

Bill No. 49-14  
Concerning: Contracts and Procurement  
- Formal Solicitation - Reciprocal  
Local Preference  
Revised: October 13, 2014 Draft No. 2  
Introduced: October 21, 2014  
Enacted: April 14, 2015  
Executive: April 22, 2015  
Effective: January 1, 2016  
Sunset Date: None  
Ch. 21, Laws of Mont. Co. 2015

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President Rice and Councilmember Elrich

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**AN ACT to:**

- (1) establish a reciprocal preference for a County-based bidder in certain contracts awarded by competitive sealed bidding;
- (2) define preference; and
- (3) generally amend the law governing the award of contracts by formal solicitation.

By amending

Montgomery County Code  
Chapter 11B, Contracts and Procurement  
Sections 11B-1 and 11B-9

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 11B-1 and 11B-9 are amended as follows:**

**11B-1. Definitions.**

Unless the context indicates otherwise, the following terms have the following meanings:

*County-based bidder or offeror* means a person that has its principal place of business in Montgomery County, as further defined by Executive regulation adopted under Section 11B-8

\* \* \*

Preference means a policy that favors one bidder over another and includes:

- (1) a percentage preference;
- (2) an employee residency requirement; or
- (3) any other law, policy, or practice that favors a resident over a nonresident.

\* \* \*

**11B-9. Formal solicitation - competitive sealed bidding.**

(a) *Conditions for use.* Contracts must be awarded by competitive sealed bidding except as otherwise authorized in this Chapter or regulations. Competitive sealed bidding is initiated by issuing an invitation for bids.

\* \* \*

(j) Reciprocal preference for County-based bidder.

(1) In making an award under this Section, the Director must give a preference to a responsible and responsive County-based bidder if:

(A) a non County-based bidder is the lowest responsible and responsive bidder;

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(B) the non County-based bidder has its principal place of business in a state or political subdivision that gives a preference to its residents; and

(C) a preference does not conflict with a federal law or a grant affecting the purchase or contract.

(2) A preference given under this subsection must be identical to the preference that the other state or political subdivision gives to its residents.

(3) A preference must not be given under this subsection if it would result in an award to a County-based bidder when:

(A) a non County-based bidder has submitted a lower responsible and responsive bid than any County-based bidder before the application of any reciprocal preference; and

(B) the non-County-based bidder has its principal place of business in a state or political subdivision that does not give a preference to its resident

**Sec. 2.**      **Effective Date.**      This Act takes effect on January 1, 2016.

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46 *Approved:*

47 George Leventhal 4/16/15  
George Leventhal, President, County Council Date

48 *Approved:*

49 Isiah Leggett April 22, 2015  
Isiah Leggett, County Executive Date

50 *This is a correct copy of Council action.*

51 Linda M. Lauer 4/22/15  
Linda M. Lauer, Clerk of the Council Date