

CITY OF LOS ANGELES

RULES AND PROCEDURES

IMPLEMENTING

THE LOCAL BUSINESS PREFERENCE PROGRAM

FOR THE BUSINESS INCLUSION SECTION



EFFECTIVE MARCH 27, 2024

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**RULES AND PROCEDURES
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RULES AND PROCEDURES IMPLEMENTING THE LOCAL BUSINESS PREFERENCE PROGRAM

The Department of Public Works, Bureau of Contract Administration (BCA) Office of Contract Compliance (OCC) Certification, Outreach, Regulations & Enforcement Section (CORE) Business Inclusion Section (BIS) promulgates these Rules and Procedures as the Designated Administrative Agency (DAA) pursuant to the Local Business Preference Program (LBPP) Ordinance 187121, as amended by Ordinance 188111, effective March 27, 2024. The BCA may amend or revise these Local Business Preference Program (LBPP) Rules and Procedures from time to time to assist with implementing, administering and enforcing the LBPP Ordinance.

SCOPE OF BUREAU OF CONTRACT ADMINISTRATION AUTHORITY

The Local Business Preference Program (LBPP), pursuant to Los Angeles Administrative Code Section 10.25-10.25.10 became effective on August 7, 2021, and was amended March 27, 2024. Under Los Angeles Administrative Code (LAAC) Section 10.25.2 the BCA shall specify in its Rules and Procedures the criteria for the Local Business, City Business, Local Small Business, and the Local Transitional Employer.

LAAC Section 10.25.8 further specifies that BCA shall promulgate the rules and procedures to implement, administer and enforce the provisions of this article. BCA shall have discretion to determine whether a Person qualifies as a Local Business, a City Business, a Local Small Business, or a Local Transitional Employer. The DAA may audit Contractors and Subcontractors and monitor compliance, including the investigation of alleged violations of this article. The Contractor and Subcontractor shall cooperate with the DAA and the Awarding Authority in the course of an audit or investigation.

The Department of Recreation and Parks, Library Department, and the Proprietary Departments are strongly encouraged to adopt local preference programs consonant with the provisions of the Article.

DEFINITIONS

For purposes of these Rules and Procedures, the definitions set forth in LAAC Section 10.25.1 are incorporated herein by reference. In addition, the following definitions shall apply in these Rules and Procedures:

“Article” means the City of Los Angeles Ordinance No. 188111, codified in Article 4, Sections 10.25, et seq. of the Los Angeles Administrative Code.

“Awarding Authority” means the governing body, board, officer, or employee of the City authorized to award a Contract and includes a department that has control of its own funds if the department adopts policies consistent with the provisions of the Article.

“Bid” means a response to a City solicitation for bids pursuant to Charter Sections 371 and 372.

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“Bid Price” means the dollar amount after the bidder’s quoted price is adjusted for evaluation in accordance with applicable provisions. For procurement contracts this may include, but not be limited to, a Cash Discount or Combined Award Discount.

“Broker” means a manufacturer’s representative, packager, or other Person who arranges or expedites a transaction of equipment, goods, or materials that are manufactured in the County of Los Angeles if certified as a Local Business, or in the City of Los Angeles if certified as a City Business.

“Cash Discount” means a reduction in the full cost of a good or service when payment is made within a specified period of time: e.g., 2% 10 net 30 (Trade credit often offered by suppliers to buyers. It represents an agreement that the buyer will receive a 2% discount on the net invoice amount if they pay within 10 days. Otherwise, the full invoice amount is due within 30 days).

“City” means the City of Los Angeles.

“City Business” means a Local Business that is also certified by the DAA as a City Business.

“Combined Award Discounts” (CAD) means the discount terms offered by a supplier and are usually expressed in percentages taken directly from the pricing totals of the bidders offering such a discount. CADs are applicable if the specification or bidding documents includes the CAD provision clause, it applies to more than one item or more than one group of items, and if the items included for CAD purposes are not cherry picked from a predefined group of items as set forth by the specifications or bid document.

“Contract” means a written agreement for the purchase of goods, equipment or services, including construction, by or for the benefit of the City or its residents.

