



Agenda Date: 7/11/2006  
Agenda Placement: 9B

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Martha Burdick for Robert Peterson - Director  
Public Works  
**REPORT BY:** Nancy Oweyong, Buyer II , 253-4476  
**SUBJECT:** Local Vendor Preference

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### **RECOMMENDATION**

County Executive Officer/Purchasing Agent and Director of Public Works request discussion and possible direction regarding the establishment a Local Vendor's Preference Policy for the purchase of goods and supplies.  
(Supervisor Dodd)

### **EXECUTIVE SUMMARY**

The policy issue before the Board of Supervisors is whether to provide direction to establish a Local Vendor's Preference policy for the purchase of competitively awarded goods and supplies. A Local Vendor's Preference policy would permit a preference credit be given to local businesses when evaluating bids for goods and supplies. The tradeoff in making this policy decision is whether the benefit of doing business locally will actually increase economic activity through more local jobs, tax revenues and expenditures to the point that it outweighs the potential higher cost to the County and its taxpayers.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	The ramifications of a policy decision to establish a local vendor's preference would impact all county funds, primarily the General Fund.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Jurisdictions that have adopted a local vendor's program have done so with the justification to promote and encourage local businesses and with the anticipation that doing business locally will increase economic activity through

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	more local jobs, tax revenues and expenditures. They believe these potential benefits outweigh additional costs paid for goods and services.
Is the general fund affected?	Yes
Future fiscal impact:	The financial implications of a local vendor's program will impact future fiscal years.
Consequences if not approved:	Present purchasing policy will remain unchanged.
Additional Information:	None

### **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**

It is the County's current purchasing policy to promote the most cost effective and efficient use of County funds and resources by acquiring goods and services at the optimum quality, quantity, price, delivery and performance. Because Napa is a small county, there are a limited number of local businesses capable of providing the types of goods the County most frequently requires. As a result, the County often utilizes competitively awarded state, regional, and national government contracts that are available for use by local jurisdictions. In essence, these government contracts collectively constitute a marketplace for the types of goods most frequently required by local government agencies.

The majority of goods purchased by the County can be summarized into four categories:

- | Office Supplies - The county uses the U.S. Communities contract. U.S. Communities is a non-profit corporation created to provide public agencies nationwide with commodities at the lowest procurement cost. The County presently uses the U.S. Communities contract with Office Depot.
- | System Furniture (office cubicles) - The County uses multiple competitively awarded contracts available through the State of California and U.S. Communities.
- | Computer Equipment - The Western State Contracting Alliance (WSCA) is used to purchase computer equipment and software. The WSCA was formed by state purchasing directors from fifteen western states and its primary purpose is to pool the purchasing power of the region's state and local governments to achieve cost effectiveness in the procurement of goods. The County realizes significant discounts on the purchase of Dell computer equipment through the use of this contract.
- | Vehicles - Bids for fleet vehicles are received from both local and nonlocal businesses. Bids are awarded to the lowest bidder or in the case of public safety vehicles, the delivery time may also be considered in awarding the bid.

### **Local Vendor Preferences in Other Jurisdictions**

Based upon an informal survey of various cities and counties, there is no consistency between jurisdictions as it applies to establishing a local vendor's preference. Solano, Sonoma, and Yolo counties, and the City of Vacaville have similar purchasing policies as the County of Napa with no local vendor's preference. Lake and Marin counties, and the cities of Fairfield, Folsom, and Vallejo do provide a local vendor's preference of five percent

(5%). The County of Sacramento applies a local vendor's preference only if there is a tie bid. The City of Napa presently provides a three percent (3%) preference, while the City of American Canyon has implemented an informal local vendor's preference of 5%. The City of Sacramento provides a one percent (1%) preference.

Jurisdictions that have adopted a local vendor's program have done so with the justification to promote and encourage local businesses with the anticipation that doing business locally would increase economic activity through more local jobs, tax revenues and expenditures.

