

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2024 Legislative Session

Bill No. CB-024-2024

Chapter No. _____

Proposed and Presented by The Chair (by request - County Executive)

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Procurement Revisions

3 For the purpose of replacing references to the Office of Central Services Director with the
 4 Purchasing Agent and references to Office of Central Services with the Office of Procurement.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 10A. PURCHASING.

7 Section 10A-101, 10A-158.00.01, 10A-158.01,

8 10A-158.10, 10A-161, 10A-162, 10A-163, 10A-164,

9 10A-164.01, 10A-176, 10A-179 and 10A-180.

10 The Prince George's County Code

11 (2023 Edition).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 13 Maryland, that Section 10A-101, 10A-158.00.01, 10A-158.01, 10A-158.10, 10A-161, 10A-162,
 14 10A-163, 10A-164, 10A-164.01 and 10A-176, 10A-179 and 10A-180 of the Prince George's
 15 County Code be and the same is hereby repealed and reenacted with the following amendments:

16 SUBTITLE 10A. PURCHASING.

17 DIVISION 1. ADMINISTRATION PROCEDURES

18
 19 **Sec. 101. Definitions**
 20

(21) Executive Director means the Executive Director of the Supplier Development and Diversity Division of the Office of Procurement [Central Services].

* * * * *

(31) Procurement Officer means any person authorized by the Director of the Office of Procurement [Central Services], as Purchasing Agent, in accordance with procedures prescribed by regulations, to enter into and administer contracts and make determinations and findings with respect thereto. The term shall also include individuals subordinate to the Purchasing Agent acting within the limits of their delegated procurement authority. This authority shall be designated in writing by the County's Director of Procurement [Central Services], in his/her capacity as Purchasing Agent, for such period of time as shall be stated in the written designation.

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(32) Proposal Analysis Group (PAG) is an issue specific group which is responsible for the defining and drafting of Requests For Proposals, soliciting responses, evaluating responses, and recommending the top three evaluated providers to the Director of the Office of Procurement [Central Services], as Purchasing Agent, for contracts for which competitive bidding is inappropriate.

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(35) Purchasing Agent means the Director of the Office of Procurement [Central Services].

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(41.1) Supplier Development and Diversity Division means the Supplier Development and Diversity Division of the Office of Procurement [Central Services] or its designee as determined by the Purchasing Agent.

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DIVISION 6. SPECIAL PROVISIONS.

SUBDIVISION 13. PROJECT LABOR AGREEMENTS.

Sec. 10A-158.00.01. Project Labor Agreement Coordinating Committee; composition; duties.

(a)(3) The Purchasing Agent [Director of Central Services] or the Purchasing Agent's [Director's] designee; who shall serve as Chairperson;

(a)(6) A contractor representative for the specific project designated by the Purchasing Agent [Director of Central Services];

[SUBDIVISION 14. BUSINESS DEVELOPMENT RESERVE PROGRAM.

Sec. 10A-158.01. Business Development Reserve Program.]

[(b) Business Development Reserve Program Sheltered Market. The Purchasing Agent [Director of Central Services] shall make good faith efforts to reach an annual goal of awarding at least Five Million Dollars (\$5,000,000) in procurement contracting and subcontracting to County-based small businesses enrolled in the Business Development Reserve Program. Written notice of these opportunities shall be submitted to eligible enrollees in the Business Development Reserve Program. The goal stated herein is subject to availability of funds in the annual County budget. The Purchasing Agent may adjust the goal during the fiscal year in order to select the most appropriate opportunities for the program and to maximize opportunities for enrollees.]

SUBDIVISION 17. POLICE DEPARTMENT TOWING CONTRACTS.

Sec. 10A-158.10. Police Department Towing Contracts; bid, contract and subcontract reporting.

(b) The Purchasing Agent [Director of Central Services] shall collect and maintain on bidders, Contractors, and Subcontractors for Police Department towing contracts.