“Contractor” means the Person, business, or entity awarded the Contract by the Awarding Authority.

“County” means Los Angeles County.

“Dealer” or **“Supplier”** means any Person or entity who owns, operates, or maintains a store, warehouse, or other establishment in the County of Los Angeles if certified as a Local Business, or in the city of Los Angeles if certified as a City Business, in which the equipment, goods, or materials of the general character described in the Bid specifications and required under the Contract are regularly sold or leased to the public from its own inventory or otherwise procured in the usual course of its business.

A “Dealer” or “Supplier” does not include a packager, broker, manufacturer’s representative, or other Person who arranges or expedites a transaction without taking

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ownership of the finished or assembled equipment, goods or materials prior to the sale or lease to the City.

“Designated Administrative Agency (DAA)” means the Department of Public Works, Bureau of Contract Administration.

"Headquarters" means the business physically conducts and manages all of its operations from a location in the County of Los Angeles for a Local Business, or in the City of Los Angeles for a City Business. Operations within the County or City include, but are not limited to, the firm's documents (including, but not limited to: books of record, financial, human resources and tax documents) are kept.

"Local Business" means a business entity that occupies work space within the County, is in compliance with all applicable City and County licensing and tax laws, and can demonstrate one of the following: (1) it is headquartered in the County and physically conducts and manages all of its operations from a location in the County; (2) that at least 50 of its full-time employees perform work within the boundaries of the County for at least 60 percent of their total regular hours worked on an annual basis; or (3) that at least half of the full-time employees (50%) of the business work within the boundaries of the County for a minimum of 60 percent of their total, regular hours worked on an annual basis.

- a. A business entity with multiple locations within the County, can aggregate 50 of its full-time employees working at least 60% of their regular hours from its different locations within the County to qualify as a Local Business.
- b. A business entity awarded a City contract under the LBPP, must carry out the services of the contract using employees whose exclusive, primary working location is in the County.
- c. A joint venture must be a legally established entity and be certified as a Local Business Enterprise (LBE) in order to participate in the LBPP. Individual LBE certification by one or more of the joint venture partners will not be considered sufficient to qualify for participation in the LBPP.
- d. A firm that is certified as a Local Small Business Enterprise (LSBE) with the Los Angeles County Office of Small Business may be verified as a LBE on RAMP, as defined below, upon request through the LBE affidavit, assuming the firm meets the LSBE certification qualifications.

“Local Small Business” means a Person certified by the DAA as a Local Small Business.

"Local Transitional Employer" means an organization, either for-profit or non-profit, that provides transitional job opportunities for local transitional employees (belonging to the hardest to employ population) and that has been certified by the DAA as a local transitional employer under these Rules and Procedures.

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“Person” means any individual, business, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, organization, or other entity that may enter a Contract.

“Proposal” means a response to a City solicitation for proposals pursuant to Charter Sections 371 and 372.

“Proposer” means any Person who submits a Proposal to the City.

“RAMP” means the Regional Alliance Marketplace for Procurement (www.rampla.org/s/), RAMP is the City’s database of procurement opportunities and vendor profiles. Registered vendors may apply for some City of LA certifications and request verification of recognized agency certifications on RAMP.

“Subcontractor” means any Person awarded a subcontract by a Contractor.

“Supportive Services” includes, but is not limited to: counseling services, individual case management, pre-employment job readiness training, daily monitoring of participants while on the job, provision of competitive employment opportunities, and assistance in applying for, obtaining, and maintaining competitive employment.

“Transitional Job” means short-term, wage-paying employment that combines real work, skill development, and Supportive Services to help participants overcome barriers to employment and transition to competitive employment.

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PROCEDURE #1: LOCAL BUSINESS PREFERENCE ELIGIBILITY CRITERIA

For more information on the Eligibility Criteria for the Local Business Preferences, including Local Business Enterprise (LBE), City Business Enterprise (CBE), Local Small Business Enterprise (LSB), and Local Transitional Employer (LTE), please see the Local Business Preference Program (LBPP) Rules & Procedures for Certification at bca.lacity.gov/certification.