Jurisdictions that have not adopted a local vendor's preference have done so because of their concern that such a policy would discourage vendors outside their area from bidding, resulting in less competition and higher purchasing prices. Also, local businesses could be put at a disadvantage when bidding if surrounding counties, which do not have a preference policy, respond with their own preference policy. This has become an issue in Southern California, where some jurisdictions have adopted "reverse" local vendor preferences designed to penalize businesses located in jurisdictions that have adopted exclusionary local vendor preferences.

### Return To Source for Sales Tax Dollars

One issue to consider is whether implementing a local vendor preference would have an impact on sales tax revenue for the County and its cities. Sales tax regulations are specific to the type of sales tax collected. The one percent portion of sales tax allocated to local governments (commonly known as the Bradley-Burns sales tax) is based upon the situs of the sale (the location where legal change of ownership occurs). Neither the County or its cities would recover this portion of sales tax revenue unless the goods were purchased from vendors located within the County. In instances where the sale does take place within the County, because most businesses the County might purchase goods from are located within the incorporated areas of the county, the 1% Bradley-Burns sales tax revenue would be recovered by the city where the business is located. If the business were located within the unincorporated area of the County, the County would recover the 1% Bradley-Burns sales tax revenue.

However, the rules affecting special taxes such as the 0.5% sales tax for the Napa County Flood Control District (pursuant to the 1998 voter approved "Measure A" Ordinance) are different from the Bradley-Burns sales tax. Under current conditions, the Flood Control District does recover the 0.5% sales tax for vehicles, office supply, computer, and systems furniture purchases regardless of the point of sale.

### How Local Vendor's Preference Works

Local preference means that if the lowest bidder is a nonlocal business, then all bids received from local businesses shall be decreased by the percentage amount established by the local preference. The original bid is not changed. The applicable percentage decrease is calculated only for the purpose of determining the local preference.

For example, if the County adopted a five percent (5%) local preference, a local business bid of \$1,000 would be reduced by 5% resulting in the bid being evaluated at \$950 for purposes of comparison with other bids. If a competing bid from a nonlocal bidder was \$960 (the apparent low bidder), the purchase would be awarded to the local business, and the local business would be paid the original bid price (before the local preference discount) of \$1000. In this example the County would expend \$40 more by providing a local vendor's preference.

### Potential Fiscal Impact

The fiscal impact to the County for a change of purchasing policy to provide for a local vendor's preference is dependent upon a number of variables, including:

- 1 The exact percentage amount of the local vendor's preference.

- | A determination of the categories of goods applicable for local vendor's preference (for example, limited to vehicles, or broadened to other categories of office supplies, system furniture, computer equipment).
- | The response from marketplace in pricing bids with the understanding there is a local vendor's preference in place, where local vendors would have an incentive to price their quotes such as to maximize their profit while staying within the margin of the local vendor preference.

One method for forecasting fiscal costs for a local vendor preference on the high side (5%) is to apply a five percent cost differential to the total expenditure amount of the four categories of goods purchased during Fiscal Year 2004-2005 (approximately \$2.5 million). Based upon this analysis, if the Board adopted a local vendor's preference of 5% for all four categories of goods, the increase in costs to the County is projected to be a maximum amount of \$125,0000.

Staff has also reviewed the competitive bids received for vehicles in Fiscal Year 2005-2006. This analysis shows that nine of the twenty-two vehicles purchased were from local dealers. If a three percent (3%) or five percent (5%) vendor's preference had been in effect, there would have been six more vehicles awarded to local dealers at an additional cost to the County of \$1,156 and the cities (St. Helena or the City of Napa) would have recovered \$1,100 in additional sales tax revenue. If a one percent (1%) vendor's preference had been in effect, there would have been two more vehicles awarded to local dealers at an additional cost to the County of \$110, and local cities would have recovered \$380 in additional sales tax revenue.

