



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Upon motion of Supervisor Parker, seconded by Supervisor Adams and carried by those members present, the Board of Supervisors hereby:

Received and approved two (2) County Administrative Office Policies, one (1) Clerk of the Board Policy and one (1) Health Department Policy.

PASSED AND ADOPTED on this 3rd day of April 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams

NOES: None

ABSENT: None

I, Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting April 3, 2018.

Dated: May 2, 2018
File ID: 18-274

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

County of Monterey Board Policy Manual

Policy Name	Policy Number	Page
Local Preference Policy	A-55	1 of 6
Policy Category Accounting, Financing and Purchasing		

I. Purpose

A. General Requirements:

Monterey County desires whenever possible, to contract with qualified local vendors to provide goods and services to Monterey County.

Any vendor seeking to be recognized as local businesses for purposes of this local preference provision shall be required by the terms of the bid announcement to certify they meet the definition of local vendor set forth in this policy, and to register as a local vendor with the county in the manner prescribed by the county to facilitate the county's ability to track the award of contracts to local vendors and allow the county to provide future notifications to its local vendors concerning other bidding opportunities.

Vendor Registration Link: Vendor Self Service (VSS)

<http://www.co.monterey.ca.us/admin/vendorinfo.htm>

II. Background

B. Procurement of Goods and/or Services:

In the procurement of goods or services in which price is the determining factor for award of the contract, a five percent (5%) preference shall be subtracted from a bid submitted by a responsive local vendor in determining the lowest responsive bidder. If application of the 5% results in a local vendor's bid being at or lower than the non-local vendor, the contract award shall be made to the local vendor at the local vendor's bid price.

III. Policy

C. It is the policy of the County that:

Whenever a responsive local vendor and a responsive non-local vendor are found, upon the opening of bids, to have both submitted the lowest responsive bid, the local vendor

shall be awarded the contract. This application shall apply to any contract awarded by the County, including professional services contracts.

- D. Should more than one responsive local vendor bid match a responsive non-local vendor's lowest bid, or should there be no responsive local vendor's bids that match the lowest responsive bid, but two or more responsive non-local vendors submit bids for equal amounts, thus making both the lowest bidders, then the award of the contract shall be determined by a chance drawing, or similar tie-breaking method conducted by the Contracts/Purchasing Division and open to the public.
- E. In the procurement of goods or services in which best value is the determining basis for award of the contract, ten percent (10%) of the total points awardable will be added to the local vendors score.
- F. When a contract requires subcontractors or sub-consultants, the Contractor shall solicit proposals from qualified local vendors whenever possible. No contract awarded to a local vendor under this section shall be assigned or subcontracted in any manner that permits more than fifty percent (50%) or more of the dollar value of the contract to be performed by an entity that is not a local vendor.
- G. Any vendor falsely claiming to be a local vendor as defined within this policy will be subject to disqualification from contracting with the County for a period of three (3) years.

IV. Procedure

- H. Each solicitation for bids made by the county shall contain terms expressly describing the local vendor's preference policies of the county, and shall provide that by electing to submit a bid pursuant to a request for bids, all bidders are deemed to understand and agree to those policies.
- I. Local preference shall not apply to the following categories of contracts:
 - 1. Goods or services provided under a cooperative purchasing agreement or similar "piggyback" contract; and
 - 2. Contracts for public works, or where precluded by state or federal law or regulation; and
 - 3. Any bid announcement which specifically provides that the general local preference policies set forth in this policy are suspended due to; the unique nature of the goods or services sought, the existence of either a local emergency as determined by the County Board of Supervisors through the formation or execution of an emergency declaration and/or emergency purchases procured by the County Purchasing Agent and/or authorized delegated representative in accordance with the County's Emergency Purchases Ordinance 2.32.040 or where such suspension is, in the opinion of County Counsel, required by law.
- J. Purchases or contracts made pursuant to a non-competitive award process, including but not limited to, contracts covered by the Little Brooks Act, Government Code, Title I Division

