

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2012 Legislative Session**

Bill No. CB-108-2012

Chapter No. 91

Proposed and Presented by Council Member Franklin

Introduced by Council Members Franklin, Davis, Harrison, Patterson and Toles

Co-Sponsors \_\_\_\_\_

Date of Introduction October 23, 2012

**BILL**

1 AN ACT concerning

2 Purchasing - Public Notice

3 For the purpose of providing a centralized place for public notice and advertisement for all  
4 competitive contracts and procurements that the County offers; providing for the designation of  
5 the public notice by the Purchasing Agent; and generally relating to purchasing public notice.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 10A. PURCHASING.

8 Sections 10A-112,

9 The Prince George's County Code

10 (2011 Edition).

11 BY repealing and reenacting without amendments:

12 SUBTITLE 10A. PURCHASING.

13 Sections 10A-113,

14 The Prince George's County Code

15 (2011 Edition).

16 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
17 Maryland, that Section 10A-112 of the Prince George's County Code be and the same is hereby  
18 repealed and reenacted with the following amendments:

19 **SUBTITLE 10A. PURCHASING.**

20 **DIVISION 2. AWARD OF CONTRACTS.**

21 **Sec. 10A-112. Competitive Sealed Bidding.**

1 (a) Competitive sealed bidding shall be the primary method used to acquire materials,  
2 equipment, services, supplies, or construction wherein the following conditions exist as  
3 determined by the Purchasing Agent or designee:

4 (1) The cost of the purchase is estimated to exceed the sum of Thirty Thousand  
5 Dollars (\$30,000) for goods or services; and

6 (2) Specifications exist or can be developed wherein price analysis can be performed  
7 on an equitable basis yielding an award to the lowest evaluated responsive and responsible  
8 bidder.

9 (3) Subject to regulations to be issued by the Purchasing Agent, competitive sealed  
10 bidding may be used at dollars levels below the amounts specified in paragraph (1).

11 (b) The Purchasing Agent shall give public notice of an Invitation for Bid in at least one  
12 County newspaper of record and on a central website designated by the Purchasing Agent for a  
13 sufficient time prior to the date set forth therein for the public opening of bids. The Purchasing  
14 Agent shall set forth procedures for public notices in regulations.

15 (c) The contract shall be awarded by written notice to the responsive and responsible  
16 bidder whose bid is determined to contain the bid price that is the best value to the County, as  
17 specified in the Invitation for Bids. If an award is not made to the lowest evaluated bidder, a  
18 written determination citing the reasons shall be made by the Purchasing Agent or designee and  
19 made a permanent part of the bid file. If purchasing authority in excess of Thirty Thousand  
20 Dollars (\$30,000) has been delegated to a department head outside of the Department of Central  
21 Services, a written determination citing the reasons for not selecting the responsive and  
22 responsible bid that is most favorable to the County with respect to technical requirements and  
23 costs shall be forwarded to the Purchasing Agent for approval prior to the award of the contract.  
24 No purchase or contract shall be made or awarded within one (1) week from the date of the  
25 public opening of bids.

26 (d) Nothing in this Subtitle shall preclude the County from accepting a voluntary reduction  
27 in price from the successful bid; in such an instance, terms, conditions, specifications, or  
28 quantities in the Invitation for Bids shall remain binding upon the bidder.

29 (e) In the event that all bids exceed the funds available for the purchase or the Purchasing  
30 Agent or the Purchasing Agent's designee determines that all bids are unreasonable, the scope,  
31 specifications, or conditions of the purchase may be reduced or modified, and revised bids may

1 be solicited from all responsive and responsible bidders that responded to the initial solicitation.  
 2 In such instance, the Purchasing Agent or designee may waive the public notice requirement of  
 3 paragraph (b) of this Section. If either no bid or only one bid is received from a responsive and  
 4 responsible bidder in response to an Invitation for Bids the scope, specifications, or conditions of  
 5 the purchase may be modified and revised bids may be solicited. In this instance public notice  
 6 shall be given pursuant to paragraph (b) of this Section.