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PROCEDURE # 2: ELIGIBILITY CRITERIA FOR ALL PREFERENCES

- A. In order to be eligible for the Local Business Preference, a business must be certified prior to bid due date, or have submitted an LBE and/or CBE application prior to bid due date and subsequently approved.
 - 1. To request an expedited certification, the Awarding Authority should promptly contact BCA Certifications at bca.certifications@lacity.org.
- B. Eligibility for the City of Los Angeles LBE or CBE preference is based on possession of an approved Local Business or City Business Enterprise certification.
- C. The preferences awarded under this article shall be subject to the following additional requirements:
 - 1. A Bid or Proposal for services shall be eligible for a preference if two thirds of the services under the Contract are to be produced or performed in:
 - a. the County of Los Angeles if the Bidder or Proposer is a Local Business; or
 - b. the City of Los Angeles if the Bidder or Proposer is a City Business.
 - 2. A Bid or Proposal for equipment, goods, or materials shall be eligible for a preference if:
 - a. The Local Business designs, manufactures, or assembles the equipment, goods, or materials where a minimum of two thirds of the work, based on the dollar amount under the Bid or Proposal, is performed in the County of Los Angeles;
 - b. The City Business designs, manufactures, or assembles the equipment, goods, or materials where a minimum of two thirds of the work, based on the dollar amount under the Bid or Proposal, is performed in the City of Los Angeles; or
 - c. The Local Business or City Business is a Broker, Dealer, or Supplier.
- D. Bidders, Proposers, including Subcontractors, shall only have one RAMP account. If there are multiple accounts on RAMP, only the LBE/CBE/LSB/LTE certification(s) related to the account used by the Bidder or Proposer to submit their bid documentation will be considered. Bidders or Proposers should promptly contact BCA Certifications at bca.certifications@lacity.org to combine multiple accounts.

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- E. Bidders, Proposers and their Subcontractors' LBE/CBE/LSB/LTE status must be current on the date the bid/proposal is submitted. Failure to ensure the Bidder or Proposer's LBE/CBE/LSB/LTE status by the submission date will render the Bidder's or Proposer's status, including any Subcontractor, ineligible and shall not be included in the LBPP calculation.

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PROCEDURE # 3: AWARDING PREFERENCE CONTRACTS UP TO \$150,000

- A. An Awarding Authority shall grant a 10% preference to a Local Small Business or Local Transitional Employer. The preference shall be applied to a Bid or Proposal in the following manner:
 - 1. **Bid.** The Awarding Authority shall apply the preference to a Bid price solely for Bid evaluation purposes such that the total Bid price shall be reduced by 10% of the Bid amount, and the reduced Bid amount shall be deemed the amount Bid by that Bidder.
 - 2. **Proposal.** The Awarding Authority shall apply the preference to a Proposal solely for Proposal evaluation purposes such that the score awarded to a Proposal shall be increased by 10% of the total possible evaluation points.
- B. The Awarding Authority shall provide a preference of up to 5% to a contractor's Bid or Proposal where the contractor does not qualify for the Local Small Business or Local Transitional Employer Preference, but that contractor identifies a Subcontractor certified as a Local Small Business or Local Transitional Employer. The Bid or Proposal must identify each Subcontractor, the proposed work of the Subcontractor, and the cost of the work for each Subcontractor. The Subcontractor preference shall be applied to Bids or Proposals in the following manner:
 - 1. **Bid.** The Awarding Authority shall provide a 1% preference to the Bid price for every 10% of the cost of the proposed work to be performed by the qualifying Subcontractor, up to a maximum of a 5% preference.
 - 2. **Proposal.** The Awarding Authority shall provide a 1% increase of the total possible evaluation points for every 10% of the total cost of the proposed work under the Contract to be performed by the qualifying Subcontractor, up to a maximum of a 5% increase.

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PROCEDURE # 4: AWARDING PREFERENCE - CONTRACTS OVER \$150,000.00

- A. An Awarding Authority shall award a 6% preference to a Local Business. A Local Business that is also a City Business shall be awarded an additional 4% preference. The preferences shall be applied to a Bid and Proposal in the following manner:

1. **Bid.** The Awarding Authority shall apply the preference to a Bid price solely for Bid evaluation purposes such that the total Bid price by a Local Business shall be reduced by 6% of the Bid amount. The total bid price by a City Business shall be further reduced by 4% of the bid amount. The reduced Bid amount shall be deemed the amount Bid by the Bidder.

