



Agenda Date: 12/20/2005
Agenda Placement: 60

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Britt Ferguson for Nancy Watt - County Executive Officer
County Executive Office
REPORT BY: Britt Ferguson, Assistant County Executive Officer, 253-4406
SUBJECT: Delegation of Authority to Terminate Contracts

RECOMMENDATION

County Executive Officer requests adoption of a resolution amending Part I, Section 39, "Purchasing" of the County Policy Manual, to delegate to the County Executive Officer the authority to terminate contracts for services, if necessary, under the standard "for cause" or "for convenience" provision of the County contract.

EXECUTIVE SUMMARY

The Board of Supervisors is required by law to approve contracts when the aggregate amount of all contracts with a vendor exceeds \$50,000. County contracts typically allow for termination of the contract by the County for cause or convenience, in accordance with notice provisions involving relatively short timelines. In the past, Board approval has been required to provide notice of termination under either of these provisions for contracts approved by the Board. This Resolution would authorize the County Executive Officer (CEO) or designee to take all actions necessary to terminate any County contract for the purchase of services, including contracts approved by the Board. The Resolution would also require that the Board be notified of any termination actions taken by the CEO or designee at the next reasonably feasible opportunity.

Contracts have rarely been terminated under either of these two provisions, but staff believes that, if such termination were to be necessary, it might be beneficial to issue the termination notice as quickly as possible in order to avoid potential liability to the County or, where termination is necessary due to a failure of outside funding, to avoid an unexpected burden on the County's general fund.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The Board of Supervisors is required by law to approve contracts when the aggregate amount of all contracts with a vendor exceeds \$50,000. In accordance with state law, the Board has delegated approval authority for contracts where the aggregate amount is less than \$50,000 to the Purchasing Agent.

County contracts typically allow for termination of the contracts by the County for cause or convenience, in accordance with notice provisions involving relatively short timelines (typically 15 days to 30 days). In the past, Board approval has been required to provide notice of termination under either of these clauses for contracts approved by the Board. For contracts approved by the Purchasing Agent, Board approval to terminate has not been required.

The County has rarely terminated contracts under either of these provisions. However, should it be necessary, staff believes that it could be beneficial to be able to issue the termination notice as quickly as possible in order to limit any potential liability that could accrue prior to the final termination date. Thus, the Resolution before your Board today would authorize the County Executive Officer (CEO) or designee to take all actions necessary to terminate any County contract for the purchase of services, including contracts approved by the Board. The Resolution would also require the CEO or designee to notify the Board of the action to terminate at the next reasonably feasible opportunity.

If approved as proposed, this approach would ensure that your Board is kept informed regarding contract terminations, with the ability to ask questions or request Board discussion before the effective date of a contract termination if you desire, but also allow the termination notice to be sent as quickly as possible in order to avoid potential liability to the County or, where termination is necessary due to failure of outside funding, to avoid an unexpected burden on the County's general fund.

SUPPORTING DOCUMENTS

A . Resolution

CEO Recommendation: Policy Issue

Reviewed By: Maiko Klieman