
SMALL AND LOCAL PREFERENCE POLICY

PURPOSE:

Central Coast Community Energy (“3CE”) desires, whenever possible, to contract with qualified small and local vendors to provide goods and services to the agency.

3CE’s Small and Local Preference Policy (“Policy”) establishes a preference for qualified small, local, and diverse businesses in non-power services contract opportunities. This policy requires 3CE to directly identify and solicit small, local, and diverse businesses; reduce barriers to contracting with small, local, and diverse businesses; and incentivize small, local, and diverse businesses to engage with 3CE’s contracting process.

GENERAL REQUIREMENTS

1. Any vendor seeking to be recognized as a small, local, and diverse business for purposes of this Policy shall be required to certify they meet the definition of small and local as set out in this policy, and to register as a small, local, and diverse business with 3CE. Registering through the vendor registry enables 3CE to track the effectiveness of the Policy and allow 3CE to provide future notifications to its small, local, and diverse businesses concerning other bidding opportunities.
2. When 3CE evaluates the responses to a formal solicitation for goods or services, where best value is the determining basis for the contract award, a five (5) points preference will be applied to the scoring evaluation for qualified small, local, and diverse businesses.
3. When 3CE evaluates the responses to a formal solicitation for goods or services, where lowest price, is the determining basis for the contract award, a five percent (5%) preference will be subtracted from the bid price of qualified small, local, and diverse businesses. If application of the five percent (5%) preference results in a qualified small, local, and diverse business’ bid being lower than all other bids, the contract shall be awarded to the qualified small, local, and diverse business at that vendor’s bid price.
4. Whenever a responsive qualified small, local, and diverse businesses and a responsive non-small, non-local business have both submitted matching lowest responsive bids, the qualified small, local, and diverse business shall be awarded the contract.
5. When a contract requires subcontractors or sub-consultants, the selected contractor shall solicit proposals from qualified small, local, and diverse businesses whenever possible. No contract awarded to a small and local business shall be assigned or subcontracted in any manner that permits more than fifty percent (50%) or more of the dollar value of the contract to be performed

by an entity that is not a small and local business.

6. Each purchasing solicitation made by 3CE shall contain terms expressly describing this Small and Local Preference Policy.

7. This Policy shall not apply to the following categories of contracts:

7.1. Power supply contracts

7.2. Goods or services provided under a cooperative purchasing agreement or similar “piggyback” contract

7.3. Contracts for public works, or where preferences described in this Policy are precluded by state or federal laws or regulations.

7.4. Any bid announcement which specifically provides that the small and local preference policies set forth in this Policy are suspended due to:

- a) the unique nature of the goods or services sought, or
- b) the existence of a local emergency as determined by 3CE and/or one of its member agencies or where such suspension is, in the opinion of 3CE’s General Counsel, required by law.

8. Purchasing made pursuant to a non-competitive award process, including but not limited to, contracts covered by the Little Brooks Act, Government Code, Title I Division 5, Chapter 10, Sections 4525-4529.5 for the purchasing of professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall:

8.1. Recognize the importance of local knowledge and experience in timely, cost-effective project execution, as well as 3CE’s desire to promote the use of small and local business enterprises as stated in 3CE’s Annual Supplier Diversity Report and Plan.

8.2. Address each of the factors set forth in Section 8.1 in addition to the relevant technical factors set forth in the solicitation unless it is found that the consultant’s location is immaterial to the provisions of the services or supplies that are required by the solicitation.

8.3. Include in purchasing solicitations knowledge of the local regulatory environment, local agencies having jurisdiction over the project, and construction industry; experience working on Community Choice Aggregation projects; and demonstrated ability to rapidly respond to 3CE’s needs during project construction and warranty periods.

9. To qualify for small and local preference under this Policy, a small and local business must certify to 3CE that it:

9.1. Qualifies as a “Small” and “Local” business as defined within this policy; and

- 9.2. Has not within the five (5) years prior to the request for purchasing goods or services admitted guilt or been found guilty by any court or state or federal regulatory enforcement agency of violation of any criminal law, or a law or administrative regulation regarding fraud; and
- 9.3. Is not currently subject to an unresolved citation or notice of violation of any of 3CE's member agencies' code provisions, except citations or notices which are the subject of a current legal appeal, as of the date of the bid announcement; and
- 9.4. Is not delinquent in the payment of any fines, liens, assessments, fees or taxes to any governmental unit or taxing authority within 3CE's service area, except any such sums which are the subject of a current legal appeal.

TERMS AND CONDITIONS

The following terms and conditions for small and local business preference shall apply:

10. In order to be eligible for the preference, the small and local business must complete, return, and satisfy the requirements of the small and local business preference affidavit of eligibility and also supply a copy of a current valid business license issued by a 3CE member agency.
11. Any person, firm, corporation, or entity intentionally submitting false information to 3CE in an attempt to qualify for small and local business preference shall be prohibited from bidding on 3CE contracts for a period of three (3) years.
12. The small and local business preference established by this policy shall not be available if it conflicts with state or federal law or regulation.
13. 3CE is not responsible for any business's failure to request, complete, return, or meet the requirements of the small and local business preference affidavit of eligibility.

DEFINITIONS

The terms used in this policy are defined as follows:

14. "Small business" shall be defined as set forth in Government Code Section 14837(d)(1) and mean an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of fifteen million dollars (\$15,000,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 100 or fewer employees.
15. "Local business" shall be defined as being a 3CE customer and having its principal place of business mailing address match the address of the 3CE customer account.

16. "Small and local business preference affidavit of eligibility" means an affidavit to be completed by a locally operated business in applying for a preference treatment.
17. "Best value" shall mean a selection process in which written proposals contain both price and qualitative components, and where the award is based upon an evaluation of a combination of price, qualitative considerations, and performance that provides the greatest overall benefit under the specified selection criteria as determined by 3CE.
18. "Power supply contracts" include any contracts for the purchase, sale, and/or delivery of energy or ancillary energy product to 3CE or the CAISO wholesale energy market regardless of specific characteristics of the contract, including but not limited to: (1) whether the resource is "in front of the meter" or "behind the meter;" (2) volumes; (3) price, or; (4) term. Power supply contracts include physical or virtual power purchase agreement structures.