

Local Preference in Public Procurement

What is San Luis Obispo's current policy for local vendors?

SLO Municipal Code - Bidding procedures— not required when.

*3.24.060E. When the purchase is made cooperatively with one, or more, other units of government **or from a local dealer within the city limits** that can provide the same brand, model, and configuration of item(s) identified in the cooperative purchase agreement(s) at or below the cooperative purchasing net cost within the same terms and conditions.*

Does the City Council need to pass a local preference ordinance?

Yes.

What is a local preference?

Local preference happens when Cities establish a legally binding preference that gives a direct financial advantage to local companies to benefit the local economy. The Government Finance Review (June 2012) reviewed local preference policy outcomes in both cities and counties and found that preference given to local businesses ranges from 1-5%, with 5% being the most common. Another type of local preference is limiting the eligible bidders to the local area so that non-local firms can't even compete.

Considerations

A local preference is an indirect cost increase. Local preferences have the potential to dismantle the competitive process by reducing the incentive for local businesses to provide the best value for the dollar. Companies may decide not to bid when they know they don't have the same chance to compete and reduce the incentive for local businesses to provide the best value for the goods/services they offer.

However, a study, Local Preference in Municipal Audit Markets, conducted by Vanderbilt University concluded that local preference laws could serve their purpose - it always increases the likelihood that local firms win.

Overall, studies have shown that a local preference results in jurisdictions paying more money for the goods and services subject to the preference.

Therefore, the decision to consider a local preference becomes a judgment call as to whether the extra cost is worth it.

Who is local?

In terms of geography, the City defines local businesses as entities having a physical presence within SLO's borders. But is a PO BOX local? Should a local preference reach beyond the city limits to the County? Is a business headquartered in the City, but most of its business is

conducted elsewhere local? Or vice-versa: is a business located in a neighboring town but doing substantial business locally and employing locals, local? Ownership and management are also complicated; for example, is the local branch of a national company a local business, like Amazon?

Multiplier Effect

The economic benefit of keeping local dollars in the local economy is known as the 'multiplier effect.' The concept was developed by John Maynard Keynes and is used to measure the economic impact of laws, trade, etc. It's a measure of how a government's spending ripples through the economy. At the local level, the multiplier effect represents three rounds of spending, 1. The source of the funds or the budget, 2. The public expenditure, 3. How do the recipients spend the money within the local area? As local tax dollars are spent in SLO, theoretically, more jobs are maintained and created, and income is generated for residents.

The multiplier effect is difficult to quantify and varies depending on the item purchased. For example, some businesses (primarily service businesses) must pay out most of their receipts to their employees; these dollars are recycled when the employees spend them locally. Other businesses, however, are capital intensive, with relatively few employees and most of the receipts going into the cost of sales, distribution, or production of goods and products; those expenditures may or may not involve other local suppliers or manufacturers. For example, when SLO purchases a car from a local dealer, a small portion of the cost goes to the dealer's employees and local profits, but most of the funds go to the manufacturer, generally not a local firm. However, the City does realize significant gross tax receipts from local vehicle sales.

Although dollars are always recycled, and the multiplier effect is a genuine economic factor, the true measure of the multiplier effect is very difficult to measure. Ideally, the goal of a preference program would be to create a structure that guarantees enough of an actual economic advantage to the jurisdiction to financially offset the direct cost of the preference in higher bid prices or reduced competition.

Sustainability

Purchasing local has the potential to reduce shipping distances of goods in particular, which aligns with the City's Climate Action Goals of Carbon Neutrality. What is the price the City is willing to pay for this? If you found a good, for example, a pipe sold in SLO that was 5, 10, 15% more expensive than the same product from a supplier in Bakersfield, should the City buy it from the local dealer?

Retaliation

Other governmental jurisdictions do not like to see their local businesses at a financial disadvantage in competing with vendors in other localities. This reaction has led to the development of reciprocal preferences. These laws (which might be better called negative preferences) require retribution against companies located in areas that have a local preference when these companies try to do business elsewhere. The financial preference that a firm receives in its home jurisdiction becomes a

financial penalty if it tries to compete for governmental business in a jurisdiction with a reciprocal preference.

