place of business located outside of Broward County.		

Attachment A - Local Preference Comparison Chart
Broward County

Broward County	Applicability	
	ITB	RFP
Joint Venture Definition	Means a Vendor that is composed of two or more separate legal entities, each of which will be responsible for some of the work if awarded to the vendor.	

Attachment A - Local Preference Comparison Chart
Palm Beach County

Palm Beach County		Applicability	
		ITB	RFP
Local Preference Code	Section 2-80.41 through 2-80.48 of the Palm Beach County Code	In the event the lowest responsive, responsible bidder or quoter in the procurement of construction or non-construction related goods and services is a non-local business, the bid or quote of the next lowest responsive, responsible bidder or quoter who is a local business may be adjusted downward by five percent, solely for the purpose of determining award. This five percent downward adjustment to the bid or quote is made solely for the purpose of ranking. In no event shall the application of this adjustment change the actual bid or quote amount.	Awarded additional five points through evaluation criteria
Locally Headquartered Preference		Not Applicable (Applicable to Miami-Dade)	
Local Certified Veteran's Preference		Not Applicable (Applicable to Miami-Dade)	
Local Business Definition	1. bidder or quoter has a permanent place of business within Palm Beach County; 2. holds a business tax receipt issued by Palm Beach County authorizing them to provide the solicited construction or non-construction related goods or services to be purchased; 3. tax receipt is issued prior to the issuance of the IFB or RFQ for which a preference is sought; and 4. if business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one of the joint ventures/partners meet the test set forth in this section.		
Locally Headquartered/Locally Based Definition		Not Applicable (Applicable to Miami-Dade)	
Local Certified Veteran's Enterprise Definition		Not Applicable (Applicable to Miami-Dade)	

Notes Regarding Local Preference ITB:

Note1: The provisions of this Local Preference Code shall not be applied where its application would result in an award which exceeds the otherwise lowest responsive, responsible bid by \$100,000.00.

Note2: The Purchasing Department procures all non-construction related goods and services, as well as all good and services not exempt from the Purchasing Code that are valued at \$5,000 or greater. County Departments have the authority to procure goods and services valued less than \$5,000 through a decentralized purchasing process. The procurement of goods and services is accomplished through various methods including, but not limited to, Invitations for Bid (IFB), Requests for Proposal (RFP), Requests for Quotation (RFQ), and Requests for Submittal (RFS).

Attachment A - Local Preference Comparison Chart
Palm Beach County

Palm Beach County		Applicability	
		ITB	RFP
Joint Venture Definition	Means an association of two or more persons or businesses registered with the State of Florida to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.		
Preference for Glades Businesses	Section 2-80.44.1 of the Code of Palm Beach County	A bidder or quoter who has a permanent place of business within the Glades and which holds a business tax receipt issued by Palm Beach County authorizing them to provide the solicited construction or non-construction related goods or services and which is issued prior to the issuance of the IFB or RFQ for which preference is sought. If business is a joint venture/partnership, it is sufficient for qualification as a Glades business if at least one of the joint ventures/partners meet the test set forth in this subsection. For any good or service to be utilized in the Glades and for any construction project located in the Glades, the preference described in this Section shall apply and take precedence over the Preference For Local Businesses in Section 2-80.44 herein. In the event the lowest responsive, responsible bidder or quoter in the procurement of any good or service to be utilized in the Glades, or for any construction project located in the Glades, is a non-Glades business, the bid or quote of the next lowest responsive, responsible bidder or quoter who is a Glades business may be adjusted downward by five percent, solely for the purpose of determining award. This five percent downward adjustment to the bid or quote for a Glades bidder or quoter is made solely for the purpose of ranking. In no event shall the application of this adjustment change the actual bid or quote amount. A local business which is not a Glades business, but which utilizes Glades subcontractors may be eligible for the preference set forth in Section 2-80.44.2 herein.	
Preference for the Use of Glades subcontractors by Local Businesses	Section 2-80.44.2 of the Code of Palm Beach County	Subcontractor participating in a bid or quote for construction or non-construction related goods or services which has a permanent place of business within the Glades and which holds a business tax receipt issued by Palm Beach County that authorizes the Glades subcontractor to provide the construction or non-construction related goods or services and which is issued prior to the issuance of the IFB or RFQ for which preference is sought. If subcontractor is a joint venture/partnership, it is sufficient for qualification as a Glades subcontractor if at least one of the joint ventures/partners meet the test set forth in this subsection. For any construction project located in the Glades, the preference described in this Section shall apply and take precedence over the Preference for Local Businesses in Section 2-80.44 herein. A bidder or quoter in the procurement of construction of public works projects who is a local business, but not a Glades business and who utilizes Glades subcontractors for a minimum of fifteen percent of the work may receive a local preference of three percent, solely for the purpose of determining award. The bid or quote of local businesses utilizing Glades subcontractors for a minimum of fifteen percent of the work may be adjusted downward by three percent for purposes of ranking bidders. In no event shall the application of this adjustment change the actual bid or quote amount.	
Reciprocity	Section 2-80.45 of the Code of Palm Beach County	Should Miami-Dade, Martin, Broward or Hendry counties extend their local preferences to Palm Beach County businesses, the preference for local businesses set forth herein may be made available to those businesses whose permanent place of business are within said counties. However, the bid or quote received from the lowest responsive, responsible local business within Palm Beach County shall not be supplanted by a Miami-Dade, Martin, Broward or Hendry County business utilizing the Palm Beach County local preference.	
Permanent Place of Business Definition	Section 2-80.42 of the Code of Palm Beach County	Means headquarters which are located within Palm Beach County, or within the Glades for Glades businesses, or a permanent office or other site located within Palm Beach County or within the Glades for Glades businesses, from which a bidder or quoter will produce a substantial portion of the goods or perform a substantial portion of the services to be purchased and which was in existence prior to the IFB/RFQ. A post office box or location at a postal service center shall not constitute a permanent place of business.	