



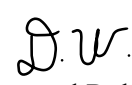
September 13, 2023

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: David Williams 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-067-2023 Procurement Forecast, Employee Performance, and Outreach for
Minority Business Enterprises and Small Business Enterprise

CB-067-2023 (Proposed and Presented by Council Members Blegay, Franklin, Oriadha, Burroughs, and Hawkins)

Assigned to: Government Operations and Fiscal Policy (GOFP) Committee

AN ACT CONCERNING PROCUREMENT FORECAST, EMPLOYEE PERFORMANCE, AND OUTREACH FOR MINORITY BUSINESS ENTERPRISES AND SMALL BUSINESS ENTERPRISES for the purpose of requiring each agency to publish on its website its annual procurement forecast to inform the public of the County's procurements and increase minority and small enterprise participation in County procurements.

Fiscal Summary

Direct Impact:

Expenditures: Minimal additional expenditures likely.

Revenues: No anticipated impact.

Indirect Impact:

Likely favorable.

Legislative Summary:

CB-067-2023, proposed and sponsored by Council Members Blegay, Franklin, Oriadha, Burroughs, and Hawkins, was introduced on July 5, 2023, and referred to the Government Operations and Fiscal Policy (GOFP) Committee. This Bill mandates that all County agencies create and publish a procurement forecast on their websites. This is meant to increase the rate of minority and small business enterprise participation in County procurements. The report is to be updated annually and must include specific metrics for the supplier diversity goals and requirements for each procurement.

Background/Current Law:

Under Subtitle 10A. Division 6. Subdivision 1, Prince George's County, outlines its minority business enterprise procurement protocols. Section 10A-136 dictates that at least 34% of the total dollar value of the contracts awarded directly or indirectly to minority business enterprises. The value of subcontracts will also be included in that valuation.¹ Section 10A-138 also mandates the purchasing agent to maintain records and statistics on contract bids and produce an annual report to both the County Council and the County Executive.² According to research conducted by the nonprofit organization Local Progress, approximately 38 states have state-level minority business development initiatives.³ Major municipalities, such as Suffolk County in New York, follow the state-level legislation. Albany, NY, and Cleveland OH provide bid discounts for MBEs during the bid process.

¹ Prince George's County Code-[Sec. 10A-136](#)

² Prince George's County Code-[Sec. 10A-138](#)

³ Local Progress- [Expanding Economic Opportunity](#)

Resource Personnel:

- Reenal A. Doshi, Policy Director, District 6
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Discussion/Policy Analysis:

CB-067-2023

CB-067-2023 would Subtitle 10A. *Purchasing. Division 7. Economic Development*, to add new Sections 10A-159.02 and 10A-159.03. Section 10A-159.02 outlines the terminology related to the process of procurement and related personnel. Section 10A-159.03 mandates all County agencies to create a procurement forecast for the upcoming fiscal year, including an estimate of the specific supplier diversity requirements and goals for each procurement. A procurement officer's efforts to meet agency supplier diversity requirements will be used to assess their eligibility for merit-based compensation increases and performance-based promotion. The Bill provides that a procurement officer *may not receive any merit increase or promotion based on their performance* during any fiscal year in which the goal is not met and there is no improvement over the previous fiscal year toward meeting that goal. Further, if it is determined that there has been no improvement toward accomplishing agency diversity goals in three consecutive fiscal years, the procurement officer may be terminated or reassigned from the role.

Making supplier diversity a key performance indicator for procurement officers will create an incentive for diversity goals to be more consistently reached. Conversely, this may create some recruitment and retention challenges for the position if other jurisdictions do not have the same indicators. Meeting supplier diversity goals may be impacted by exogenous factors that may not be within the procurement officer's direct control. Variables such as the number of available MBE providers available for bidding during a fiscal year, current market conditions, and the County's demand forecast, may affect the procurement officer's ability to meet the goals prescribed in the legislation. Potential applicants may be dismayed by that burden of performance. However, the three fiscal year period is a reasonable amount of time to ensure that all agency procurement forecasts are in compliance with this legislation. Additionally, the reporting requirements will provide a comprehensive frame of reference to improve MBE representation in the County's contract portfolio. The annual report will allow for more effective administrative and legislative solutions to current gaps in diversity vendor recruitment.

