



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

## Office of Audits and Investigations

June 8, 2020

### FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.  
Council Administrator

William M. Hunt  
Deputy Council Administrator

THRU: Josh Hamlin *JRH*  
Senior Legislative Budget and Policy Analyst

FROM: Isabel Williams *IW*  
Senior Legislative Budget and Policy Analyst

RE: Fiscal and Policy Note  
CB-4-2020, Prince George's County Mentor-Protégé Program

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CB-4-2020 (*Proposed and presented by:* Councilmembers Franklin, Hawkins, Anderson-Walker, Davis, Dernoga, Harrison, Ivey, Streeter, Taveras, Turner and Glaros)

Assigned to the Committee of the Whole

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**AN ACT CONCERNING PRINCE GEORGE'S COUNTY MENTOR-PROTÉGÉ PROGRAM** for the purpose of authorizing the Director of Central Services to establish a mentor-protégé program for building the capacity of small and minority businesses based in Prince George's County and related requirements.

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### Fiscal Summary

#### Direct Impact:

*Expenditures:* Likely minimal.

*Revenues:* None.

14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20772  
VOICE (301) 952-3431; FAX (301) 780-2097; TDD (301) 925-5167

**Indirect Impact:**

Potentially positive.

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**Current Law/Background:**

Federal and State laws authorize the establishment of mentor-protégé programs as a method of assisting small businesses grow their capacity. Presently, the County has a variety of programs to assist small businesses in receiving financial, technical, and/or management assistance, as well as preferences for certain certified businesses during the procurement process. The County Code contains a number of provisions related to local preferences during participation in the County procurement process, including: provisions for waiver in certain circumstances; specific County-based minority enterprise subcontractor utilization requirements in certain contracts; Purchasing Agent discretion to increase the participation requirement in certain circumstances; and the establishment of a sheltered-market Supply Schedule program.

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**Discussion/Policy Analysis:**

CB-4-2020 *authorizes* the establishment of a Mentor-Protégé Program (the “Program”). Such programs focus on enhancing the protégé’s capacity to serve as a prime contractor in government contracts. Typically, mentor-protégé programs seek to pair a new business with a more experienced business in a mutually beneficial relationship. Mentors benefit because they receive consideration for contracts that may be limited to mentor participants, and protégés benefit by obtaining valuable advice and assistance.

Under CB-4-2020, the Director of Central Services (the “Director”) may establish the Program in which a contractor, as a condition of qualification of a bid or proposal, is required to serve as a “mentor” for a County-based small or County-based minority business. The requirement may be imposed on a procurement-by-procurement basis, on multiple procurements, or on procurements by industry area. The specific elements of the program authorized by CB-4-2020 include:

- a requirement of a written mentor-protégé agreement approved by the Director;
- a requirement that the County-based small or County-based minority business “protégé” perform at least 20% of the value of the procurement;
- the Director is authorized to enter:
  - service and reimbursement agreements with certain businesses and organizations to provide training and assistance to “protégé” businesses; and
  - cooperative agreements with non-County entities for the inclusion of additional procurement activities in the Program;
- the Director is empowered to rescind any award subject to the Program’s requirements if the Director finds that the “mentor” contractor has not complied with the mentor-protégé agreement; and
- The Director may adopt rules and regulations for Program administration and enforcement.

### *Disparity Study*

The Prince George’s County Disparity Study highlighted the underutilization of minority business enterprises and business in the County, providing a legal basis for remedial legislation. Among the recommendations in the report was a specific recommendation to assist with capacity building and professional and technical assistance for small businesses. This legislation directly addresses that recommendation.

### *SBA Mentor-Protégé Program Similarities and Differences*

CB-4-2020 is similar to federal regulations under the Small Business Association (SBA). SBA regulations govern various aspects of the federal Mentor-Protégé Program under section 8(A) of the Code of Federal Regulations, including outlining who may qualify as a mentor or protégé, detailing the requirements of the content of written agreements between mentors and protégés, and the SBA’s evaluation of the mentor-protégé relationship.<sup>1</sup> Under the SBA regulations, only firms approved by the SBA may serve as mentors, and the regulations require that each mentor demonstrate that it “is capable of carrying out its responsibilities to assist the protégé firm under the proposed mentor-protégé agreement.”<sup>2</sup> CB-4-2020 imposes the additional requirement that the protégé carry out at least 20% of the value of procurement.

