



Council Agenda Report

Item 6b

Department: Finance
For Agenda of: 5/17/2022
Placement: Business
Estimated Time: 60 minutes

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SUBJECT: UPDATE TO FINANCIAL MANAGEMENT MANUAL SECTION 200 -
PURCHASING POLICY

RECOMMENDATION

1. Approve a Resolution entitled, "A Resolution of the City Council of the City of San Luis Obispo, California, Updating the City's Financial Management Manual Section 200 Purchasing Policy" including applicable purchasing and competitive bid approval thresholds; and
2. Consider changes to the local preference language for inclusion in the purchasing policy.

DISCUSSION

Background

The City of San Luis Obispo adopts a two-year Financial Plan and appropriates annual budgets to fund the services, programs, and projects the community expects from its municipal government. To provide an open and public procurement process while maintaining flexibility for the organization to execute its work programs, the City has adopted an extensive purchasing policy to guide its procurement approach and required approvals. This policy had last been reviewed by the Council when the City implemented its Enterprise Resource Planning (ERP) system with Oracle in 2018. This system introduced a purchasing module and provided the opportunity to update the policy accordingly.

Resolution No. 10888 (2018 Series) (Attachment A) established six purchase types and five approval authority threshold levels. It mandated that the Finance Department maintain purchasing policies and procedures that are as efficient and effective as possible and remove any unnecessary administrative burden. Since that time, the City has improved the ERP system and its purchasing processes and proposes further refinements to enable proficient and efficient procurement.

Recommended Policy Updates

Utilizing the system and applying the purchasing types and thresholds adopted in 2018, the City learned that the process is ineffective in providing efficient program and service delivery, with too many purchase types creating an onerous approval process in the Oracle ERP system. The policy update is the result of a collaborative effort over the past four years amongst Finance staff, Department Heads, Fiscal Officers, City Attorney, Business Analysts, the City Engineer, and Deputy Directors in Public Works and Utilities.

The recommended approval thresholds are based on extensive research by Finance staff on current best practices in municipal procurement, including California and National Institute of Government Procurement award-winning agencies. The research supports the recommended thresholds to allow for broader approval authority and administrative flexibility.

If adopted, the updated approval thresholds will result in staff time efficiencies by reducing the number of administrative tasks associated with them and provide improved turn-around times in service, program, and project delivery (Attachment C – Benchmark research & purchase data).

Local Purchasing Preference

The City's Municipal Code under Section 3.24.060E currently allows for local preference to piggybacking on cooperative contracts and is mainly applied to fleet purchases. It states that bidding procedures are not required *"when the purchase will be made cooperatively...**or from a local dealer within the city limits** who can provide the same [good or service] identified in the cooperative contract at or below the cooperative cost within the same terms and conditions."*

On September 21, 2021, the Council held a study session to review strategies in support of local contractors, vendors, and labor on public projects. This was one of the work program components under the City's 2021-23 Major City Goal for Economic Recovery, Resiliency, and Fiscal Sustainability. The session was designed to gauge the Council's interest in the review for a stronger preference for local vendors. Council directed staff to study such a preference for inclusion in the City's purchasing policies. The preference would only apply to goods and services as capital projects are covered under the State's public contract code.

Staff research revealed that the most common local preference policy across California government entities, such as the City of Santa Cruz, and County of Monterey apply a legally binding percentage preference to local businesses, typically between 1 – 5%, with 5% being the most common. This means that when a local business submits a quote that is up to 5% above a non-local business, the City would have the authority to consider it the lowest bid at the quoted price point.