5, Chapter 10, Sections 4525-4529.5 for the procurement of professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of a Qualification-based selection (QBS) that:

1. demonstrates competence and professional qualifications for the types of services required; and
2. provides fair and reasonable prices to the public; and
3. assures maximum participation of small business firms; and
4. prohibits practices which might result in unlawful activity; and
5. specifically prohibits agency employees from participating in a selection process when a conflict of interest may occur; and
6. demonstrates that the project team will provide the specific expertise required by the solicitation
 - a) Recognizing the importance of local knowledge and experience in timely, cost effective, project execution, as well as the County's desire to promote the use of small business enterprises as stated by the County's Small Local Business Outreach Program; selection criteria will address each of the above factors in addition to the relevant technical factors unless it is found the consultant's location is immaterial in its effect on the provisions of the services or supplies that are required by the solicitation. Said selection criteria will be routinely included in the solicitation package; staff is encouraged to include scoring criteria so that all respondents are aware of the importance that is assigned to each selection criterion. Such criteria will include, but is not limited to knowledge of local regulatory environment, local agencies having authority over the project, and construction industry; experience working on Monterey County projects; and demonstrated ability to rapidly respond to County's needs during project construction and warranty periods.
 - a. A Five (5%) percent preference will be applied to the scoring evaluation for a firm that qualifies as a "Local Vendor" as defined hereinafter.
 - b) Individual Delivery Orders placed on Master Agreements for "on-call" professional services that have already been awarded based on a QBS process may be awarded based on a "best value" negotiation that considers qualifications and price in addition to other relevant factors including, but not limited to location and business size rather than a strict rotation process.

K. To qualify for local preference under this section, a local vendor must certify to the County that it:

1. Qualifies as a "Local Vendor" as defined within Section L; and
2. Has not within the five (5) years prior to the bid announcement admitted guilt or been found guilty by any court or state or federal regulatory enforcement agency of violation of any criminal law, or a law or administrative regulation regarding fraud; and
3. Is not currently subject to an unresolved citation or notice of violation of any County of Monterey Code provision, except citations or notices which are the subject of a current legal appeal, as of the date of the bid announcement; and
4. Is not delinquent in the payment of any fines, liens, assessments, fees or taxes to any governmental unit or taxing authority within the Area as defined within Section L, except any such sums which are the subject of a current legal appeal; and
5. A Declaration of Local Business must be submitted and executed under penalty of perjury with any proposal for which a vendor is requesting a local preference. Such declaration shall be developed by the County Purchasing Agent and/or his/her delegated authority.

L. Definitions: For the purpose of this policy, the following terms have the meanings indicated:

1. "Area" shall mean Monterey County, San Benito County, and Santa Cruz County.
2. "Best Value" shall mean a selection process in which written proposals contain both price and qualitative components where the award is based upon an evaluation of a combination of price and qualitative considerations, such as between price and performance that provides the greatest overall benefit under the specified selection criteria as determined by the County.
3. "Bid" includes any competitive bid, whether formal or informal, that is awarded based on price.
4. "Building" as defined within Section L.5 below, shall:
 - 4.1 Have running water, restroom facilities and either: electrical services, gas service, or both; and
 - 4.2 Have a telephone, or telephones, listed publicly in the Vendor's name; and
 - 4.3 Be staffed during business hours by an employee, or employees, employed by Vendor and conducting the local business of the Vendor. An independent contractor or a person employed as "temporary labor" shall not constitute an "employee" for purposes of compliance with this policy; and
 - 4.4 Contain the current local business records of Vendor.

