

## **CB-026-2026 – Locally-Owned and Operated Business Assistance**

### **Office of Procurement – Comments and Implementation Concerns**

The Office of Procurement has reviewed CB-026-2026 and has significant concerns regarding the implementation of the proposed legislation. While the intent to support local businesses is understood, the bill creates additional certification categories that overlap with existing requirements in Subtitle 10A, introduces new preference structures that may conflict with State and federal rules, and imposes administrative obligations without providing additional resources. The current County Code already contains multiple certification classifications, and the addition of a Locally-owned and Operated Business category creates duplication, confusion, and potential legal and operational risk.

For the reasons outlined below, the Office of Procurement recommends further review and consolidation before implementation.

#### **1. Duplication of Certification Categories Already Established in Subtitle 10A**

Subtitle 10A already provides several certification categories intended to support local and diverse businesses. These include County-based business, County-based small business, County-located business, Minority Business Enterprise, Disadvantaged Business Enterprise, and small business certifications based on COMAR and federal definitions. The proposed legislation creates a new category for Locally-owned and Operated Business without removing or consolidating existing classifications.

This results in a certification structure that may include:

- County-based business
- County-based small business
- County-located business
- Minority Business Enterprise
- Disadvantaged Business Enterprise
- Small business (COMAR definition)
- Small business (SBA definition)
- HUBZone / 8(a) / SDB
- Locally-owned and Operated Business

The addition of another category increases administrative complexity and may create confusion for vendors and County agencies.

Concerns include:

- Increased certification workload
- Conflicting eligibility determinations
- Difficulty tracking preferences
- Increased protest risk

- Inconsistent application of Subtitle 10A

The current code structure was designed to limit duplication, and the proposed bill expands the number of classifications without simplifying existing ones.

## **2. Conflict Between County-Based and Locally-Owned Definitions**

The current Code defines a County-based business using several criteria, including residency, assets, employees, or business activity within the County. The bill creates a new category requiring majority ownership by County residents in addition to County-based certification.

Under the bill, a Locally-owned and Operated Business must:

- First qualify as a County-based business
- Also have majority ownership by County residents
- Also be certified separately

This creates two different local concepts:

- County-based (location / operations / employees / assets)
- Locally-owned (ownership / residency)

These definitions are not the same and may lead to inconsistent results.

Possible conflicts include:

- A firm located in the County but owned outside the County
- A firm owned by a County resident but operating elsewhere
- A firm meeting one standard but not the other

This creates uncertainty in:

- Preference scoring
- Certification review
- Bid evaluation
- Compliance monitoring

Subtitle 10A currently avoids this conflict by using a single County-based structure.

## **3. Expansion of Preference Points Creates Procurement Risk**

The bill modifies §10A-173 and adds additional preference points for Locally-owned and Operated Businesses in addition to existing preferences.

Current preference categories already include:

- County-based minority business
- County-based small business
- County-based business
- DBE / MBE
- County-located business

The bill adds an additional preference for locally-owned firms.

This results in a scoring system with multiple overlapping preferences that must be tracked during evaluation.

Risks include:

- Increased evaluation complexity
- Greater chance of scoring errors
- Vendor protests
- Difficulty explaining award decisions
- Possible claims of unfair competition

Even with limits on cumulative points, the number of categories increases the likelihood of disputes.

#### **4. Conflict With COMAR and Federal Certification Definitions**

Current County Code properly references State and federal definitions for small business and disadvantaged business programs. These include COMAR definitions and SBA size standards.

The bill creates a new certification category that is not tied to these definitions.

Existing references include:

- COMAR 21.01.02 small business definition
- SBA size standards under 13 CFR Part 121
- DBE rules under 49 CFR Part 26
- Federal small disadvantaged business programs

The proposed locally-owned category does not align with these standards.

This creates risk of:

- Different eligibility rules for similar programs
- Conflicting certification results
- Vendors qualifying under one program but not another
- Increased administrative review

State and federal programs are structured to maintain consistency, and the addition of a local category outside those frameworks may create compliance concerns. Federal programs except for HUBZone certification are not defined by a location.

## **5. Administrative Burden of Additional Certification Requirements**

The bill expands the number of certifications that must be reviewed, approved, and renewed by the Office of Procurement and the Supplier Development and Diversity Division.

Each certification requires:

- Application review
- Ownership verification
- Residency verification
- Asset verification
- Employee verification
- Renewal tracking
- Audit review

The bill also allows temporary certification, which adds further administrative responsibility.

Additional workload includes:

- Reviewing additional documentation
- Maintaining additional records
- Updating certification databases
- Updating vendor profiles
- Monitoring eligibility

No additional funding, staff, or system support is provided.

Without additional resources, implementation will increase processing time and delay procurements.

## **6. Conflict With Federal Procurement Rules Regarding Local Preference**

Many County procurements involve federal funding, which requires compliance with federal procurement rules. These rules generally prohibit local preference unless specifically authorized.

Federal requirements include:

- Full and open competition
- No geographic preference
- Use of DBE programs only when allowed
- Use of approved certification systems

The bill expands preference points for local and locally-owned firms, which may be considered a local preference when federal funds are involved.

Affected funding sources may include:

- Federal Transit Administration
- Federal Highway Administration
- Department of Housing and Urban Development
- Department of Justice
- Department of Health and Human Services

If applied to federally funded contracts, these preferences could result in:

- Grant violations
- Audit findings
- Required repayment
- Loss of funding eligibility

The bill does not clearly address these limitations.

## **7. Automatic and Expedited Certifications Increase Risk of Error**

The bill allows automatic or expedited certification for certain businesses.

While intended to reduce duplication, this may result in:

- Incorrect certifications
- Expired certifications being used
- Lack of proper verification
- Inconsistent application of standards

Current procedures allow reciprocity but still require review. Removing review requirements increases the risk of improper certification.

## **8. Implementation Requires System, Policy, and Training Changes**

Implementation of the bill would require updates to procurement procedures and systems.

Necessary changes include:

- Updating certification forms
- Updating vendor registration systems
- Updating Ariba / SPEED records
- Updating solicitation templates
- Updating evaluation scoring procedures
- Updating reporting dashboards

- Training procurement staff
- Training vendors

The bill does not provide:

- Implementation funding
- Additional staff
- System support
- Implementation timeline

Without these resources, implementation will be difficult.

### **9. Overall Concern — Excessive Number of Certification Categories**

The current Code already contains multiple certifications intended to support local and diverse businesses. Adding another certification category increases complexity without improving clarity.

The County currently has:

- County-based
- County-based small
- County-located
- MBE
- DBE
- Small business
- Federal certifications
- Local preference programs

Adding Locally-owned and Operated creates duplication instead of simplification.

Multiple overlapping certifications increase:

- Administrative burden
- Vendor confusion
- Protest risk
- Compliance risk
- Procurement delays

A consolidated certification structure would be easier to administer and more consistent with State and federal programs.

### **10. Conclusion**

The Office of Procurement has significant concerns regarding the implementation of CB-026-2026. The bill creates an additional certification category that overlaps with existing County-based, small business, minority, and federal certification programs, resulting in duplication,

administrative burden, and potential conflict with Subtitle 10A, COMAR regulations, and federal procurement requirements.

The addition of both County-based and locally-owned classifications creates unnecessary complexity in certification, preference scoring, and procurement evaluation, and may increase the risk of protests, inconsistent application, and non-compliance with State and federal rules.

For these reasons, the Office of Procurement recommends further review and consolidation of certification categories before implementation.