Under the SBA program, protégés are required to be small businesses “owned and controlled by socially and economically disadvantaged individuals” that are in good standing in the program. Both CB-4-2020 and the SBA program require the mentors and protégés to enter into an approved written agreement, though CB-4-2020 does not require the parties to set forth or memorialize the protégé’s specific needs and the assistance that the mentor will provide. The SBA also requires a contractual duration of one year, while CB-4-2020 has no durational requirement. Additionally, the SBA program sets limits on the number of protégés allowed by each member, while CB-4-2020 is silent to that issue. As noted above, the bill does authorize the Director of Central Services to adopt rules and regulation for program administration and enforcement, so areas where the bill is silent may be addressed in this manner.

In terms of assisting small businesses grow capacity, the SBA program has been successful. Participation in the SBA program has continued to increase, and as of October 5, 2019 there were 928 active agreements under the ALL Small Business Mentor-Protégé Program (a spin-off program of the original).<sup>3</sup> Reports of fraud in several of the SBA’s contracting programs and multiple recommendations for additional oversight created problems for the SBA program initially during implementation. The SBA found that requiring participating agencies to report specific information, such as the number and types of small business participants, the assistance provided, and the protégés progress in competing for contracts proved useful to legislative bodies. A full accounting, summarizing individual agencies, can be found in the SBA Congressional Report.<sup>4</sup>

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<sup>1</sup> <https://fas.org/sgp/crs/misc/R41722.pdf>

<sup>2</sup> Id.

<sup>3</sup> <https://fas.org/sgp/crs/misc/R41722.pdf>

<sup>4</sup> Id.

### *Other Jurisdictions*

Several other state and local jurisdictions have mentor-protégé programs. Texas, Oregon, and Florida are examples of States with similar programs.<sup>5</sup> Florida's program establishes a contract duration requirement of 12 months.<sup>6</sup> Several of the programs, including the mentor-protégé program in Oregon, require a minimum operation duration.<sup>7</sup>

In addition to the several state programs, there are a substantial number of local jurisdictions that have also implemented mentor-protégé programs. Chicago has a particularly well-established program. Notably, the Chicago program requires quarterly reporting and three-year document retention.<sup>8</sup> While some components of the local mentor-protégé programs vary – particularly which businesses may qualify as protégés, as well as specific participation and reporting requirements – the central components tend to remain the same across jurisdictions.

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### **Fiscal Impact:**

#### *Direct Impact*

Enactment of CB-4-2020 may result in minimal additional expenditures to cover administrative costs related to approval of required mentor-protégé agreements and monitoring compliance, and authorized service and reimbursement agreements may have an associated cost. However, the Office of Central Services does not anticipate significant additional costs associated with the Bill's provisions.

The imposition of the mentor-protégé requirement (and the 20%-of-value protégé work requirement) may result in slightly higher contract prices in procurements under such a program. In other programs around the nation, such increases have not been substantial enough to raise concerns

#### *Indirect Impact*

Enactment of CB-4-2020 may have a positive indirect impact on the County by further increasing the participation of local businesses in the County procurement process. A mentor-protégé program may result in increased capacity of local businesses to seek additional contracting opportunities both within and beyond the County's borders. Such expansion could result in increased revenue cycling through the local economy. As local businesses scale up, they may be able to perform County contracts at lower cost to the County.

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<sup>5</sup> <https://comptroller.texas.gov/purchasing/vendor/hub/mentor.php>

<sup>6</sup> [https://www.dms.myflorida.com/agency\\_administration/office\\_of\\_supplier\\_diversity\\_osd/mentor\\_protege\\_program/requirements](https://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd/mentor_protege_program/requirements)

<sup>7</sup> <https://www.oregon.gov/ODOT/Business/OCR/Pages/Mentor-Prot%C3%A9g%C3%A9-Program-.aspx>

<sup>8</sup> <https://www.chicago.gov/content/dam/city/depts/dps/RulesRegulations/DPSRules.MentorProtege.032018.pdf>

*Appropriated in the Current Fiscal Year Budget*

No.

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