Administrative Costs

Preferences and reciprocal preferences add to the administrative cost of procurement. Staff must consider factors to meet basic purchasing laws and regulations, and each additional requirement adds to the time required to review and adds to the risk of the possibility of human error in bid evaluation, calculation, and award. Therefore, it raises the ultimate costs to citizens of the jurisdiction.

Have national and state organizations taken a position on local preferences?

Several professional organizations that deal with government purchasing and procurement have examined the pros and cons of local preferences and have taken the position that local preferences are not cost-effective. These organizations include:

- NIGP – National Institute of Government Procurement
- The International City and County Managers Association
- The Government Finance Officers Association (GFOA)
- The Council of State Governments

Local Preference

What is a local preference?

- Cities establish a legally binding preference that gives a direct financial advantage to local companies and workforce to benefit the local economy.

City of San Luis Obispo

- A supplier 'within City limits'
- *Municipal Code 3.24.060E.*
 - *When the purchase will be made [from a cooperative agreement] with one, or more, other units of government or from a local dealer within the city limits that can provide the same brand, model, and configuration of item(s) identified in the cooperative purchase agreement(s) at or below the cooperative purchasing net cost within the same terms and conditions.*

3 Types of Local Preference Policies

- Hiring Preferences – Contractors must hire a certain % of local workers
- Purchasing Preferences – Contractors must purchase local supplies and materials
- **Contract Award Preferences – Give local bidders an advantage in the award of contracts**

4 Types of Contract Award Preferences

1. % price decrease to local bidders – advantage to local firms even if their bid is higher price.
2. **SLO's Current Policy**
 - Gives local bidders the opportunity to match the lowest bid
3. Reciprocal Preference: Applies a price increase to non-local bidders only if the non-local bidder's City applies a local-preference policy
4. Tie Bid: Local bidder will win bid if non-local bid is equal in price and quality

% Price Decrease to Local Bidders

- Non-local XYZ bids ---- \$100,000
- Local bids ----- \$105,000
- Policy would reduce local bid by 5% - but still pay \$105,000
- Award to local bidder – if local bidder is ‘lowest most responsible bidder’
- Still have to evaluate bids for all other factors

Bid Matching

- Gives local bidders the opportunity to match the lower price
- Current City Policy
- Lowest most responsible non-local bid = \$100,000
- Local bidder is within 5% of the non-local bid
- Policy would require the City to give the local bidder to opportunity to match the price

Reciprocal Preference

- City would increase non-local bidders price 5%
- If that bidder's jurisdiction also had a local preference policy
- City of Santa Cruz has a 5% preference policy
- Santa Cruz firm bids \$100,000 for consultant project
- SLO would add 5% to price

Tie Bid Preference

- If local and non-local bid are equal in quality and price
- Local bidder will win the award

Pros

Support local business

- Financial – direct more funds to local businesses
- Political – showing local business actionable policy
- Tax base – increased sales and property tax (businesses relocate)
- Reduce the City's carbon footprint