A caveat needs to be added to the above vehicle purchase analysis since it cannot take into account how the marketplace will respond in pricing bids when there is a local vendor's preference in place. With a local vendor preference policy in place, local vendors would have an incentive to maximize their potential profit on any purchase by setting their sell price just within the margin necessary to win the bid against non-local competitors. In the new vehicle market, where dealers have a very good idea of the base cost of vehicles as delivered from the manufacturer, it can be assumed that it would be possible for local vendors to realistically calculate where to set a bid price to maximize profits by using the price differential provided by a local vendor preference when competing against non-local dealers. However, competition between two local dealers would introduce an element of uncertainty into pricing strategy that would not apply if there were only one local dealer bidding against non-local dealers for a vehicle purchase award.

### Policy Discussion

This is clearly a policy decision where a tradeoff between policy objectives is involved. The tradeoff that must be considered is the benefit of providing an advantage to local businesses in the effort to support the local economy versus the benefit of an open market that encourages competition in order to obtain the lowest cost to the county for the purchase of goods. It is an economics issue very similar to the free trade and tariff issues that are discussed at an international political level.

Staff does not believe implementation of a local vendor preference for goods such as office supplies and computers would provide sufficient advantage to local retailers to make them competitive because the County currently utilizes competitively awarded, regional and national government contracts with heavily discounted pricing structures. These contracts were designed to take advantage of the combined purchasing power of governments (local, state, and federal) in order to provide the lowest possible costs, online ordering and tracking capabilities, and quick ship deliveries. In essence, the County does not purchase office supplies or computers in a retail market, but instead purchases these goods in a national, wholesale type market where economies of scale drive market prices.

Staff also believes it is presently a moot point to discuss a local vendor's preference for systems furniture purchases, given that currently there are no systems furniture distributors located within Napa County. Systems furniture is also a specialized market where economies of scale allow a handful of national manufacturers and

their regional distributors to compete for local government business through competitively awarded, volume discount contracts.

Staff does believe a discussion pertaining to the merits of a local vendor's preference policy regarding vehicle purchases is warranted, given that all County vehicle purchases are made on a retail basis, and that recovery of 1% of local tax revenue to local municipalities does not occur when vehicle purchases are made outside the County. It is reasonable to contend that a limited vendor's preference could allow more local sales of vehicles, and that in turn could contribute to the local cities' sales tax revenue, and potentially to the economic growth of both the cities and County. While understanding that benefit, the Board also needs to understand that such a policy would add to the cost of vehicles purchased by the County.

If the Board were to adopt a limited local vendor preference of 1% for the purchase of vehicles, the rationale for such an action would be:

- | One percent of sales tax revenue for auto purchases currently made outside the County of Napa could be recovered to benefit municipalities located in Napa County through a limited one percent (1%) vendor's preference program; and
- | Analysis of Fiscal Year 2005-2006 data indicates that the sales tax return benefit to local cities would be 3.5 times more than the increase in Net County Cost, based on a limited one percent (1%) vendor's preference program.

Additionally, if the Board were to adopt a local vendor preference policy, it would be necessary to establish a definition for the term "local vendor" in order to establish local vendor preference eligibility. Most likely, the definition would be something along the lines of the following: "a firm or individual who regularly maintains a place of business and has an inventory of merchandise for sale within Napa County."

Lastly, it should be mentioned that implementation of a local vendor preference policy would not change the requirement that bids be awarded to the "lowest responsive bidder", where responsive means the bidder has complied with the all the requirements of the request for quotations. Criteria such as required delivery time, delivery instructions, the timely submission of quotations, and other factors that influence the decision to purchase are used to determine whether a bid is considered responsive. For example, because timeliness of delivery is critical when law enforcement patrol vehicles are purchased, an apparent low bidder who was unable to meet the required delivery requirement for patrol vehicles would not be considered responsive, and would therefore not be awarded the vehicle purchase contract. Instead, the award would be made to the lowest bidder who did meet all the requirements of the request for quotations.

## **SUPPORTING DOCUMENTS**

None

CEO Recommendation: Policy Issue

Reviewed By: Andrew Carey