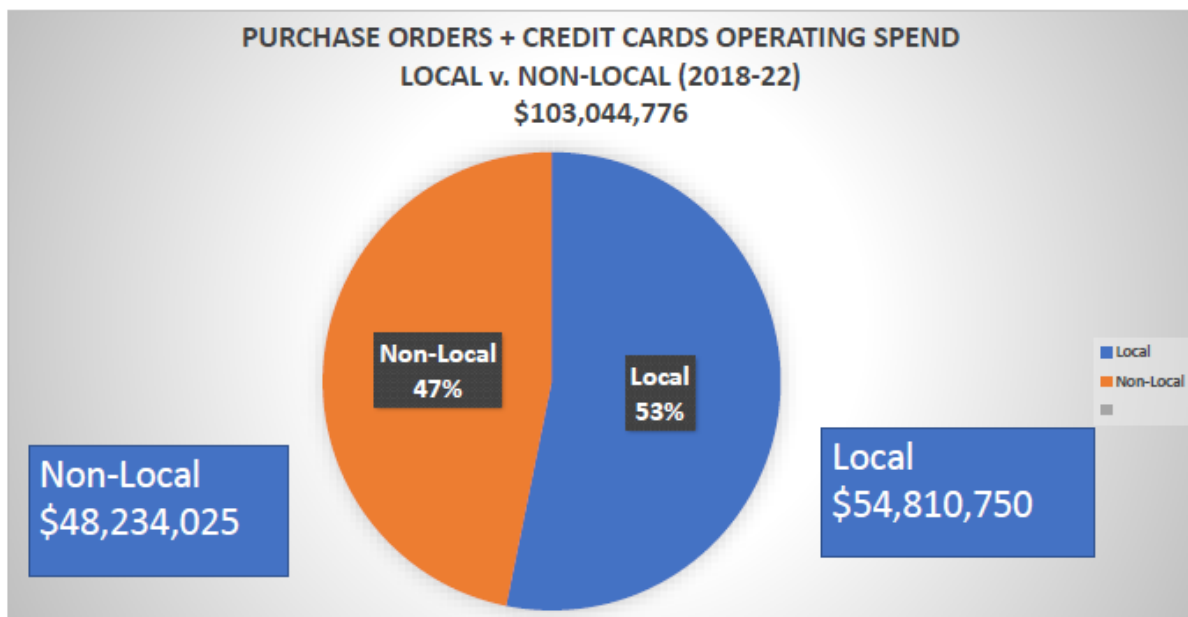
To further review the practicality of such an approach, Finance held two internal staff meetings and has drafted a white paper of findings. The paper and the town-hall presentation are included here for reference. (Attachment D – Local Preference Position Paper and Local Preference Presentation)

The argument supporting local preference is financial; the City can direct its funds to local businesses and show through policy actions its commitment to its business community. In addition, local purchasing can increase the City's tax collections, secure employment, and reduce the carbon footprint.

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The argument against local preference is that it leads to potentially higher costs to procure goods and services. Additionally, similar policies in other jurisdictions in response could place the City's businesses at a potential disadvantage in other jurisdictions, theoretically leading to loss of business opportunity for local businesses. Administrative cost to implement a preference increase as staff must consider factors to meet laws and regulations and each additional requirement adds to the risk of error in bid evaluation, calculation, and award. It's difficult to quantify if the potentially higher prices paid would be recycled back to the community and achieve an overall positive economic impact. It is for these reasons that government finance organizations have taken positions against local preference policies, including the Government Finance Officers Association, the National Institute of Government Procurement, the Council of State Governments, and the International City and County Managers Association.

To better understand the City's current local purchasing behaviour, staff analyzed purchase data in the City's Oracle ERP system between October 1, 2018 to April 1, 2022. It shows that the City's current operating expenditures are 53% local (within the City's borders as defined by Municipal Code 3.24.060E).



As such, staff recommends not to amend the current Municipal Code language for additional local preference consideration. However, if Council chose to adopt a local preference policy, staff would recommend aligning the City with the most common policy across California jurisdictions and consider a 5% preference. (Attachment E – Draft Ordinance and Local Preference Policy). Staff will then return to Council with a version of Attachment E to implement the ordinance with the desired local preference.

Sustainable Purchasing

Finance recommends in lieu of a focus solely on local preference, the City create a comprehensive Sustainable Purchasing Policy that will amend the City's Environmentally Preferable Purchasing Municipal Code Section 3.24.075, to incorporate Environmental, Social, & Governance (ESG) principles. ESG is a holistic philosophy that accounts for an organizations environmental performance, but also measures social performance such as how an organization treats employees, and customers, with consideration of diversity and equity and how the organization is governed.

On August 18, 2020, Council amended the City's investment policy to include ESG investing; Finance recommends adding ESG criteria not just for the City's investments, but also the City's purchases of goods and services. The policy will concurrently include metrics on sustainable purchasing to report on and proper management of ESG principles and create meaningful measurements of success.

To that end, Finance staff is working with the Office of Sustainability and Natural Resources to draft a Sustainable Purchasing Policy and will return to Council with an appropriate recommendation by the end of calendar year 2022. The Purchasing Policy update contemplated with this report contains the Municipal Code language as currently written in section 3.24.075.