Increase employment

Institute for Local Self-Reliance – many studies support local preferences

- <https://ilsr.org/rule/local-purchasing-preferences/>

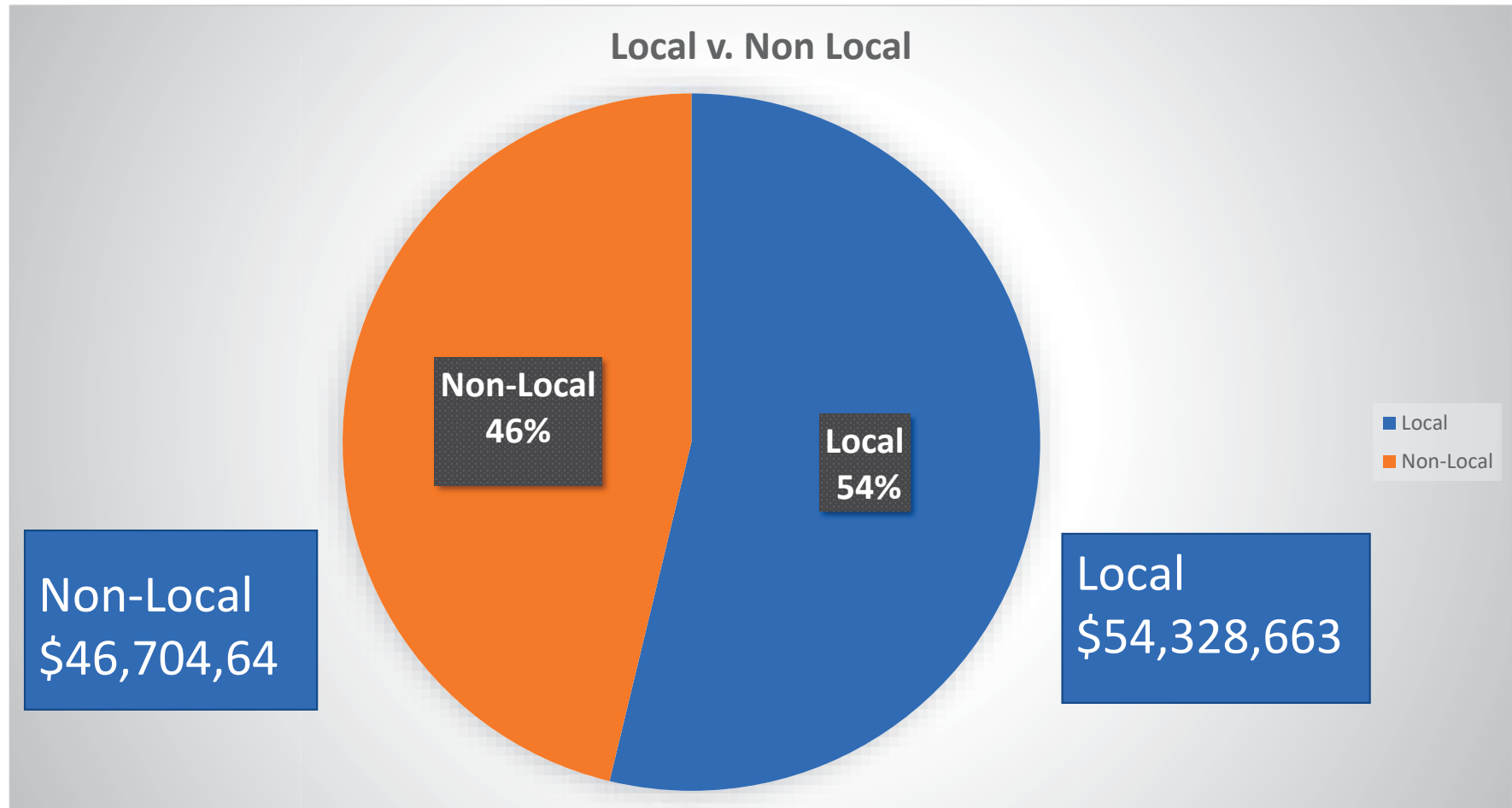
Cons

- Indirect tax increase
- Retaliation of other jurisdictions – can lead to less jobs – SLO business at disadvantage in other markets
- Increased staff administrative costs – Adds layers to procurement process; increased risk of errors
- Negligible carbon impacts – Products sold in SLO are not manufactured in SLO – shipped to SLO.
- Difficult to quantify benefit – is a 5% preference recycled back to the local economy?

