

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

Resolution No. CR-60-2012

Proposed by The Chairman (by request – County Executive)

Introduced by Council Members Campos, Davis, Franklin and Turner

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

Date of Introduction September 11, 2012

**RESOLUTION**

1 A RESOLUTION concerning

2 Procurement Regulations Referencing the Minority Business Development Division

3 For the purpose of amending provisions of the Procurement Regulations to change the name of  
4 the Minority Business Development Division of the Office of Central Services to the Supplier  
5 Development and Diversity Division.

6 WHEREAS, Section 602 of the Charter of Prince George’s County, Maryland, provides  
7 that the County Purchasing Agent shall prepare, for action by the County Council, reasonable  
8 rules and regulations governing emergency purchases, contracts, and services or material and  
9 equipment of an unusual or noncompetitive nature not subject to competitive bidding; and

10 WHEREAS, Section 10A-105 of the Prince George's County Code, provides that the  
11 Purchasing Agent shall recommend regulations concerning sole source procurements, emergency  
12 procurements, special circumstance procurements, and the Minority Business Opportunities  
13 Program, to the County Council for approval by resolution; and

14 WHEREAS, CR-3-1992 adopted the Procurement Regulations of the County; and

15 WHEREAS, the County desires to revise the Procurement Regulations to change the name  
16 of the Minority Business Development Division of the Office of Central Services to the Supplier  
17 Development and Diversity Division.

18 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's  
19 County, Maryland, that the Purchasing Agent is directed to take all steps necessary and  
20 appropriate to amend the Prince George's County Procurement Regulations.

21 BE IT FURTHER RESOLVED that Chapters XII, XIV, XV and XXVII have been  
22 amended as described in Attachment “A” and incorporated herein by reference.

Adopted this 13th 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

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

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ATTACHMENT A  
Prince George’s County, Maryland  
Amendments to Procurement Regulations

**CHAPTER XII**

XII. Procurement Methods

\* \* \* \* \*

B. Contract Review Committee

A Contract Review Committee will be convened by the Purchasing Agent to review each solicitation prior to action, (i.e. formal bidding, cooperative purchase, contract rider, etc.) to ensure that the best procurement method is being recommended, determine the nature of Minority Business Enterprise participation, review bidder’s list, and resolve procurement related issues. The Contract Review Committee shall consist of the Purchasing Agent, the Procurement Administrator, Buyers and a representative of the [Minority Business Development Division] Supplier Development and Diversity Division.

**CHAPTER XIV**

XIV. Procurement by Competitive Sealed Bidding

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N. Bid Evaluation and Award

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5. If bids are restricted to Minority Business Enterprises under the provisions of Chapter XXVII of these regulations, a contract may not be awarded if the resultant low bid exceeds by 15% the most recent unit price for the same or recently comparable goods or services, unless a determination is made by the [Minority Business Development Division] Supplier Development and Diversity Division that market prices have, for all vendors (not withstanding Minority status) increased beyond 15% since the last time the goods or services were procured.

**CHAPTER XV**

XV. Procurement by Competitive Sealed Proposals

\* \* \* \* \*

C. Evaluation of Proposals, Negotiations and Award

1            1. Evaluation. The evaluation shall be based on the evaluation factors set forth in  
 2 the request for proposals and developed from both the work, statement and price. Numerical  
 3 rating systems may be used but are not required. Factors not specified in the request for  
 4 proposals may not be considered.

5            (a) Evaluations for contracts estimated to be under \$25,000 may be made by the  
 6 Purchasing Agent or designee.

7            (b) Evaluations of proposals of \$25,000 or more shall be conducted by a  
 8 Proposal Analysis Group appointed by the Purchasing Agent, consisting of, at a minimum, the  
 9 Purchasing Agent or designee; the using agency head or designee, and the Executive Director of  
 10 the [Minority Business Development Division] Supplier Development and Diversity Division  
 11 and such other representatives as the Purchasing Agent deems appropriate.

12            **CHAPTER XXVII**

13            **XXVII. Minority Business Enterprise Provisions**

14            \*            \*            \*            \*            \*            \*            \*            \*

15            E. MBE Notification

16            \*            \*            \*            \*            \*            \*            \*            \*

17            3. A copy of each solicitation under (2) above shall be sent to the [Minority Business  
 18 Development Division] Supplier Development and Diversity Division.