Additional Sections

To present a comprehensive picture of all applicable considerations when purchasing and contracting on behalf of the City, staff added several new sections to the policy. They are either administrative in nature or pertain to new State legislation that trigger purchasing considerations.

New: Section 277 - California SB 1383 Cal-Recycle Regulations for Paper Products

SB 1383 establishes statewide targets to reduce the amount of organic waste disposed of in landfills (50% reduction by 2020 and 75% by 2025). In addition, SB 1383 mandates that the City purchase at least 30% recycled-content paper if "fitness and quality are equal". The City's Municipal Code 3.24.075 allows for a ten (10%) price preference for recycled content products; so the City is not mandated to purchase 30% (or higher) recycled content paper products if they cost over 10% more than non-recycled products. The purchasing division is working to establish preferred recycled paper product lists and is working with the City's printing contractors to use recycled content paper when cost is feasible. Purchasing staff have led multiple trainings for staff around the SB1383 requirements, which has led to a significant increase in recycled-content paper products purchases since the start of the year.

New: Section 255 – Contract Terms and Conditions

The City uses standard templates when entering into contract with vendors and consultants. They are approved by the City Attorney as to form. When reviewing the current templates, it became apparent that they do not address the various considerations that need to be given depending on the nature of the contractual obligation and the product/service it contracts for. For completeness, staff created a new section within the manual to outline the standardized and thematic templates now in use to address the following considerations:

Cost efficiencies: standardization lowers transaction costs by reducing time spent drafting;

Faster negotiation: standardization results in more certainty around contract terms;

Mitigate risk: standardization locks in must-have terms and reduces one-on-one negotiation;

Increase Staff Productivity: Reducing time drafting and negotiating contracts results in efficiencies and time savings;

Mitigate Insurance Risk: Standardization of contracts also standardizes the City's insurance coverage for each standardized contract type

New: Section 274 - Insurance – Contractual Risk Transfer Management

As mentioned above, the review of the contract terms and conditions also prompted a review of the City's current insurance requirements for certain contract types. The review revealed that the City does not currently apply requirements according to the contracted product or service and uses instead a "one size fits all" approach. The review of the policy triggered a different approach to better protect the City as all procurement and contracting contains an element of risk exposure. Section 274 therefore introduces policies and procedures to standardize assessment of City procurement for potential risk and assigns the appropriate insurance coverage. This work led to an expansion of the City's standardized insurance coverage templates from five (5) to twenty-six (26) different coverage templates.

Administrative Changes

The review of the policy also offered staff an opportunity for several administrative changes and corrections throughout the document. To facilitate the review of those changes, staff drafted an abridged summary of changes to the policy that includes a full redline document. Both documents are attached to this report under (Attachment F – Summary of Changes including redline version)

Policy Context

The proposed updates comply with Municipal Code Section 3.24.040: "The City administrative officer shall approve and implement a manual of purchasing policies and procedures and shall make such a manual available to the Council for inspection." (Ord. 1618 § 1 (Exh. A (part)), 2015: Ord. 954 § 2 (part), 1983: prior code § 2950.4)

Public Engagement

Public Comment on the item can be provided to the City Council through written correspondence prior to the meeting and through public testimony at the meeting.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act does not apply to the recommended action in this report because the action does not constitute a “Project” under CEQA Guidelines Sec. 15378.

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$	\$	\$	\$
State				
Federal				
Fees				
Total	\$0	\$0	\$0	\$0

All procurement and purchases are considered annually with the City's budget appropriation. As such, the update to the policy does not trigger an additional fiscal impact, but provides efficiencies and the fiduciary oversight of how the City procures goods, services, and public projects.

ALTERNATIVES

1. ***Council could decide not to approve the updates.*** This action is not recommended since the updates ensure efficient program and service delivery while maintaining fiscally prudent oversight and approval thresholds.
2. ***Council could decide to approve selective parts to the update.*** This is not recommended since the review of all components were carefully researched and evaluated to provide the City with an updated purchasing policy in consideration of best practices, Major City Goals, and organizational effectiveness.

ATTACHMENTS

- A - Resolution 10888 (2018 Series) Policy Update
- B - Draft Resolution approving an update to Policy Update
- C - Benchmark Thresholds
- D - Local Preference Memorandum and Presentation
- E - Local Preference Draft Ordinance Example
- F - Summary of Changes and redline version of policy