5. "Local Vendor" shall be defined as a:

- 5.1 Vendor either owns, leases, rents or otherwise occupies a fixed office or other commercial building, or portion thereof, having a street address within the Area. Vendor possesses a valid and verifiable business license, if required, issued by a city within the Area or by one of the three counties within the Area when the address is located in an unincorporated area within one of the three counties as defined as "Area"; and
 - 5.2 Vendor employs at least one full time employee within the "Area", or if the business has no employees, the business shall be at least fifty percent (50%) owned by one or more persons whose primary residence(s) is located within the "Area"; and
 - 5.3 Vendor's business must have been in existence, in Vendor's name, within the "Area" for at least two (2) years immediately prior to the issuance of either a request for competitive bids or request for qualifications for the County; and
 - 5.4 Newly established businesses which are owned by an individual(s) formerly employed by a Local Vendor for at least two (2) years also qualifies for the preference; and
 - 5.5 If applicable vendor must possess a valid resale license from the State Franchise Tax Board showing vendor's local address within the "Area" and evidencing that payment of the local share of the sales tax goes to either a city within the "Area" or to one of the three counties within the defined "Area"
6. "Production Capability" shall mean sales, marketing, manufacturing, servicing, or research and development capability that substantially and directly enhances the vendor's ability to perform the proposed contract. Post Office box numbers and/or residential addresses may not be used as the sole bases for establishing status as a "Local Business".
7. "Professional Services" as defined by the Little Brooks Act, Government Code Title I, Division 5, Chapter 10, Section 4525-4529.5 is those professional services of private architectural, engineering, environmental, land surveying, or construction project management firms, where the selection and award for contract shall be based on demonstrated competence and on the professional qualifications required to satisfactorily perform the services required.
8. "Small Business" as defined by Government Code section 14837(d)(1) means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or

less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 100 or fewer employees.

M. The following conditions shall apply to the Local Vendor Preference Program.

Any Vendor claiming to be a local vendor as defined above shall so certify in writing that they meet all of the criteria listed above. County shall not be responsible or required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor meets the definition of "local vendor".

N. Reporting and Record Keeping.

No less than annually, County staff will report to the Board of Supervisors the total number and dollar amounts of contracts awarded and the dollar percentage of distribution between non-local and local vendors. When the contracts are presented to the Board of Supervisors for board approval, the board reports will include whether the vendor selected is local or non-local. A log of contracts awarded including the Vendor's name, location and contract value will be posted on the County's Contracts/Purchasing website and regularly updated.

V. Review Date

- a. This Policy will be reviewed for continuance

VI. Board Action

- a. Legistar File Number:

County of Monterey Board Policy Manual

Policy Name	Policy Number	Page
Lactation in the Workplace	P-210	1 of 7
Policy Category Personnel		

I. Purpose

1. To establish guidelines for promoting a breastfeeding friendly work environment that encourages and supports breastfeeding initiation and exclusivity, and continued lactation upon return to work.
2. To comply with California State and federal laws regarding breastfeeding and the expression of breast milk in the workplace:
 - 1997- State added section 43.3 to the Civil Code to provide for breastfeeding in public
 - 2002- State passed Labor Code Sections 1030-1033 to enable lactation accommodation in the workplace
 - 2010- Federal government passed the Patient Protection and Affordable Care Act (PPACA) which amended the Fair Labor Standards Act to require lactation accommodation in the workplace in all states
 - 2010- County of Monterey lactation in the workplace policy enacted, providing greater consideration for lactating County employees than required by state and federal statutes
 - 2012- State amended the California Fair Employment and Housing Act to prohibit employment and housing discrimination based on breastfeeding or medical conditions related to breastfeeding

II. Background

Scientific research indicates that breastfeeding and the use of human milk for infant feeding results in positive outcomes not only for the parents, child, and their family, but for the workplace, community, and environment as well. The American Academy of Pediatrics, the American Congress of Obstetricians and Gynecologists, and the American Academy of Family Physicians recommend that all babies, with rare exceptions, be exclusively breastfed for approximately six months and continue breastfeeding with appropriate complementary foods for at least one year. Suboptimal breastfeeding is associated with higher rates of pediatric disease including respiratory and gastrointestinal infections, obesity, certain types of cancer, and Sudden Infant Death Syndrome (SIDS). A parent who

breastfeeds is less likely to develop breast and ovarian cancer, type 2 diabetes, hypertension, and myocardial infarction (Bartick et al., 2017).

