


MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 23-15, Contracts – Local Small Business Reserve Program - Amendments

Bill 23-15, Contracts – Local Small Business Reserve Program – Amendments, sponsored by Lead Sponsor Council President at the request of the County Executive, is scheduled to be introduced on May 21. A public hearing is tentatively scheduled for June 16 at 1:30 p.m.

The Bill would:

- (1) modify the types of contracts subject to the Local Small Business Reserve Program;
- (2) amend the definition of a local small business under the Local Small Business Reserve Program; and
- (3) change the reporting dates.

Background

The Local Small Business Reserve Program (LSBRP) was established by Bill 23-04, Contracts and Procurement – Local Small Business Reserve Program, effective January 1, 2006. The legislative intent of the program was to enhance the competitiveness of County-based small businesses by creating a separate defined market in which small businesses will compete against each other, not against larger firms, for County contracts; broaden the pool of local small vendors doing business with the County; and encourage the County's economic growth by enhancing the business climate for local small businesses.

Bill 23-15 would require that a local small business have its principal place of business in the County instead of generating a significant amount of economic activity in the County in order to participate in the program. The Bill would also eliminate a contract awarded through an emergency procurement, a bridge contract, or a cooperative procurement from the types of contracts eligible for the LSBRP. Finally, the Bill would change the annual reporting date from September 30 to October 30.

This packet contains:

Bill 23-15
Legislative Request Report
Memo from County Executive

Circle #

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Bill No. 23-15
Concerning: Contracts – Local Small
Business Reserve Program –
Amendments
Revised: May 19, 2015 Draft No. 2
Introduced: May 21, 2015
Expires: November 21, 2016
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

AN ACT to:

- (1) to modify the types of contracts subject to the Local Small Business Reserve Program;
- (2) amend the definition of a local small business under the Local Small Business Reserve Program;
- (3) change the reporting dates; and
- (4) generally amend the law regarding the Local Small Business Reserve Program.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Sections 11B-65, 11B-66, 11B-67, and 11B-69

Boldface	<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-65, 11B-66, 11B-67, and 11B-69 are amended as follows:

Article XV. Local Small Business Reserve Program

11B-65. Definitions.

In this Article the following words have the meanings indicated.

(a) *Local Small Business* means a for-profit business, other than a broker, that:

- (1) [generates a significant amount of economic activity] has its principal place of business in the County;
- (2) is independently owned and operated;
- (3) is not a subsidiary of another business; and
- (4) meets criteria, size limits, and gross sales amounts established by method 2 regulations.

* * *

11B-66. Local Small Business Reserve Program.

* * *

(c) The total dollar value of procurements by a using department does not include:

* * *

- (4) a public entity [or emergency] procurement;
- (5) an emergency procurement;
- (6) a bridge contract;
- (7) a cooperative procurement;
- (8) any waiver made under Section 11B-67(f);
- [(6)] (9) any procurement where no local small business is qualified or able to perform the contract; or

27 ~~[(7)]~~ (10) any single procurement that is estimated to exceed \$10
 28 million.

29 * * *

30 **11B-67. Procedures.**

31 * * *

- 32 (e) A local small business is no longer eligible for a procurement under this
 33 Article if the business has been awarded \$10 million in the aggregate in
 34 County contracts and at least 10 separate contracts, as either a prime
 35 contractor or a subcontractor, ~~[since]~~ beginning January 1, 2006. The
 36 Director must provide written notice to the business when it is no longer
 37 eligible.

38 * * *

39 **11B-69. Reports.**

- 40 (a) By ~~[September]~~ October 30 each year, each using department must
 41 submit to the Director a report on the number, type, and dollar amount
 42 of contracts issued under this Article.
- 43 (b) By November 30 each year, the Director must report to the Council on
 44 the Local Small Business Reserve Program. This report must include
 45 the number, type, and dollar amount of contracts awarded under this
 46 Article during the preceding fiscal year, the number, type, and dollar
 47 amount of each waiver, information about how these numbers have
 48 changed from the preceding fiscal year, and the extent of outreach
 49 efforts.

LEGISLATIVE REQUEST REPORT

Bill 23-15

Contracts – Local Small Business Reserve Program - Amendments

DESCRIPTION:	<p>The Bill would:</p> <ol style="list-style-type: none">(1) modify the types of contracts subject to the Local Small Business Reserve Program;(2) amend the definition of a local small business under the Local Small Business Reserve Program; and(3) change the reporting dates.
PROBLEM:	<p>The definition of a local business under the Local Small Business Reserve Program is difficult to apply and certain types of contracts should be removed from the Program.</p>
GOALS AND OBJECTIVES:	<p>These amendments will update the Local Small Business Reserve Program to modify the requirements to be a local business and minimize confusion from the vendors</p>
COORDINATION:	<p>CEX, DGS, OCA, DED</p>
FISCAL IMPACT:	<p>To be determined</p>
ECONOMIC IMPACT:	<p>To be determined</p>
EVALUATION:	<p>N/A</p>
EXPERIENCE ELSEWHERE:	<p>N/A</p>
SOURCE OF INFORMATION:	<p>Grace Denno and Pam Jones, DGS Karen Federman-Henry and Richard Melnick, OCA</p>
APPLICATION WITHIN MUNICIPALITIES:	<p>N/A</p>
PENALTIES:	<p>Not changed:</p> <p>Violations may constitute a material breach of the contract. Accordingly the County may then exercise any available remedy, including, terminating the contract for default.</p>




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 15, 2015

TO: George Leventhal, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Local Small Business Reserve Program Legislation amendments

In accordance with Section 313 of the County Charter and Section 11B of the Montgomery County Code, I am forwarding the attached Local Small Business Reserve Program Legislation amendments. The purpose of these amendments is to:

- (1) clarify the scope of the Local Small Business Reserve Program;
- (2) modify the factors for evaluating whether a business meets the criteria to participate in the Local Small Business Reserve Program;
- (3) change the reporting dates; and
- (4) generally amend the law regarding the Local Small Business Reserve Program.

I recommend prompt passage of this legislation so the local businesses will benefit from this program.

Attachments

c: David Dise, Director, Department of General Service
Beryl L. Feinberg, Deputy Director, Department of General Services
Bonnie Kirkland, Assistant Chief Administrative Officer
Pam Jones, Chief, Office of Procurement
Grace Denno, Manager, Office of Business Relations and Compliance