If the Local Business or City Business also receives any of the preferences in LAAC Section 10.25.5(b), the total Bid price shall be further reduced by the additional preferences awarded.

2. **Proposal.** The Awarding Authority shall apply the preference to a Proposal solely for Proposal evaluation purposes such that the score awarded to a Proposal submitted by a Local Business shall be increased by 6% of the total possible evaluation points. The score awarded to a Local Business that is also a City Business, shall be further increased by 4%.

If the Local Business or City Business also receives any of the preferences in LAAC Section 10.25.5(b), the Proposal's score shall be further increased by the additional preferences awarded.

- B. A Local Business or City Business that is awarded the 6% preference in Procedure 4A above may receive up to an additional 4% preference as provided below.

1. Qualifying contractors who participate in the LBPP by qualifying as a Local Business will receive a 6% preference credit to their bid and a Local City Business will receive a 10% credit to their bid.
2. Qualifying contractors who participate in the LBPP by also qualifying as a Local Small Business or Local Transitional Employer may receive an additional 2% preference credit for each additional certification to their bid.
3. A Local Business or City Business that is not eligible for the additional preference in Section 10.25.5(b)(1), but that identifies a Subcontractor that is a Local Small Business or a Local Transitional Employer, shall receive up to a 2% preference for each Subcontractor certification. The additional preferences under this subsection shall be applied as follows:

- a. A Local Business that identifies a Subcontractor certified by the DAA

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as a Local Small Business may receive a 1% preference to the Bid for every 10% percent of the cost of the proposed work to be performed by the qualifying Subcontractor, up to a maximum preference of 2% to the Bid for each qualifying Subcontractor.

- b. Proposal. The Awarding Authority shall provide a 1% increase of the total possible evaluation points for every 10% of the total cost of the proposed work under the Contract to be performed by qualifying Subcontractors, up to a maximum increase of 2% of the total evaluation points for each qualifying Subcontractor.
 - c. The Bid or Proposal must identify each qualifying Subcontractor, the proposed work of the Subcontractor and the cost of the work for each Subcontractor.
- 4. A Bid or Proposal that does not qualify for the Local Business or City Business Preference may receive up to a 5% preference if it identifies a Subcontractor that is certified by the DAA as a Local Business, City Business, Local Small Business, or Local Transitional Employer.
 - a. The Bid or Proposal must identify each Subcontractor, the proposed work of the Subcontractor, and the cost of the work for each Subcontractor.
 - b. The Subcontractor preference shall be applied to a Bid or Proposal in the same manner as applied in Procedure 4B.
- 5. Preferences shall only be awarded to a Local Business or City Business when a minimum of two-thirds of the services provided under the contract are performed in the County, for a Local Business, or in the City, for a City Business. Preferences shall only be awarded for equipment, goods or materials when the Local Business or City Business acts as a supplier or dealer (for a minimum of two-thirds of the work), or designs, manufactures, or assembles the equipment, goods or materials, where a minimum of two-thirds of the work, based on the dollar amount under the Contract, is performed in the County, for a Local Business, or in the City, for a City Business.
- 6. The maximum combined preference that may be awarded to a Bid under the Article shall not exceed 12% for a City Business, and shall not exceed 10% for a Local Business, and the value of the combined preferences (whether for a Local Business or for a City Business) shall not exceed one million dollars (\$1,000,000).
- 7. A bid preference does not reduce the Contract amount.

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8. In the event a Local Business or City Business bids on a City contract and, after the bid deadline, is determined not to qualify as a Local Business or City Business, the business may still be eligible for a Local Business or City Business Subcontractor Preference of up to 5% if it has identified a qualifying Local or City Subcontractor(s) to perform work under the Contract.
 - a. This provision shall not apply to a business that intentionally or fraudulently claims to be a Local Business or City Business through misleading or false statements.
 - b. It is the responsibility of the business registered on RAMP as a certified Local Business or City Business to inform the DAA within 10 calendar days, via email at bca.certifications@lacity.org, of any changes that affect the business' certification eligibility. Failure to do so shall be construed as a misleading and/or false statement.