Optimal breastfeeding saves health care dollars. If families followed the recommendations of U.S. physician organizations, \$3 billion in direct and medical cost savings alone could be realized, not to mention indirect costs and the cost of premature death (Bartick et al., 2017). In addition, the United States government spends almost \$1 billion annually to purchase human milk substitutes (formula) for babies enrolled in the Women, Infants, and Children Supplemental Food Program (WIC) (Oliveira & Frazão, 2015).

Employers, employees, and society benefit by supporting a parent's decision to breastfeed and by helping reduce the obstacles of continuing to do so after returning to work. Employers clearly benefit by having lower health care costs, less employee absenteeism, and better morale, and employees are also more likely to return to work earlier from maternity leave if they do not foresee complications with being able to continue breastfeeding (USDHHS, 2010).

The community benefits from breastfeeding by a healthier population, with fewer medical interventions for acute childhood illnesses and the associated financial and quality-of-life costs associated with obesity, diabetes, and other chronic diseases. Monterey County directly benefits from breastfeeding due to its sustainability and minimal impact to the environment.

Most breastfeeding parents who return to work are able to maintain their milk supply by expressing their milk every 2-3 hours. If milk is not removed by the baby or expressed manually or with a breast pump, a decrease in milk supply or an infection may result. The required frequency and length of lactation breaks depends on the unique characteristics of each parent and baby, and usually decreases as the baby grows older and begins solid foods.

III. Policy

It is the policy of the County that employees will be supported in breastfeeding by accommodating their need for adequate facilities and time for breast milk expression and by providing an inclusive work environment.

IV. Procedure

Guidelines

1. Training & Resources

- a. A Monterey County Breastfeeding and Lactation webpage is hosted and updated by the County Wellness Program in consultation with the Monterey County Breastfeeding Coordinator. Employee breastfeeding education materials are posted on the webpage.
- b. A breastfeeding education pamphlet, including information on this policy, will be included in the new employee orientation packet.
- c. Departmental Human Resources staff is to provide a breastfeeding education packet, including a copy of this policy and breastfeeding resources, to employees prior to their parental

leave. This packet is also available to expectant partners or kin prior to taking Family Medical Leave.

d. Information promoting the benefits of breastfeeding shall be displayed in County Department break areas and be featured in the Employee Wellness Program's newsletter at least once a year.

e. Employees and their partner/support person may use their Wellness release time for breastfeeding education classes offered through Wellness.

f. Wellness Program staff, in consultation with the Monterey County Breastfeeding Coordinator, will be available to consult with any employee or supervisor regarding lactation accommodation issues and may conduct site visits if requested.

g. All managers, supervisors, and other employees are required to complete within six months of hire or promotion, the Learning and Development Network "WIC: Lactation Accommodation" training to help promote and implement the policy.

2. Scheduling

a. Employees shall be allowed a flexible schedule for pumping breast milk.

b. The time allowed for pumping breast milk may exceed a normal lunch or break period. Any time in excess of a normal lunch or break period will not be paid as regular work time, but with supervisory approval, the employee may make up their time with either sick leave, annual/vacation leave, or a flexed work schedule.

c. The time used to travel to and from the employee's work area to an adequate lactation space is not included in the calculation of break time.

d. Resources to help manage break time scheduling can be found on the Breastfeeding and Lactation webpage.

