

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

Bill No. CB-23-2012

Chapter No. 27

Proposed and Presented by Council Member Franklin

Introduced by Council Members Franklin, Harrison, Campos, Davis, Lehman, Olson,
Patterson, Toles and Turner

Date of Introduction June 19, 2012

BILL

1 AN ACT concerning

2 Bid and Contract Security

3 For the purpose of amending the Code to increase the threshold for construction contracts
4 requiring a bond and bid security to \$100,000.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 10A. PURCHASING.
7 Sections 10A-133, 10A-134,
8 The Prince George's County Code
9 (2011 Edition).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
11 Maryland, that Sections 10A-133 and 10A-134 of the Prince George's County Code be and the
12 same are hereby repealed and reenacted with the following amendments:

13 **SUBTITLE 10A. PURCHASING.**

14 **DIVISION 4. BID AND CONTRACT SECURITY.**

15 **Sec. 10A-133. Bid security.**

16 (a) A bid security shall be required for all construction contracts when the contract price is
17 estimated by the County to exceed [Fifty Thousand Dollars (\$50,000)] One Hundred Thousand
18 Dollars (\$100,000). The Purchasing Agent may also require such bid security as may be deemed
19 necessary for any other contract required to be awarded by competitive sealed bidding or
20 competitive sealed proposal if the contract is [Twenty-five Thousand Dollars (\$25,000)] One
21 Hundred Thousand Dollars (\$100,000) or greater. The bid security shall be a bond provided by a

1 surety company authorized to do business in Maryland, cash, or the equivalent of cash, in a form
2 satisfactory to the County.

3 (b) The bid security shall be in an amount equal to at least 5% of the amount of the bid or
4 price proposal or an amount determined by the Purchasing Agent or designee.

5 (c) When the Invitation for Bids or Request for Proposals requires a bid security be
6 provided, noncompliance requires that the bid be rejected; provided, however, that the
7 Purchasing Agent may set forth by regulation exceptions to this requirement in the event of
8 substantial compliance.

9 (d) If a bidder is permitted to withdraw its bid before award because of mistake in the bid,
10 no action shall be taken against its bid security.

11 (e) Businesses may be permitted to file with the Purchasing Agent an annual bid security
12 in an amount established by the Purchasing Agent in lieu of furnishing individual bid securities.

13 **Sec. 10A-134. Performance and payment bonds.**

14 (a) Prior to the award of any construction contract exceeding [Fifty Thousand Dollars
15 (\$50,000)] One Hundred Thousand Dollars (\$100,000) in amount, a performance bond executed
16 by a surety company authorized to do business in this State, or the equivalent in cash, or other
17 security satisfactory to the County, and in such amount as shall be deemed adequate, for the
18 protection of the County must be filed with the County. Certificates of Guarantee issued by the
19 Development Guaranty Group of Prince George's County, Inc. or any other approved
20 organization pursuant to Section 23-116 of this Code will not be deemed to be satisfactory
21 security for the purpose of satisfying the Bond requirements for County contracts.

22 (b) Prior to the award of any construction contract exceeding [Fifty Thousand Dollars
23 (\$50,000)] One Hundred Thousand Dollars (\$100,000) in amount, a payment bond executed by a
24 surety company authorized to do business in this State, or the equivalent in cash, or other
25 security satisfactory to the County for the protection of all persons supplying labor and materials,
26 including lessors of equipment to the extent of the fair rental value thereof, to the contractor or
27 his subcontractor in the prosecution of the work provided for in the contract for the use of each
28 such person must be filed with the County. The bond shall be in an amount not less than fifty
29 percent (50%) of the total amount payable by the terms of the contract. Certificates of Guarantee
30 issued by the Development Guaranty Group of Prince George's County, Inc. or any other

1 approved organization pursuant to Section 23-116 of this Code will not be deemed to be
2 satisfactory security for the purpose of satisfying the Bond requirements for County contracts.

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

10 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
11 calendar days after it becomes law.

Adopted this 24th day of July, 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.