

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-067-2023

Draft No.: 2

Committee: Government Operations and Fiscal Policy

Date: 09/14/23

Action: FAV(A)

REPORT: Favorable as Amended 3-0: Council Members Burroughs, Oriadha, and Harrison.
Absent: Fisher and Ivey.

The County Council's Government Operations and Fiscal Policy Committee convened on September 14, 2023, to consider CB-067-2023.

CB-067-2023 requires each agency to publish its annual procurement forecast on its website to inform the public of the County's procurements and increase minority and small enterprise participation in County procurements. Council Member Franklin spoke in support of the legislation, stating that the purpose of the legislation is to create an incentive for the procurement officers to help the County reach its supplier diversity goals and requirements on an ongoing basis. Council Member Franklin emphasized that the metrics in the legislation are a factor among many with respect to performance appraisals but not mandatory as proposed in Amendment #1.

Amendment #1, proffered by Council Member Franklin, was as follows:

1. Page 3, line 7, strike "Subsection" and replace it with "Subtitle."
Reason: The subtitle should have been used instead of the subsection; by utilizing the subsection makes the paragraph a nullity because the mandates of the bill are located in the subtitle.
2. On Page 1, Line 14, strike "is" and replace it with "may."
3. The enactment clause was revised because this is a bill, not a resolution.

Council Member Harrison made the motion to approve the amendment, and Council Member Oriadha made the 2nd. The motion passed 3-0.

The County Executive Office's administrative concerns are that some issues are a duplication of work (i.e., The Procurement Forecast Green Book), a separation of powers issue with respect to performance appraisals, and could incentivize bad behavior by procurement officers.

Jonathan Butler, Director, Office of Central Services, commented on the Procurement Forecast. The forecast covers thirty (30) County Agencies with information in a central location. With respect to performance appraisals, Mr. Butler indicated that the procurement officer exceeded the goals required, as well as numerous agencies. Mr. Butler further elaborated why this legislation

is improper and inequitable because procurement officers have very little control in meeting the supplier diversity goals of an agency for the following reasons:

- 1) Lack of availability of certified small and minority businesses in a given industry.
- 2) Lack of capacity of certified small and minority businesses to meet the size and scale of the requirements of a procurement.
- 3) Nature of specific requirement whereby there are no certified small and minority businesses to do the work.
- 4) Insufficient number of bids from certified small and minority businesses.
- 5) Receipt of bids that are unacceptable/priced outside of the user agency's budget.
- 6) Changes in agency's requirements.
- 7) Unique scope of service required.
- 8) Changes in budget priorities of user agencies.

The Office of Law found that the legislation in its original form creates a separation of powers issue concerning performance appraisals; however, the amendment corrects that concern.

The Government Operations and Fiscal Policy Committee reported CB-067-2023 out favorably as amended, 3-0.