Economic Evaluation

The Office of Central Services has the goal of awarding MBEs 30% or more of all County contract dollars through December 2023. The Office is currently on track to meet its goal with 32% of all contracts awarded to MBEs through 2019, as shown in Figure 1. As a majority-minority County, there is an economic and social imperative to create avenues of business development and upper

mobility for minority enterprises. This Bill creates the conditions for consistent economic growth in the minority business sector.

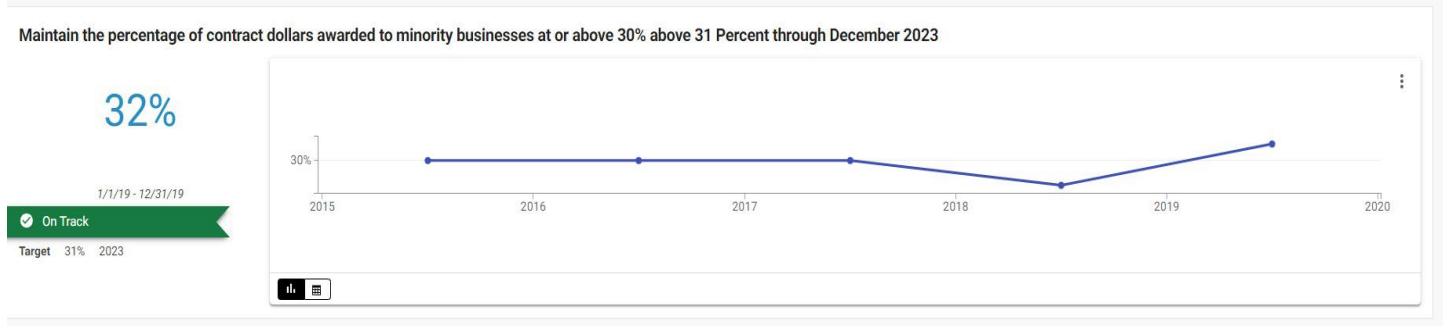


Figure 1, Source: Prince George's County Open Performance Data⁴

Equity Evaluation

In 2021 the white non-Hispanic population in Prince George's County is approximately 11.9%, with the remaining 88.1% composed of minority groups.⁵ This Bill serves to maintain the 30% floor for MBE representation regardless of prevailing economic conditions and the market environment. CB-67-2023 contributes to the increase of equitable access to County contract awards and ensures that the County's MBE goals are consistently met.

Administrative Evaluation

CB-067-2023 will require some additional administrative costs in the form of labor necessary to gather data in the form of supplier diversity goals, creating procurement forecasts. If County agencies do not already perform this task, this will require a concentrated effort and may justify the addition of a duty-specific analyst role.

Efficacy Evaluation

As previously mentioned, making the achievement of agency diversity goals a key performance indicator can create staffing challenges in the areas of recruitment and retention for the role. The three fiscal year evaluation period is an appropriate evaluation period to mitigate unjust censure or removal.

Process Values

This Bill was written with objectively sound process values. The intent is to increase MBE participation and ensure supplier diversity goals are consistently met. The only concern is the placement of potentially unjust pressure on procurement officers. Factors such as market

⁴ Prince George's County- [Open Performance](#)

⁵ USA Facts- [Prince George's County demographics](#)

conditions, vendor availability, and the number of MBEs competing for contracts could impede an officer's ability to maintain compliance with the legislation. The three-year performance evaluation period provides a check against unjust removal or termination, but the influence of exogenous factors remains a constant.

Fiscal Impact:

Direct Impact:

The enactment of CB-067-2023 will have an adverse impact on County expenditures. Agencies will have to allocate work hours and potentially personnel to meet reporting requirements established by this Bill. Administrative costs are not anticipated to be significant.

Indirect Impact:

The enactment of CB-067-2023 is likely have a favorable indirect impact by ensuring that County contracts are equitably distributed to minority-owned and small business enterprises making County service procurement more representative of the population.

Appropriation in the Current Fiscal Year

Yes.

Effective Date of Proposed Legislation

The Bill currently provides that it shall take effect on the date of its adoption. As it is not an emergency bill, this provision should be changed to "forty-five (45) days after it becomes law."

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