



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

October 12, 2020

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Senior Legislative Budget and Policy Analyst

FROM: Isabel Williams 
Senior Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-77-2020 DR-2, Prompt Payment Procurement Standard

CB-77-2020 (Proposed and Presented by: Councilmember Franklin)

Referred to the Committee of the Whole

AN ACT CONCERNING PROMPT PAYMENT PROCUREMENT STANDARD for the purpose of strengthening the prompt payment standards for the delivery of goods or services in public procurement with Prince George's County.

Fiscal Summary

Direct Impact:

Expenditures: Negative. Interest paid based on late payments will be variable. The bill also has the potential to increase the workload of current staff, as well as impact the availability of County resources.

Revenues: None.

Indirect Impact:

Enactment of CB-077-2020 has the potential to increase the County's vendor capacity by promoting efficiency in the procurement process which may lead to cost savings.

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Legislative Summary:

CB-077-2020 DR-1 was introduced on September 29th, 2020 and was referred to the Committee of the Whole (COW). Draft 1 of the proposed Bill proposed to establish a “Net 15 Standard” of promptly paying vendors within 15 calendar days after receipt of a proper invoice for the delivery of goods or services in public procurement with Prince George’s County. It is our understanding that a Draft 2 of the Bill will be substituted for Draft 1 during COW. Draft 2 will propose to establish a countywide prompt payment standard for the procurement of goods and services and is the substance of our discussion within this statement.

Current Law/Background:

Prompt payment standards are governed by County Code Section 10A-153. Specifically, Code Section 10A-153(b) states, “It is the policy of the County to make a payment under a procurement contract within thirty (30) calendar days after the receipt date.”¹ The Code allows interest to accrue daily after thirty-one (31) calendar days after the receipt date. The rate of interest is one percent (1%) per month on a prop rata basis.² Accrual of interest penalties shall discontinue after one calendar year of the receipt date.

Resource Personnel

Stephen McGibbon, Director, Office of Finance

Discussion/Policy Analysis:

CB-77-2020 DR-2 seeks to increase the efficiency and effectiveness of County agencies by establishing a prompt payment standard for the delivery of good and services publicly procured by the County.

Delays in the procurement process impose costs that impact County agencies in their need of goods and services in the performance of their functions to the public. Additionally, payment delays negatively impact businesses and their willingness to contract with the County and may increase the cost of goods and services.

Key elements of CB-77-2020

In general terms, Draft 2 of CB-77-2020 clarifies the term “proper invoice” by not allowing authorized representatives of a unit of the County to request the delivery of goods and services from a vendor without a purchase order or other invoiceable procurement authorization. The proposed Bill seeks to establish a County aspirational goal to make a payment under a procurement contract within 15 calendar days after the receipt date and provides for interest penalties to automatically be added to any payment on a procurement contract that is made more than 30 calendar days after receipt date. Payments made in advance or within 30 days of the receipt date will not be liable for the assessment of interest penalties.

¹https://library.municode.com/md/prince_george's_county/codes/code_of_ordinances?nodeId=PTIITI17PULOLAP_RGECOMA_SUBTITLE_10APU_DIV6SPPR_SD10COAD_S10A-153PRPA

² Id.

The Bill would also remove the limitation of a Contractor to provide a written claim to the Director of Finance for unpaid interest penalties on payments received after 30 calendar days of payment receipt date.

Information provided by the Office of Finance indicates the following financial activity related to invoice payments if CB-077-2020 DR-2 had been applicable for FY 2019 and FY 2020.

FY 2019	FY 2020	Description
\$234,547,183.50	\$256,521,013.22	Total Amount Paid > 30days
\$2,345,471.83	\$2,565,210.13	Total Potential 1% Interest Penalty (estimate)
\$195,455.99	\$213,767.51	Monthly Potential Penalty Expense (estimate)

Fiscal Impact:

Direct Impact:

Enactment of CB-077-2020 DR-2 will likely have a negative fiscal impact on the County in the form of additional interest penalty costs. The Office of Finance has estimated potential additional interest penalty costs, based on previous years. If CB-077-2020 DR-2 had been enacted during FY 2019 and FY 2020 total annual penalty and interest costs to the County would have been approximately \$2,345,472 and \$2,565,210, respectively.

Indirect Impact:

Enactment of CB-077-2020 may have a positive indirect impact as it has the potential to increase the County's vendor capacity by promoting efficiency in the procurement process which may lead to cost savings. An estimate of the increase in efficiency and any related cost savings is not able to be determined at this time.

Issues for Committee Consideration:

- Does the Bill's application of interest penalty *without exception* after 30 days, and without limitation on when claims for interest must be submitted, adequately consider vendors that may be contributory actors in payment delays?

Effective Date of Proposed Legislation

The proposed Bill shall be effective forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please reach me via phone or email.