National Finance Organizations – Against local preference policies

- National Institute of Government Procurement
- Government Finance Officers Association
- International City and County Managers Association
- The Council of State Governments

**PURCHASE ORDERS - OPERATING SPEND
2018-2022**

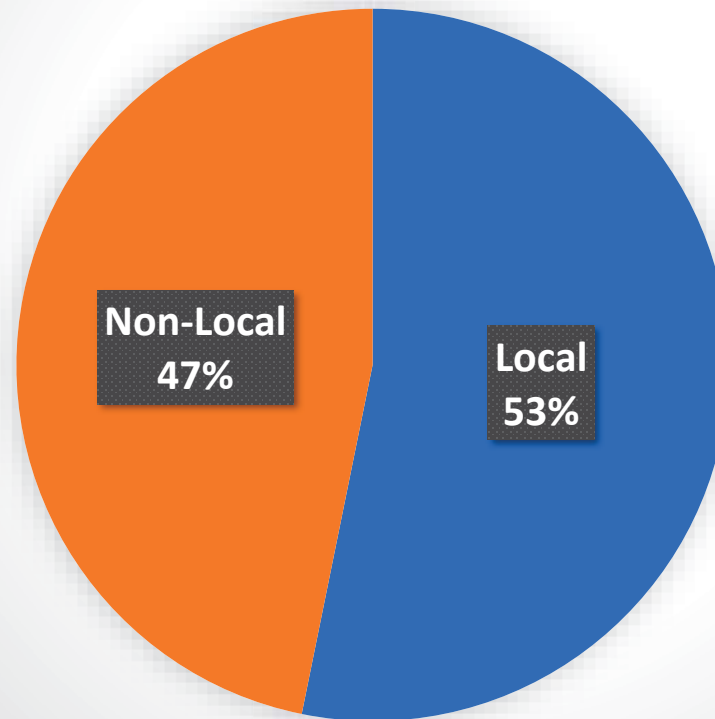


CREDIT CARD SPENDING – 2020-2022 LOCAL v. NON-LOCAL

2020	Transactions	Amount	%
SLO	1557	157,984.21	26%
Non-Local	2344	461,397.68	74%
Total	3901	619,381.89	
2021	Transactions	Amount	%
SLO	2321	269,653.67	24%
Non-Local	4344	842,262.15	76%
Total	6665	1,111,915.82	
2022	Transactions	Amount	%
SLO	501	54,449.71	19%
Non-Local	945	225,719.05	81%
Total	1446	280,168.76	

**PURCHASE ORDERS + CREDIT CARDS OPERATING SPEND
LOCAL v. NON-LOCAL (2018-22)**

\$103,044,776



■ Local
■ Non-Local

**Non-Local
\$48,234,025**

**Local
\$54,810,750**

LOCAL PREFERENCE – TIER 2-5

*TIER 2 – STAFF COSTS – TOO COSTLY FOR DIVISION STAFF TO IMPLEMENT



Contracts and purchases for operating and maintenance services, including basic IT maintenance services.

PURCHASING POLICY



If adopted

- Requires passing an Ordinance – Limited to non-public works goods and services only
- Finance recommends a 3-5% contract award preference (Tier 3-5 only)
- Local Business as defined as 'within City limits'
- Valid Business License
- Not delinquent in any City payments
- No active code enforcement or planning actions
- Applies only to non-public works goods and professional services



Exemptions

- Purchases under the limits (Tier 1-2)
- Sole-source purchases
- Construction projects
- Emergency purchases
- Cooperative agreement purchases
- Purchases funded by outside agencies that prohibit the use of preferences (grant funding)
- Purchases made by credit cards

Should Council Amend Current Local Policy? (Purchasing) Recommendation

- **Do not adopt policy**
- Costs outweigh benefits for staff to administer
- Retaliation against SLO business in other jurisdictions
- Alternative programs and funding to support local business (TBID; Economic Development Programs, etc.)
- *Municipal Code 3.24.060E.*
 - When the purchase requires **a formal competitive bid** will be made ~~from a cooperative agreement~~ **with one, or more, other units of government** or from a local dealer within the city limits that can provide the same brand, model, and configuration of item(s) identified in the cooperative purchase agreement(s) at or below the cooperative purchasing net cost within the same terms and conditions.