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PROCEDURE # 5: NON-COMPLIANCE & PENALTIES

- A. The penalties in this subsection may be assessed on any Contractor that:
1. Upon receipt of information believed by the Awarding Authority to be reliable and which indicates that the Local Business or City Business no longer qualifies as a Local Business, City Business, Local Small Business and/or Local Transitional Employer for more than 60 days during the entire time of the Contract, the Awarding Authority shall withhold or recover funds from the Contractor in an amount that represents the value of the bid preference of the executed Contract.
 2. If for any reason the Local or City Subcontractor, providing the basis for a Local or City Subcontractor Preference, is unable to, or does not perform the work under the Contract; the Contractor shall, within 60 days, replace that Local or City Subcontractor with another Local or City Subcontractor. If the Contractor is unable to replace the Local or City Subcontractor specified in the Contract with another Local or City Subcontractor within 60 days, the Awarding Authority shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Bid Preference.
 3. In the event that the DAA determines that a business fraudulently represented itself as a Local Business or City Business for the purpose of gaining a preference under the LBPP, the business shall not be eligible for the Local Business or City Business status for up to five years from the date of disqualification. This 5-year disqualification period also applies to any business that has received a preference but fails to maintain its Local Business or City Business qualification for a cumulative of 60 days during the Contract term.
- B. The Awarding Authority may impose the following remedies:
1. For bids, the value of the preference is determined by the difference between the amounts paid to the Contractor pursuant to the Contract and what the City's costs would have been if the Contract had been awarded to the next lowest responsive, responsible Bidder.
 2. Additional costs and expenses to the City resulting from the Contractor's failure to comply with the Article.
 3. Termination of all or part of the Contract.
- C. The remedies available to the City under the Article are in addition to all other contractual or legal rights and remedies available to the City under law.

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PROCEDURE # 6: EXCEPTIONS & WAIVERS

A. Exceptions

1. A Local Small Business Contractor whose income level rises above the LSB threshold during the execution of the Contract.
 - a. A Contractor's certification status will remain in effect for the duration of the Contract term.
 - b. However, the Contract shall have no bearing on the Contractor's certification status for any future or pending bid, proposal, qualification or quote submitted for any other City contracting opportunity.

B. Waivers

1. The Article applies only to Contracts that involve the expenditure of funds entirely within the City's control and shall not apply to Contracts that involve the expenditure of funds that are not entirely within the City's control, such as state and federal grant funds that, due to legal restrictions, prohibit its application.
2. The Article shall not apply to a Bid or Proposal if it would violate or conflict with federal or state law.
3. An Awarding Authority may award a Contract to a Bidder or Proposer without applying a Bid or Proposal preference pursuant to the Article if the General Manager, Director, or their designee makes a written determination that it is not in the City's best interest to grant a Bid or Proposal preference.

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PROCEDURE # 7: COMPLAINTS, INVESTIGATIONS, & PROTESTS

- A. Any complaint and/or protest regarding a qualifying Local or City Business or Local or City Subcontractor, including any Local Small Business and/or Local Transitional Employer, claiming non-compliance by a City Department or its failure to maintain certification criteria, shall be made to the BCA/OCC either in writing or by email. Complaints must be accompanied by documentation substantiating the allegations in the complaint .
- B. Any complaint that meets the criteria as stated in Part A may be investigated by BCA/OCC in its role as the Designated Administrative Agency.

Submit complaints to:

By Mail Bureau of Contract Administration
 Office of Contract Compliance
 Department of Public Works
 1149 S. Broadway, Suite 300
 Los Angeles, CA 90015

By Email bca.biphelp@lacity.org

The DAA may audit Contractors and Subcontractors and monitor compliance, including the investigation of alleged violations of the Article. Any entity wishing to protest the application of the LBPP on a project should contact the project's Awarding Authority. The Contractor and Subcontractor shall cooperate with the DAA and the Awarding Authority during the course of an audit or investigation.

