

Prince George's County Council

Agenda Item Summary

Meeting Date: 11/12/2014
Reference No.: CB-067-2014
Draft No.: 2
Proposer(s): Franklin, Davis, Turner
Sponsor(s): Franklin, Davis, Turner, Harrison
Item Title: An Act concerning Local Economic Opportunity for the purpose of enhancing the County's economic development by expanding the applicability of procurement assistance for County-based minority businesses, County-based businesses, and minority businesses; establishing a "County-located business" certification; and prescribing requirements and assistance for certified County-located businesses.

Drafter: Office of Council Member Franklin,
Resource Personnel: Colette R. Gresham, Legislative Officer
Brendon L. Laster, Chief of Staff District 9

LEGISLATIVE HISTORY:

Date Presented:	9/2/2014	Executive Action:	11/20/2014 S
Committee Referral:	9/2/2014 - PSFM	Effective Date:	1/5/2015

Committee Action: 10/2/2014 - FAV(A)

Date Introduced: 10/7/2014
Public Hearing: 11/12/2014 - 12:00 AM

Council Action (1) 11/12/2014 - ENACTED
Council Votes: WC:A, DLD:A, MRF:A, AH:A, ML:A, EO:A, OP:A, IT:A, KT:A
Pass/Fail: P
Remarks:

AFFECTED CODE SECTIONS:

10A-101, 10A-114, 10A-136, 10A-160, 10A-164, 10A-173, 10A-174, 10A-175

COMMITTEE REPORTS:

PUBLIC SAFETY AND FISCAL MANAGEMENT COMMITTEE

Date 10/2/2014

Committee Vote: Favorable as amended 4-0-1 (In Favor: Council Members Toles, Davis, Harrison, and Turner;
Abstain: Council Member Lehman)

This bill would strengthen the County's procurement laws by expanding the impact of existing contracting assistance to County-based minority businesses; codifying a "County-located business" certification as an incentive to attract businesses to locate offices and jobs in the County; and requiring County-based business participation in noncompetitive contracts where there is local capacity.

Under current law, there is a limit imposed on the applicability of "bonus factors" or preferences awarded to County-based minority business enterprises ("CMBEs") and minority business enterprises ("MBEs"). For contracts valued at \$1 Million or less, the bonus awarded to a CMBE is 15% (\$150,000 for a \$1 Million contract) and the bonus

awarded to a MBE is 5% (\$50,000 for a \$1Million contract). In addition, current law imposes limits on these bonuses that freeze their maximum value at \$150,000 and \$50,000 for CMBEs and MBEs, respectively, for contracts valued at greater than \$1Million. This bill would remove the limitation on the applicability of the CMBE and MBE percentage bonuses and the bonus would be 15% or 5% regardless of the size of the procurement contract.

The bill also provides for a “County-located business” certification process; defines and establishes requirements for the size and duration of a “County Office” and awards a bid incentive to certified County-located businesses that maintain a County Office. The bill proposes to give a 7% preference or bonus to County-located businesses in county procurement contracting and requires a County-located business to maintain its County Office for the full duration of its certification. CB-67-2014 would also require 40% minimum County-based business participation for noncompetitive contracts unless the Purchasing Agent determines that local business capacity does not exist to warrant the requirement.

Sharon Moore Jackson from the Office of Central Services spoke in support of the bill and the benefits it will provide as an economic stimulator in the County. The Committee discussed the fiscal impact of the bill on current expenditures. The Office of Central Services has hired two business analysts as a result of CB-17-2011 and they will assist with CB-67-2014 as well. The certification requirements in CB-67-2014 will be addressed using the Prism software from the phase 1 certification package.

During the work session the bill was amended as follows:

1) On page 2, line 26 insert “(13.2) County-based minority business enterprise means a business that is both: (A) a minority business enterprise as certified by the Supplier Development and Diversity Division; and (B) a County-based business”; renumber the remaining definitions

2) On page 4, line 16 insert “Sec. 10A-115. Small purchases.

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(d) For contracts that use a simplified purchase procedure prescribed in Subsection (a), the Purchasing Agent or the Purchasing Agent’s designee shall reserve such contracts for County-based businesses, provided, that the Purchasing Agent or the Purchasing Agent’s designee shall not be required to reserve the contract if the Purchasing Agent or the Purchasing Agent’s designee determines in writing that

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(2) a County-based business cannot offer a reasonable price for the contract. In this Section, “reasonable price” means within twelve percent (12%) above the best price on the open market. Prior to this determination being made, the lowest bidding County-based business shall be given the opportunity to win the procurement by offering a bid or proposal price less than twelve percent (12%) higher than the best price on the open market identified by the Purchasing Agent or the Purchasing Agent’s designee. In determining bid or proposal price in this Section, applicable bid or price preferences authorized under this Subtitle shall be applied.

The Office of Law has reviewed this legislation and finds it to be in proper legislative form with no legal impediments to its enactment.

The enactment of CB-67-2014 should not have an adverse fiscal impact on the County.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

The proposed legislation will enhance the County’s economic development by expanding the applicability of procurement assistance for County-based minority businesses, County-based businesses, and minority businesses as well as establish requirements, assistance and certification for County-located businesses.

CODE INDEX TOPICS:

INCLUSION FILES:
