

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2008 Legislative Session

Resolution No. CR-2-2008

Proposed by The Chairman (by request - County Executive)

Introduced by Council Members Dean and Exum

Co-Sponsors _____

Date of Introduction January 22, 2008

RESOLUTION

1 A RESOLUTION concerning

2 Procurement Regulations Regarding Minority Business Enterprises

3 For the purpose of approving amendments to the Prince George's County Procurement
4 Regulations regarding minority business enterprises pursuant to Section 10A-105 of the Prince
5 George's County Code.

6 WHEREAS, Section 602 of the Charter of Prince George's County, Maryland, provides
7 that the County Purchasing Agent shall prepare, for action by the County Council, reasonable
8 rules and regulations governing emergency purchases, contracts, and services or material and
9 equipment of an unusual or noncompetitive nature not subject to competitive bidding; and

10 WHEREAS, Section 10A-105 of the Prince George's County Code, provides that the
11 Purchasing Agent shall recommend regulations concerning sole source procurements, emergency
12 procurements, special circumstance procurements, and the Minority Business Opportunities
13 Program, to the County Council for approval by resolution; and

14 WHEREAS, CR-3-1992 adopted the Procurement Regulations of the County; and

15 WHEREAS, the Purchasing Agent has promulgated regulations that indicate the Minority
16 Business Opportunities Commission performs the function of certifying and decertifying
17 minority business enterprises; and

18 WHEREAS, the County desires to transfer the function of certifying and decertifying
19 minority business enterprises from the Minority Business Opportunities Commission to the
20 Minority Business Development Division of the Office of Central Services to reflect the current
21 practice and procedures of the County.

22

1 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
2 County, Maryland, that the Purchasing Agent is directed to take all steps necessary and
3 appropriate to amend the Prince George's County Procurement Regulations.

4 BE IT FURTHER RESOLVED that Chapters XII, XIV, XV and XXVII have been
5 amended as described in Attachment "A" and incorporated herein by reference.

Adopted this 29th day of April, 2008.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Samuel H. Dean
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

ATTACHMENT A

Prince George’s County, Maryland
Amendments to Procurement Regulations

CHAPTER XII

XII. Procurement Methods

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C. Contract Review Committee

A Contract Review Committee will be convened by the Purchasing Agent to review each solicitation prior to action, (i.e. formal bidding, cooperative purchase, contract rider, etc.) to ensure that the best procurement method is being recommended, determine the nature of Minority Business Enterprise participation, review bidder’s list, and resolve procurement related issues. The Contract Review Committee shall consist of the Purchasing Agent, the Procurement Administrator, Buyers and [the Executive Director of the Minority Business Opportunities Commission] a representative of the Minority Business Development Division.

CHAPTER XIV

XIV. Procurement by Competitive Sealed Bidding

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N. Bid Evaluation and Award

5. If bids are restricted to Minority Business Enterprises under the provisions of Chapter XXVII of these regulations, a contract may not be awarded if the resultant low bid exceeds by 15% the most recent unit price for the same or recently comparable goods or services, unless a determination is made by the Minority Business [Opportunities Commission] Development Division that market prices have, for all vendors (not withstanding Minority status) increased beyond 15% since the last time the goods or services were procured.

CHAPTER XV

XV. Procurement by Competitive Sealed Proposals

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C. Evaluation of Proposals, Negotiations and Award

1. Evaluation. The evaluation shall be based on the evaluation factors set forth in the request for proposals and developed from both the work, statement and price. Numerical

rating systems may be used but are not required. Factors not specified in the request for proposals may not be considered.

(a) Evaluations for contracts estimated to be under \$25,000 may be made by the Purchasing Agent or designee.

(b) Evaluations of proposals of \$25,000 or more shall be conducted by a Proposal Analysis Group appointed by the Purchasing Agent, consisting of, at a minimum, the Purchasing Agent or designee; the using agency head or designee, and the Executive Director[,] of the Minority Business [Opportunities Commission] Development Division and such other representatives as the Purchasing Agent deems appropriate.

CHAPTER XXVII

XXVII. Minority Business Enterprise Provisions

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F. Outreach

It is the responsibility of the Purchasing Agent and every department or agency having delegated procurement authority to attempt to locate and contact MBE's for each procurement to be made by the respective development or agency. Further, if MBE's are identified which are not certified by the [MBOC] Minority Business Development Division, the department or agency shall encourage the MBE(s) to contact the Executive Director [MBOC] Minority Business Development Division to seek County certification.

G. MBE Procurement Methods

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3. Restricted Bidding or Restricted Proposal

a. When there are three or more Certified MBE's that are providers in the trade of goods or services for which a contract is to be advertised the Purchasing Agent or designee may restrict the bidding or request for proposals to certified MBE's.

b. Before restricting a bid or proposal to certified MBE's, the Purchasing Agent or designee shall first consult with the Executive Director[, MBOC] of the Minority Business Development Division.

c. When a bid or proposal is restricted, solicitations and solicitation notices shall be mailed to certified MBE's.

d. The public notice required under Chapter XIV, Section D, of these

regulations, shall indicate that the bid or proposal has been designated as a “restricted bid” or “restricted proposal.”

e. No contract may be awarded under a “restricted bid” if the resultant low bid exceeds by fifteen percent (15%) the most recent unit price for the same or most recently comparable goods or services unless the [MBOC] Minority Business Development Division determines that prices in the relevant market have, for all vendors, without regard for minority status increased beyond 15% since the last time similar goods or services were procured or other contract requirements necessitated an increase in price. The [MBOC] Minority Business Development Division shall consult with the Purchasing Agent when making this determination. Proposals shall not be restricted by this 15% requirement.

4. Mandatory Subcontracting

a. Applicability. When restricted bidding under G. 3. above is not used, each contract bid or proposal solution shall be reviewed by the Purchasing Agent or designee and the [MBOC] Minority Business Development Division to ascertain the feasibility of including a mandatory MBE subcontracting component. When deemed appropriate by the Purchasing Agent, or designee, after consultation with the [MBOC] Minority Business Development Division, the Purchasing agent or designee may include a mandatory minority subcontract clause in the bid or proposal solicitation that requires the equivalent of at least twenty percent (20%) of the contract’s total value be performed by one or more certified minority business enterprises.

b. The Purchasing Agent or designee may include a mandatory minority subcontracting goal that is less than 20% of the contract’s total value only:

- (1) after consultation with the [Commission] Minority Business Development Division or its authorized representative;
- (2) upon a determination that a twenty percent (20%) mandatory minority subcontracting goal is not able to be obtained at a reasonable price; and
- (3) upon a determination that the public interest is served.

c. In making the determinations that the public interest is served, under b. (3) above, the Purchasing Agent or designee shall obtain the concurrence of the Executive Director of the [Commission] Minority Business Development Division and may consider engineering estimates, the general market availability of minority business enterprises to provide the services

requested, other bids and offers, the cost of the contract and any other relevant factor.

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5. Proposal Evaluation Criteria/Pre-Qualification of Contractors

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c. The Purchasing Agent or designee shall consult with the Executive Director [MBOC] of the Minority Business Development Division or designee before finalizing the 15% MBE contract provisions applicable to each specific contract.