3. Facilities

a. Employees shall be provided the use of a clean, comfortable space or "Lactation Area." If a designated Lactation Area is not available, vacant offices or conference rooms are possible options. A restroom is not acceptable.

b. The Lactation Area should be secure, equipped with an electrical outlet, be in close proximity to the employee's work area, and contain comfortable seating with a table or another flat surface to hold a breast pump. Windows should be covered.

c. Ideally, the Lactation Area should be near a sink with hot water and soap for

hand washing and cleaning of equipment and access to a refrigerator for storage of expressed breast milk.

d. Breastfeeding resources, including facilities available to County employees, are included on the Lactation and Breastfeeding page.

e. County of Monterey employees/agents/contractors are entitled to reasonable access to County designated lactation spaces within the limits of their work schedule and location.

4. Compliance

a. Department Human Resources will be responsible for designating Lactation Areas.

b. In remote and/or small facilities, Human Resources will work with the employee and with management to ensure reasonable accommodations are made.

c. Managers and supervisors shall respond to any request for lactation accommodation in a manner consistent with the procedures outlined in this policy.

d. Parents who feel they have been denied appropriate lactation accommodation are encouraged to inform their department's Human Resources designated lactation liaison. Contact information for each department can be found on the Wellness Program's webpage.

5. Inclusive Work Environment

a. Each Monterey County Department shall create an inclusive work environment regarding lactation in the workplace. Breastfeeding shall not be a source of discrimination in employment or in access to employment.

b. It is prohibited under this policy to harass a lactating employee or exercise any conduct that creates an intimidating, hostile or offensive working environment.

c. Any incident of harassment of a lactating employee will be addressed in accordance with County of Monterey policies and procedures for discrimination and harassment.

6. Unusual Circumstance

The County recognizes that some remote locations may not have adequate facilities to accommodate a lactating employee. In such instances, the immediate supervisor, Department Head and Human Resources staff will work with the employee to achieve a mutually acceptable solution. This may include a flexible schedule to allow the employee to return home for such activity, a temporary transfer to a larger facility, or other resolution.

V. Legal Authority

- California Civil Code section 43.3 (1997) provides as follows:

Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present.

- California added Labor Code Sections 1030-1033 (2002) to provide the following:

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid.

1031. The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.

1032. An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.

1033. (a) An employer who violates any provision of this chapter shall be subject to a civil penalty in the amount of one hundred dollars (\$100) for each violation.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section 1197.1.

(c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.

- United States Fair Labor Standards Act of 1938, section 7, was amended (2010) with passage of the Patient Protection and Affordable Care Act (P.L. 111-148) by adding at the end the following:

(1) An employer shall provide-

A. a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk; and

B. a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

(2) An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.

(3) An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature or structure of the employer's business.

(4) Nothing in this subsection shall preempt a State law that provides greater protections to employees than the protections provided for under this subsection.”

- County of Monterey adopted a resolution to amend Personnel Policies and Practices Resolution No. 98-394 to add Section B.18 Lactation in the Workplace (2010).
- California Fair Employment and Housing Act was amended to include breastfeeding or medical conditions related to breastfeeding (Government Code Section 12926):

12921.

(a) The opportunity to seek, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status is hereby recognized as and declared to be a civil right.”

“12926.

(r) (1) “Sex” includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

VI. Document References

Bartick, M., Schwarz, E., Green, B. Jegier, B., Reinhold, A., Colaizy, ...& Stuebe, A. (2017). Suboptimal breastfeeding in the United States: Maternal and pediatric health outcomes and costs. *Maternal Child Nutrition*, 13, e12366.

Oliveira, V. & Frazão V. (2015). The WIC Program: Background, trends, and economic issues, EIB-134, U.S. Department of Agriculture, Economic Research Service.

U.S. Department of Health and Human Services (2011). The Surgeon General's Call to Action to Support Breastfeeding. Washington, DC: U.S. Retrieved from <http://www.surgeongeneral.gov/library/calls/breastfeeding/calltoactiontosupportbreastfeeding.pdf>

VII. Review Date

1. This Policy will be reviewed for continuance by

VIII. Board Action

1. Legistar File Number, date