(e) On an annual basis, within 3 months after the end of the fiscal year, the Purchasing Agent [Director of Central Services] shall report to the County Executive and County Council on the amount paid and percentage of the overall annual dollars paid for Police Department towing contracts for the fiscal year to each of the following categories of business: (1) County-based minority business enterprises, also reported b the amount paid and percentage of the overall annual dollars paid for Police Department towing contracts to each of the following subcategories of County-based minority business enterprises: (A) African American Business Enterprise, (B) Asian -American and Pacific Islander Enterprise, (C) Latino Business Enterprise, (D) Native American Business Enterprise, (E) Veteran Business Enterprise, (F) Woman's Business Enterprise; and (2) County-based small businesses.

DIVISION 7. ECONOMIC DEVELOPMENT

SUBDIVISION 1. COUNTY-BASED BUSINESS ASSISTANCE.

Sec. 10A-161. County-based business participation requirements.

* * * * *

(c)(2)(D) MBE waiver. If a bidder or offeror is unable to meet the overall MBE goal and/or any MBE subgoals established for a contract, the bidder or offeror may request a waiver from the Purchasing Agent or the Purchasing Agent's designee and submit documentation demonstrating that it made best efforts to meet the overall MBE goal and MBE subgoals. "Best efforts" shall be defined in procurement regulations with the approval of the Purchasing Agent [Director of the Office of Central Services]. Such a waiver determination must be in writing and may be granted only with the approval of the Purchasing Agent [Director of the Office of Central Services].

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(g)(1) Pursuant to Section 10A-138, the Purchasing Agent [Director of Central Services] shall propose to the County Council the PGCSS a list of North American Industry Classification System (NAICS) industry classifications or comparable categories of goods or services that shall only be available for bid or award among County-based small businesses, County-based minority business enterprises and/or County-based businesses during the next fiscal year, based on the capacity and prevalence of County-based small businesses, County-

based minority business enterprises and/or County-based businesses within those industry categories. The proposed PGCSS is subject to approval by resolution of the County Council or the PGCSS proposed by the Purchasing Agent [Director of Central Services] shall go into effect for the next fiscal year.

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Sec. 10A-162. County agency local procurement goals.

(a) Each County agency, including, but not limited to, each County agency that procures in whole or in part through the Office of Procurement [Central Services], shall use its "best efforts" to exercise its procurement authority so as to meet, on an annual basis, the goal of procuring at least fifty percent (50%) of the dollar volume of its goods and services, including, but not limited to, construction goods and services, to County-based businesses and at least thirty percent (30%) to County-based small businesses; and

* * * * *

(g) Annual County Agency Procurement Forecast. By July 1 of each year, the Purchasing Agent [Director of Central Services] shall publish on a central designated website a forecast of procurement opportunities for each County agency for the next fiscal year. Each County agency shall expeditiously comply with any information requests from the Office of Procurement [Central Services] in the collection of information to comply with this Subsection. The Purchasing Agent [Director of Central Services] shall provide a courtesy electronic copy of the County Agency Procurement Forecast to a designated representative of the Prince George's Chamber of Commerce, Greater Prince George's Business Roundtable, and the Prince George's Community College.

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Sec. 10A-163. County-based business certification requirements.

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(a)(h) Validity during renewal review. At the time of any certification renewal, an existing certification authorized by this Division shall continue to be valid during the pendency of review of the business entity's certification by the Supplier Development and Diversity Division or the Office of Procurement [Central Services], provided that the business submitted the required renewal documents and other information, and such documents were received by

the Supplier Development and Diversity Division or the Office of Procurement [Central Services] on or before the expiration date of the business's certification. The Supplier Development and Diversity Division or the Office of Procurement [Central Services] shall request in full all documents and information required for renewal in writing to the certified business entity at least ninety (90) days prior to the expiration date of the business entity's certification or the expiration date shall be extended until ninety (90) days after the complete written request is sent to the subject certified business entity.

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Sec. 10A-164. Enforcement of County-based business assistance.