--- End ---

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APPENDIX - REFERENCE CHART

The following chart provides a visual example of how the Local Business Preference Program is applied to bids and proposals.

TABLE: DETERMINATION OF LBPP ON CONTRACTS OVER \$150K

| | Rank before LBPP | | | LBE | CBE | LSB | LTE | Eligible for | Notes | Rank after LBPP |
|--|------------------|---------------------|----------------|-----|-----|-----|-----|--------------|--|-----------------|
| Bidder A: Prime (LBE) with LSB, LTE Subs | 1 | Bidder A | | x | | | | 6% | 6% credit for LBE- County | 3 |
| | | Bid Amt | \$1,000,000.00 | | | | | | | |
| | | 10% of bid | \$100,000.00 | | | | | | | |
| | | Sub 1 | \$115,000.00 | x | | x | x | 1% | 1% for every 10% of total bid (1% for LSB/ LTE, no add'l % credit since total sub amt is only ~10% of total bid) | |
| | | Sub 2 | \$10,000.00 | x | | x | | 0% | No % credit given for LSB since total sub amt is less than 10% of total bid | |
| | | Bid Amt after LBPP* | \$930,000.00 | | | | | 7% | Total LBPP % | |
| Bidder B: Prime (Non-LBE) with LSB, LTE Subs | 2 | Bidder B | | | | | | 0% | | 4 |
| | | Bid Amt | \$1,000,500.00 | | | | | | | |
| | | 10% of bid | \$100,050.00 | | | | | | | |
| | | Sub 1 | \$340,000.00 | x | x | x | x | 3% | 1% for every 10% of total bid (ex. 2% for LSB, 1% for LTE) | |
| | | Sub 2 | \$10,000.00 | x | | x | | 0% | Less than 10% of total bid | |
| | | Sub 3 | \$110,000.00 | x | | x | x | 1% | 1% for every 10% of total bid | |
| | | Sub 4 | \$210,000.00 | x | x | x | x | 1% | Although 20%+ of total bid, max preference is 5% total | |
| | | Bid Amt after LBPP* | \$950,475.00 | | | | | 5% | Total LBPP % | |
| Bidder C: Prime (LBE) with LSB, LTE Subs | 3 | Bidder C | | x | | | | 6% | 6% credit for LBE | 1 |
| | | Bid Amt | \$1,020,000.00 | | | | | | | |
| | | 10% of bid | \$102,000.00 | | | | | | | |
| | | Sub 1 | \$330,000.00 | x | x | x | x | 3% | 1% for every 10% of total bid (ex. 2% for LSB, 1% for LTE) | |
| | | Sub 2 | \$105,000.00 | x | | | x | 1% | 1% for every 10% of total bid | |
| | | Bid Amt after LBPP* | \$918,000.00 | | | | | 10% | Total LBPP % | |
| Bidder D: Prime (CBE, LSB, LTE) with LSB, LTE Subs | 4 | Bidder D | | x | x | x | x | 12% | Full credit- 12% max (10% CBE, 2% LSB or LTE) | 2 |
| | | Bid Amt | \$1,050,000.00 | | | | | | | |
| | | 10% of bid | \$105,000.00 | | | | | | | |
| | | Sub 1 | \$230,000.00 | x | x | x | | 0% | No % credit given since 12% max met | |
| | | Sub 2 | \$10,000.00 | | | | | 0% | | |
| | | Bid Amt after LBPP* | \$924,000.00 | | | | | 12% | Total LBPP % | |

*For bid evaluation purposes only

SUMMARY:

| Rank before LBPP | Bidder | Bid Amt | Total LBPP % | Bid Amt after LBPP | Rank after LBPP |
|------------------|----------|----------------|--------------|--------------------|-----------------|
| 1 | Bidder A | \$1,000,000.00 | 7% | \$930,000.00 | 3 |
| 2 | Bidder B | \$1,000,500.00 | 5% | \$950,475.00 | 4 |
| 3 | Bidder C | \$1,020,000.00 | 10% | \$918,000.00 | 1 |
| 4 | Bidder D | \$1,050,000.00 | 12% | \$924,000.00 | 2 |