7 (f) When it is considered not advantageous to prepare specifications to support an award  
 8 based on price alone, an Invitation for Bids may be issued requesting the submission of unpriced  
 9 technical offers, or samples, or both, and a separate sealed submission of price bids. Bidders  
 10 whose technical submissions or samples, or both, have been found to be acceptable under the  
 11 criteria set forth in the Invitation for Bids, shall then have their prices considered. When this  
 12 method is used, only bidders submitting acceptable technical offers or samples, or both, shall  
 13 have their price bids opened and considered.

14 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,  
 15 Maryland, that Section 10A-113 of the Prince George's County Code be and the same is hereby  
 16 repealed and reenacted without amendments:

17 **Sec. 10A-113. Competitive sealed proposal.**

18 (a) The competitive sealed proposal method may be used when:

19 (1) The cost of the purchase is estimated to exceed the sum of Thirty Thousand  
 20 Dollars (\$30,000) for goods and services; and

21 (2) Specifications cannot be prepared that permit an award on the basis of either the  
 22 lowest bid price or the lowest evaluated bid price; or

23 (3) Quality, availability, technical competence, and capability are of paramount  
 24 importance in relation to price; or

25 (4) The market place will respond better to a solicitation permitting a range of  
 26 alternate proposals, and negotiation; or

27 (5) The Purchasing Agent determines that the bid prices received by competitive  
 28 sealed bidding are unreasonable as to all or part of the requirements or when only one or no  
 29 responsive bid is received in response to an Invitation for Bids; or

30 (6) When the Purchasing Agent or his designee makes a written determination that  
 31 competitive sealed bidding is otherwise not advantageous to the County.

1 (b) Competitive sealed proposals shall be solicited by a Request for Proposals which,  
2 along with such additional content as may be deemed appropriate by the Purchasing Agent or  
3 designee, shall include the following:

4 (1) A statement of the scope of services to be the subject of the contract; and

5 (2) A list of factors and the relative importance or weight of each factor, including  
6 price, that will be used in evaluating proposals.

7 (c) The Purchasing Agent may request of the head of the using agency and any other  
8 County agency that a representative of such agency be designated to serve on a Proposal  
9 Analysis Group (PAG) to assist the Purchasing Agent in the evaluation of proposals in response  
10 to the Request for Proposals and to make recommendations to the Purchasing Agent as to which  
11 proposal is most advantageous to the County.

12 (d) A Request for Proposals shall be given adequate public notice in the same manner as  
13 provided in Section 10A-112(b).

14 (e) Before proposals are received, the Purchasing agent or designee or the proposal  
15 analysis group may conduct a preproposal conference with all potential offerors for the purpose  
16 of assuring full understanding of the using agency's requirements, as described in the Request  
17 For Proposals. All such offerors shall be accorded fair and equal treatment with respect to this  
18 conference.

19 (f) The Purchasing Agent or designee and the proposal analysis group may not disclose to  
20 a competing offeror any information derived from a proposal of, or from interviews with, another  
21 competing offeror.

22 (g) Proposals and best and final offers are irrevocable for the period specified in the  
23 Request for Proposals or any request for best and final offers, except that the proposal may be  
24 withdrawn or corrected as provided in regulations issued by the Purchasing Agent.

25 (h) The Director of Central Services shall review the recommendations of the Proposal  
26 Analysis Group and direct the Proposal Analysis Group to negotiate a contract with one of the  
27 top three offerors whose proposal and best and final offer is determined to be the most  
28 advantageous to the County, in accordance with the evaluation factors set forth in the Request for  
29 Proposals.

30 (i) The Proposal Analysis Group shall forward the final negotiated contract to the Director  
31 of Central Services for approval.

1 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
2 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
3 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
4 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
5 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
6 Act, since the same would have been enacted without the incorporation in this Act of any such  
7 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

8 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
9 calendar days after it becomes law.

Adopted this 20<sup>th</sup> day of November, 2012.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Andrea C. Harrison  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive

KEY:  
Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.