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(g) The Office of Procurement [Central Services] shall maintain a copy (in electronic or hard copy form) of the final executed version of every procurement contract or agreement (including purchase orders) authorized by this Subtitle including any subsequent contract amendments or modifications.

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Sec. 10A-164.01 Mentor-Protégé Program authorized.

(a) The Purchasing Agent [Director of Central Services] is authorized to establish a program (in this Subtitle, "Mentor-Protégé Program") whereby a contractor (in this Section, "mentor contractor") may be required, as a condition of qualification of a bid or proposal for a procurement authorized under this Subtitle, to participate as a mentor in the Mentor-Protégé Program in accordance with this Section ("Mentor-Protégé Program Requirement"). The Purchasing Agent [Director of Central Services], may impose a Mentor-Protégé Program Requirement on a procurement by procurement basis, a broader requirement on multiple procurements, or on procurements by industry area.

(1) **Mentor Protégé Program Requirement.** A mentor contractor shall comply with all of the following to participate as a mentor in the Mentor-Protégé Program:

(A) The mentor contractor shall enter into a written mentor-protégé agreement approved by the Purchasing Agent [Director of Central Services] (in this Section, "mentor

agreement") with specific County-based small businesses or County-based minority business enterprises to develop their capacity in becoming self-sufficient, competitive, and profitable business enterprises through joint venture entities, prime and subcontractor relationships, bonding and financial support, or other partnerships approved by the Purchasing Agent [Director of Central Services];

* * * * *

(2) The Purchasing Agent [Director of Central Services] shall have power to enter into service and reimbursement agreements with associations of local businesses, local, state and federal small and minority business assistance offices, and other organizations that provide assistance in the recruitment and placement of County-based small businesses or County-based minority business enterprises, pertaining to the provision of training and related assistance to current or prospective County-based small businesses and County-based minority business enterprises. The Purchasing Agent [Director of Central Services] shall also have power to enter into cooperative agreements with non-county agencies and entities for the inclusion of additional procurement activities in the Mentor-Protégé Program.

(3) The Purchasing Agent [Director of Central Services] may rescind any procurement award authorized under this Subtitle with a Mentor-Protégé Program Requirement where the Director of Central Services determines that the participating mentor contractor has failed to comply with the terms of the mentor agreement.

(b) The Purchasing Agent [Director of Central Services] is authorized to adopt rules and regulations for the proper administration and enforcement of this Section, including regulations governing mentor agreements, participating contractors, and the related procurements.

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DIVISION 7. – ECONOMIC DEVELOPMENT.

SUBDIVISION 4. – LOCAL BUSINESS PARTICIPATION PROCUREMENT REPORT.

Sec. 10A-176. Annual Local Business Participation Procurement Report Required.

The Purchasing Agent [Director of Central Services] shall prepare and transmit a written report, subject to section 10A-138 section of this Subtitle that shall include information

1 regarding the Local Business Participation Procurement Report, to the County Council and
2 County Executive that includes the following information for that entire fiscal year:

3 * * * * *

4 **SUBDIVISION 6. ANNUAL COUNTY CONTRACT EVALUATION AND REPORTS.**

5 **Sec. 10A-179. Definitions.**

6 * * * * *

7 (e) **County Based** as defined in Section 10-308(3) means a business whose principal
8 place of operation, as determined by the Office of Procurement [Central Services], is in Prince
9 George’s County, Maryland.

10 * * * * *

11 **Sec. 10A-180. Evaluation of County Construction Contractors.**

12 (a) The Purchasing Agent [Director of Central Services] shall prepare and transmit a
13 written report that shall include the metrics required in this section to the County Council and
14 the County Executive annually by July 1.

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16 (b) The Purchasing Agent [Director of Central Services] shall collect and maintain the
17 metrics on Contractors and Subcontractors that are awarded construction contracts with the
18 County.

19 * * * * *

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

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

Adopted this ____ day of _____, 2024.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jolene Ivey
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
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.

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