

**CHAPTER 365  
LOCAL BUSINESS ENTERPRISE CONTRACTING PROGRAM**

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**365-1. Creation; Purpose.** There is created a local business enterprise contracting program in order to offset unemployment in the city of Milwaukee and promote the economic growth of the city.

**365-3. Definition.** In this chapter:  
**1. CONTRACTING AGENCY** means any city department, agency, board, commission or officer that has contracting authority.

**2. LOCAL BUSINESS ENTERPRISE** means a business which satisfies all of the following criteria:

a. Operates a business, or owns or leases real property within the geographical boundaries of the city of Milwaukee. Post office box numbers shall not suffice to establish compliance with this paragraph. A residential address may suffice to establish compliance with this paragraph, 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. Leased property shall not suffice to establish compliance with this paragraph unless at least half of the acreage of all of the real property owned, operated or leased by the business is located within the geographical boundaries of the city of Milwaukee.

b. Has has been doing business within the geographical boundaries of the city of Milwaukee for at least one year.

c. Is not delinquent in the payment of any local taxes, charges, or fees, or has entered into an agreement to pay any delinquency and is abiding by the terms of the agreement.

d. Will perform at least 10% of the monetary value of the work required under the contract.

**3. PURCHASING DIRECTOR** means the city purchasing director granted the authority to purchase in s. 16-05-1-a of the charter.

**365-4. Application.** This chapter shall not apply to any competitive bid contract for the construction, execution, repair, remodeling or improvement of a public work or building, or for the furnishing of supplies or material of any kind for the construction, execution, repair, remodeling or improvement of a public work or building.

**365-5. Administration.** The local business enterprise contracting program shall be administered by the purchasing director. The director shall develop appropriate rules, procedures and regulations for assuring compliance with the purpose and intent of this chapter, and supervise, coordinate, monitor and enforce the implementation of the local business enterprise contracting program goals in accordance with those rules, procedures and regulations.

**1. DOCUMENTATION.** Rules and procedures shall be made available to the public and distributed to contracting agencies. In addition, the city purchasing director shall establish reporting requirements for all contracting agencies to document the dollar amount of contracts that have been awarded to local business enterprises.

**2. ANNUAL REPORT.** The purchasing director shall review the activities of the local business enterprise program annually and submit an annual report to the mayor and the common council.

**365-7. Obligations of Contracting Departments.**

**1. CONTRACT AWARD.**

a. A contracting agency, shall, unless contrary to federal, state or local law or regulation, apply an award standard in all formal competitive bids so that an otherwise responsive and responsible bidder which is a local business enterprise shall be awarded the contract, provided that its bid does not exceed the lowest bid by more than 5%.

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b. A contracting agency shall, unless contrary to federal, state or local law or regulation, apply an award standard in the composition of scales used to evaluate proposals submitted in response to formal requests for proposals to procure goods or services. An additional number of points, equal to 5% of the maximum number of points used in the evaluation, shall be applied to increase the total score attained by a local business enterprise.

c. If the bids of 2 or more local business enterprises do not exceed the lowest bid by more than 5%, the contract shall be awarded to the local business enterprise that submitted a bid that exceeded the lowest bid by the smallest amount.

d. If a bid submitted by a non-local business enterprise and a bid submitted by a local business enterprise are identical, the contract shall be awarded to the local business enterprise, even if the bids are only identical due to the 5% award standard provided for in this chapter. If 2 bids submitted by 2 local business enterprises are identical, the winner will be determined in accordance with the process for tie-breakers as established by the city purchasing director.

e. The preference under par. a shall not exceed \$25,000 for any one solicitation and award determination. The preference under par. f shall not exceed \$30,000 for any one solicitation and award determination.

f. If a local business enterprise is also certified as a small business enterprise under s. 370-25, the award standards set forth in pars. a to d shall be 10%.

**2. DUTIES OF CONTRACTING AGENCY.** Each contracting agency shall:

a. Obtain affidavits from local business enterprises with their bids or proposals verifying their status.

b. Cooperate with the purchasing director in the implementation of this chapter.

c. Provide monthly reports to the purchasing director not later than 30 calendar days after the end of the previous month specifying with respect to contracts:

c-1. Provide the dollar amount of those contracts awarded to local business enterprises.

c-2. Provide other information as may be requested by the purchasing director.

**365-9. Duration.** This chapter shall be in effect for a period of 7 years after the effective date of this chapter [August 8, 2009], provided, however, that the common council shall determine the necessity for the continuation of the program as well as the applicable percentage of bid award standards for local business enterprises at 2-year intervals from the effective date of this chapter.

**365-11. Sanctions.** Every contract awarded under this chapter shall contain language indicating that if any document submitted by a contractor contract contains false, misleading or fraudulent information, the contracting agency or the purchasing director, as the case may be, may direct the imposition of any of the following sanctions on the offending contractor:

a. Withholding of payment.

b. Termination, suspension or cancellation of the contract in whole or in part.

c. Denial to participate in any further contracts awarded by the city.

**365-13. Penalty.** Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this chapter by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 nor more than \$5,000 together with the costs of prosecution.

Local Business Enterprise contracting  
Program 365--(HISTORY)

LEGISLATIVE HISTORY  
CHAPTER 365

Abbreviations:

am = amended  
cr = created

ra = renumbered and amended  
rc = repealed and recreated

rn = renumbered  
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
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365-3-1	am	130100	5/13/2014	5/31/2014
365-3-2	rc	090823	12/1/2009	12/18/2009
365-3-2-a	am	151474	6/14/2016	1/1/2017
365-3-2-b	am	151474	6/14/2016	1/1/2017
365-3-3	cr	130100	5/13/2014	5/31/2014
365-4	cr	110754	12/20/2011	1/12/2012
365-4	am	111233	1/18/2012	2/4/2012
365-5	am	130100	5/13/2014	5/31/2014
365-7-1-a	am	130100	5/13/2014	5/31/2014
365-7-1-b	am	130100	5/13/2014	5/31/2014
365-7-1-e	am	151474	6/14/2016	1/1/2017
365-7-1-f	cr	151474	6/14/2016	1/1/2017
365-7-2	am	130100	5/13/2014	5/31/2014
365-7-2-c	am	151474	6/14/2016	1/1/2017
365-11-0	am	130100	5/13/2014	5/31/2014

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