



## ORDINANCE

### ESTABLISHING A LOCAL PREFERENCE

### *CITY OF NASHUA*

*In the Year Two Thousand and Fourteen*

*The City of Nashua ordains* that Part I “Administrative Legislation” of the Nashua Revised Ordinances, Chapter 5 “Administration of Government”, Article XVII “Purchasing Manager,” as amended, be hereby further amended by adding the following new section 5-78.1 “Local Preference” and by amending section 5-78 by deleting the struck-through language and adding the underlined language as follows:

#### **“§ 5-78.1 Local Preference**

##### A. Application of Preferences.

- (1) A local preference shall be applied to all requests for bids, requests for proposals, and requests for quotes for the purchase of goods or services or for the award of concession contracts.
- (2) The local preference shall not be applied to any solicitation for a purchase or concession contract when the expenditure of federal funds designated for the contract is involved, or when state funds are expended and State of New Hampshire laws or rules regarding the expenditure of state funds designated for the contract do not allow such preference.
- (3) The local preference shall be applied by multiplying the monetary amount bid or quoted of all eligible offers by the appropriate Preference Factor in determination of the recommended bidder for the solicitation.

##### B. Definitions.

- (1) LOCAL shall mean a business that maintains its principal office and place of business in the City of Nashua, County of Hillsborough, State of New Hampshire.
- (2) PREFERENCE FACTOR shall mean .95 when applied to bids and quotes \$10,000.00 or less, and shall mean .97 when applied to bids and quotes \$10,000.01 or more, which factor shall be multiplied times the amount of the eligible bid.

C. Eligibility for Preferences.

- (1) To qualify for a local preference, the bidder must submit verifiable information certified by the bidder with its offer, unless an alternative method of pre-offer certification is established by the City Purchasing Manager, that the bidder is local.
- (2) If necessary the City Purchasing Manager may seek additional information or proof to verify the bidder's eligibility. The bidder must timely provide any requested information to be eligible for the preference.
- (3) Only the principal bidder or one of the principal bidders, not a subcontractor, may qualify an offer for a preference."

“§ 5-78

....

1. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. In the event identical bids are submitted by local vendors, the Manager shall award the contract to one of the bidders by drawing lots in public. Local preference for bidders or products may be given only when there is no sacrifice or loss in quality, or performance, or price.

This legislation shall be effective for all requests for bids, requests for proposals, and requests for quotes issued 30 days after this legislation's passage.

**LEGISLATIVE YEAR 2014**

**ORDINANCE:** O-14-021

**PURPOSE:** Establishing a Local Preference

**ENDORSER(S):** Alderman Ken Siegel

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:** The preference may result in a corresponding increase in spending per contract. This increase may be offset by support of local business which produces an overall indirect positive impact through jobs and tax revenue.

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**ANALYSIS**

This ordinance creates a local preference in awarding contracts. The preference is 5% for contracts \$10,000.00 and under and 3% for contracts \$10,000.01 and over.

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**Approved as to form:** Office of Corporation Counsel

**By:**



**Date:**

April 18, 2017



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**“§ 5-78.1. Local preference.**

**A. Application of preferences.**

- (1) A local preference may be applied to all requests for bids, requests for proposals, and requests for quotes for the purchase of goods or services or for the award of concession contracts, provided that the exercise of a local preference does not apply to a bid that is more than 105% of the lowest qualified bid, if the lowest qualified bid is less than ten thousand dollars (\$10,000.00); or more than 103% of the lowest qualified bid, if the lowest qualified bid is ten thousand dollars (\$10,000.00) or more.
- (2) A local preference shall not be applied to any solicitation for a purchase or concession contract when the expenditure of federal funds designated for the contract is involved, or when state funds are expended and State of New Hampshire laws or rules regarding the expenditure of state funds designated for the contract do not allow such preference.
- (3) Nothing in this section shall create a requirement to give a local preference if, in the opinion of the City Purchasing Manager quality, performance, or service would be sacrificed by the exercise of such preference.

B. “Local” as used in this ordinance shall mean any business that conducts substantial business from a location in the City of Nashua, or employs a substantial number of residents of the City of Nashua, or is principally owned by residents of Nashua, or is otherwise believed to bring substantial benefit to the local economy of the City of Nashua.

C. Eligibility for preferences.

(1) To qualify for a local preference, the bidder must submit verifiable information certified by the bidder with its offer, unless an alternative method of pre-offer certification is established by the City Purchasing Manager, that the bidder is local.

(2) If necessary the City Purchasing Manager may seek additional information or proof to verify the bidder’s eligibility. The bidder must timely provide any requested information to be eligible for the preference.

(3) The principal bidder, or a subcontractor whose portion of the bid exceeds fifty percent (50%) of the value of the contract, may qualify an offer for a preference.”

**“§ 5-78. Major purchases (greater than \$10,000).**

....

I. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. In the event identical bids are submitted by local vendors, the Manager shall award the contract to one of the bidders by drawing lots in public. Local preference for bidders or products may be given only when there is no sacrifice or loss in quality, performance, or service price.

This legislation shall be effective for all requests for bids, requests for proposals, and requests for quotes issued 30 days after this legislation’s passage.