19            \*            \*            \*            \*            \*            \*            \*            \*

20            F. Outreach

21            It is the responsibility of the Purchasing Agent and every department or agency having  
 22 delegated procurement authority to attempt to locate and contact MBE's for each procurement to  
 23 be made by the respective development or agency. Further, if MBE's are identified which are  
 24 not certified by the [Minority Business Development Division] Supplier Development and  
 25 Diversity Division, the department or agency shall encourage the MBE(s) to contact the  
 26 Executive Director [Minority Business Development Division] of the Supplier Development and  
 27 Diversity Division to seek County certification.

28            G. MBE Procurement Methods

29            \*            \*            \*            \*            \*            \*            \*            \*

30            3. Restricted Bidding or Restricted Proposal

31            a. When there are three or more Certified MBE's that are providers in the trade

1 of goods or services for which a contract is to be advertised the Purchasing Agent or designee  
2 may restrict the bidding or request for proposals to certified MBE's.

3 b. Before restricting a bid or proposal to certified MBE's, the Purchasing Agent  
4 or designee shall first consult with the Executive Director of the [Minority Business  
5 Development Division] Supplier Development and Diversity Division.

6 c. When a bid or proposal is restricted, solicitations and solicitation notices  
7 shall be mailed to certified MBE's.

8 d. The public notice required under Chapter XIV, Section D, of these  
9 regulations, shall indicate that the bid or proposal has been designated as a "restricted bid" or  
10 "restricted proposal."

11 e. No contract may be awarded under a "restricted bid" if the resultant low bid  
12 exceeds by fifteen percent (15%) the most recent unit price for the same or most recently  
13 comparable goods or services unless the [Minority Business Development Division] Supplier  
14 Development and Diversity Division determines that prices in the relevant market have, for all  
15 vendors, without regard for minority status increased beyond 15% since the last time similar  
16 goods or services were procured or other contract requirements necessitated an increase in price.  
17 The [Minority Business Development Division] Supplier Development and Diversity Division  
18 shall consult with the Purchasing Agent when making this determination. Proposals shall not be  
19 restricted by this 15% requirement.

#### 20 4. Mandatory Subcontracting

21 a. Applicability. When restricted bidding under G. 3. above is not used, each  
22 contract bid or proposal solution shall be reviewed by the Purchasing Agent or designee and the  
23 [Minority Business Development Division] Supplier Development and Diversity Division to  
24 ascertain the feasibility of including a mandatory MBE subcontracting component. When  
25 deemed appropriate by the Purchasing Agent, or designee, after consultation with the [Minority  
26 Business Development Division] Supplier Development and Diversity Division, the Purchasing  
27 agent or designee may include a mandatory minority subcontract clause in the bid or proposal  
28 solicitation that requires the equivalent of at least twenty percent (20%) of the contract's total  
29 value be performed by one or more certified minority business enterprises.

30 b. The Purchasing Agent or designee may include a mandatory minority  
31 subcontracting goal that is less than 20% of the contract's total value only:

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- (1) after consultation with the [Minority Business Development Division] Supplier Development and Diversity Division or its authorized representative;
- (2) upon a determination that a twenty percent (20%) mandatory minority subcontracting goal is not able to be obtained at a reasonable price; and
- (3) upon a determination that the public interest is served.

c. In making the determinations that the public interest is served, under b. (3) above, the Purchasing Agent or designee shall obtain the concurrence of the Executive Director of the [Minority Business Development Division] Supplier Development and Diversity Division and may consider engineering estimates, the general market availability of minority business enterprises to provide the services requested, other bids and offers, the cost of the contract and any other relevant factor.

\* \* \* \* \*

5. Proposal Evaluation Criteria/Pre-Qualification of Contractors

\* \* \* \* \*

c. The Purchasing Agent or designee shall consult with the Executive Director of the [Minority Business Development Division] Supplier Development and Diversity Division or designee before finalizing the 15% MBE contract provisions applicable to each specific contract.