

CB-74-2016
THE *JOBS! AND OPPORTUNITY!* ACT

*“Creating real opportunity and
shared prosperity in Prince
George’s County”*

October 3, 2016

A LOOK BACK AT THE *JOB*S FIRST! ACT

From *JOB*S FIRST! to *JOB*S!
AND OPPORTUNITY!

A LOOK BACK AT THE *JOBS FIRST!* ACT

- ▣ In 2011, the County Council found that there were very limited opportunities for local firms, especially small and minority businesses, in county contracting
 - From FY2008 – FY2011 approximately 12% of county procurement was awarded to County-based businesses (CBEs)
 - From FY2008 – FY2011 approximately 5% of county procurement was awarded to County-based minority (incl. woman owned) businesses (CMBEs)
 - Too many of our tax dollars were leaving the County and building the commercial wealth of other jurisdictions instead of our own.
 - Too few of our tax dollars were creating job opportunities for county residents in county contracting.

A LOOK BACK AT THE *JOBS FIRST!* ACT

- ▣ **The *Jobs First!* Act contained the following components to increase local opportunities**
 - ▣ A 40% minimum County-based participation requirement for bids or proposals on procurements above \$100,000 in value
 - ▣ A 50% minimum goal for each County Agency for annual procurement awards to County-based businesses and 30% for County-based small businesses
 - ▣ A 10% preference for County-based businesses and 15% preference for County-based small businesses
 - ▣ A requirement that County Agencies set-aside procurements with a value of \$100,000 or less only for bidding by County-based small businesses
 - ▣ First source and 51%+ local hiring goals for competitively-bid county procurement contracts
 - ▣ Compliance reporting requirements for county agencies and contractors with penalty authority given to the Office of Central Services

A LOOK BACK AT THE *JOBS FIRST!* ACT

- ▣ **The Council and County Executive adopted a number of follow-up laws to strengthen the *Jobs First!* Act:**
 - ▣ CB-108-2012, which requires the posting of all county procurement opportunities to a central county website;
 - ▣ CB-78-2013, which established the Special Assistance for Local Entrepreneurship (SALE) Program for providing funding for locally owned and operated firms;
 - ▣ CB-67-2014, which removed a longstanding limitation on bonus points to County-based minority firms, applied the 40% county-based business contract requirement to sole sourced contracts, and established the County-located business certification for rewarding firms that locate a significant office in the County;
 - ▣ CR-100-2014, which established the Local Business Participation Advisory Committee; and
 - ▣ CB-30-2015, which established a requirement for an annual Local Business Participation Procurement Report and required the rebidding of most county contracts that were initially bid before the effective date of the original Jobs First Act.

A LOOK BACK AT THE *JOBS FIRST!* ACT

- ▣ The Council and County Executive adopted a number of follow-up laws to strengthen the *Jobs First!* Act (cont'd):
 - ▣ CB-112-2012 and CR-15-2016, which require the use of County-based and County-based minority businesses and local hiring in HUD funded projects through the adoption of the County's inaugural Section 3 Action Plan. A special thanks to the late Kenneth Williams, without whom this Section 3 policy would not have been possible.

A LOOK BACK AT THE *JOBS FIRST!* ACT

THE *JOBS FIRST!* ACT and
Missed Opportunities

A LOOK BACK AT THE *JOBS FIRST!* ACT

- ▣ This Spring (2016), after receipt of the first comprehensive report on compliance with the *Jobs First! Act*, several deficiencies were identified:
 - ▣ Nearly every agency failed to make their quarterly reports on County-based business participation as required by law, without consequence;
 - ▣ Vendors with county contracts were not required and did not report County-based business participation or local hiring percentages, without consequence;
 - ▣ The local hiring goals for county contracts as required in the *Jobs First! Act* have gone virtually unenforced;
 - ▣ Approximately 22% of County contracts were awarded to County-based businesses in FY15, with approximately 14% to County-based minority (incl. women owned) firms, small but inadequate improvements from 2011; and
 - ▣ The County remains very deficient in prioritizing data reporting for the *Jobs First! Act*.

A LOOK BACK AT THE *JOBS FIRST!* ACT

- ▣ This Spring (2016), after receipt of the first comprehensive report on compliance with the *Jobs First!* Act, several deficiencies were identified (cont'd):
 - ▣ Use of the low bid standard (instead of 'best value') in much of county contracting disadvantages small and minority firms and undermines quality performance;
 - ▣ Continuing challenges with 'prompt payment' fall especially hard on small and minority firms;
 - ▣ Redundant certification processes undermine the inclusion of small and minority businesses in county contracting; and
 - ▣ The delegation of procurement authority to various county agencies has hampered the ability of the Office of Central Services to enforce the Jobs First Act and subsequent legislation.

THE *JOBS! AND OPPORTUNITY!* ACT

Strengthening and Enhancing
THE *JOBS FIRST!* ACT

THE ***JOBS! AND OPPORTUNITY!*** ACT

- ▣ The Jobs and Opportunity Act of 2016 (“*The Jobs! And Opportunity!* Act”) seeks to enhance opportunities for County-based businesses, esp. small and minority businesses:
 - ▣ Streamline certifications for minority (which includes woman-owned) certified local firms for status as County-based businesses and County-based small businesses;
 - ▣ Target the 40% local requirement to County-based small businesses (which incl. County-based minority businesses)
 - ▣ Require mandatory subcontracting plans to govern the 40% local participation requirement to protect subcontractors ;
 - ▣ Create a Prince George’s County Supply Schedule for “local-only” bidding; and
 - ▣ Increase the value of contracts to \$500,000 which are solely for County-based small businesses.

THE ***JOBS! AND OPPORTUNITY!*** ACT

- ▣ The *Jobs! and Opportunity!* Act seeks to enhance opportunities for County-based businesses, esp. small and minority businesses (cont'd):
 - ▣ Establish a stronger prompt payment law for county payments and payments to subcontractors;
 - ▣ Use the “best value” standard instead of just “low bid”
 - ▣ Strengthen BDRP capacity building program for County-based small and minority businesses; and
 - ▣ Strengthen contract debriefing policies for non-winning bidders.

THE *JOBS! AND OPPORTUNITY!* ACT

- ▣ The *Jobs! and Opportunity!* Act seeks to increase enforcement and improve implementation of existing laws:
 - ▣ Require contract enforcement clause to be included in vendor contracts;
 - ▣ Mandatory publication of agency forecasts in advance of the fiscal year;
 - ▣ Require that final contracts shall be maintained by OCS;
 - ▣ Require OCS certification of compliance before agencies making contract awards;
 - ▣ Make contract that do not comply explicitly “illegal”; and
 - ▣ Create budget consequences for county agencies for lack of compliance.

THE *JOBS! AND OPPORTUNITY!* ACT

- ▣ Effective Dates for the *Jobs! and Opportunity!* Act (CB-74-2016)
 - The “best value” standard and Small Business Subcontracting Plan requirements – July 1, 2017
 - The rest of the *Jobs! and Opportunity!* Act will go in to effect 45 days after the date of enactment.

THE *JOBS! AND OPPORTUNITY!* ACT

QUESTIONS & COMMENTS