

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** 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, was introduced on May 21. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for July 23 at 9:30 a.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.

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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:

1 **Sec. 1. Sections 11B-65, 11B-66, 11B-67, and 11B-69 are amended as**
2 **follows:**

3 **Article XV. Local Small Business Reserve Program**

4 **11B-65. Definitions.**

5 In this Article the following words have the meanings indicated.

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

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

14 * * *

15 **11B-66. Local Small Business Reserve Program.**

16 * * *

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

19 * * *

- 20 (4) a public entity [or emergency] procurement;
- 21 (5) an emergency procurement;
- 22 (6) a bridge contract;
- 23 (7) a cooperative procurement;
- 24 (8) any waiver made under Section 11B-67(f);
- 25 [(6)] (9) any procurement where no local small business is qualified
26 or able to perform the contract; or

LEGISLATIVE REQUEST REPORT

Bill 23-15

Contracts – Local Small Business Reserve Program - Amendments

- DESCRIPTION:** 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.
- PROBLEM:** 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.
- GOALS AND OBJECTIVES:** 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
- COORDINATION:** CEX, DGS, OCA, DED
- FISCAL IMPACT:** To be determined
- ECONOMIC IMPACT:** To be determined
- EVALUATION:** N/A
- EXPERIENCE ELSEWHERE:** N/A
- SOURCE OF INFORMATION:** Grace Denno and Pam Jones, DGS
Karen Federman-Henry and Richard Melnick, OCA
- APPLICATION WITHIN MUNICIPALITIES:** N/A
- PENALTIES:** Not changed:
- Violations may constitute a material breach of the contract. Accordingly the County may then exercise any available remedy, including, terminating the contract for default.



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



ROCKVILLE, MARYLAND

MEMORANDUM

June 11, 2015

TO: George Leventhal, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget *JAH*
Joseph F. Beach, Director, Department of Finance *JFB*

SUBJECT: FEIS for Bill 23-15, Contracts - Local Small Business Reserve Program -
Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Joseph F. Beach, Director, Department of Finance
Fariba Kassiri, Acting Director, Office of Procurement
David Platt, Department of Finance
Erika Lopez-Finn, Office of Management and Budget
Alex Espinosa, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Council Bill 23-15, Local Small Business
Reserve Program- Amendments

1. Legislative Summary.

The proposed legislation would modify the types of contracts subject to the Local Small Business Reserve Program; amend the definition of a local small business to a business which, "has its principal place of business in the County"; and change reporting dates from September 30 to October 30.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

There would be no changes in expenditures or revenues.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

The proposed legislation does not affect retiree pensions or group insurance.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

The proposed legislation does not affect IT systems.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The proposed legislation does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Additional staff time is not needed to implement the bill.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

The change in the definition of a local small business clarifies a small business and the change in reporting dates allows the Office of Procurement more time after the conclusion of the fiscal to compile and analyze the data for reporting

13. Other fiscal impacts or comments.

14. The following contributed to and concurred with this analysis:

Erika Lopez-Finn, Office of Management and Budget

Pam Jones, Office of Procurement

Grace Denno, Office of Procurement



Jennifer A. Hughes, Director
Office of Management and Budget

6/10/15
Date

Economic Impact Statement
Bill 23-15, Contracts - Local Small Business Reserve Program - Amendments

Background:

This legislation would amend the Local Small Business Reserve Program (LSBRP) to:

- modify the types of contracts subject to the Local Small Business Reserve Program,
- amend the definition of a local small business under the Local Small Business Reserve Program, and
- change the reporting dates.

The intent of Bill 23-15 is to update the LSBRP with new size requirements and minimize any confusion among the vendors. Bill 23-15 increases the threshold of the services category vendor size from 50 to 100 employees and from the current \$5 million annual revenue to \$10 million annual revenue.

Specifically, Bill 23-15 defines a Local Small Business as a for-profit business, other than a broker, that has its principal place of business in Montgomery County. The legislation deletes the language regarding “significant amount of economic activity in the County” generated by the Local Small Business. Bill 23-15 also amends Section 11B-66 of the County Code to delete “or emergency” from the “a public entity *or emergency* procurement” language and adds that phrase as a separate line in the Code. The legislation also adds “a bridge contract” and “a cooperative procurement” to Section 11B-66.

1. The sources of information, assumptions, and methodologies used.

Sources of information include the Office of Procurement and the Department of Economic Development.

Bill 23-15 would increase the size of vendors eligible under the LSBRP in the services category and, therefore, increase the LSBRP pool of vendors that will bid on County contracts. Based on data provided by the Department of Economic Development, the number of businesses with employees from 51 to 100 is 806 establishments. Of those establishments with at least 51 employees, 61 percent are in the retail trade; professional, scientific, and technical services; educational services; and arts, entertainment, and recreation.

2. A description of any variable that could affect the economic impact estimates.

The variable that could affect the economic impact is the number of service-category vendors that employ between 51 and 100 employees and have revenues between \$5 million and \$10 million that could now become eligible for LSBRP contract awards.

3. The Bill’s positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

Economic Impact Statement
Bill 23-15, Contracts - Local Small Business Reserve Program - Amendments

The legislation is likely to have a positive economic effect on employment, personal income, and business revenues for those companies that currently employ between 51 and 100 employees and have annual income between \$5 million and \$10 million. Without detailed data on the number of service-category vendors, a specific economic impact cannot be determined, however an order of magnitude estimate of the potential increased local small business revenues is provided in the table below under different scenarios.

Assuming that LSBRP Expenditures remain at approximately 25% of Procurement Expenditures Eligible for LSBRP Procurement (this ratio has been maintained since FY11), with an assumed increase of LSBRP Eligible Procurement Expenditures in the range of 25% to 50% as shown in the table below, LSBRP revenue could increase by \$18.4 million to \$36.9 million per year as a result of this legislation. Of course, these are only order of magnitude estimates that are dependent on several variables including the number of affected local small businesses, the change in procurement related expenditures, and other factors.

Exemption Categories	FY14		Increased LSBRP Eligible		
	Million \$	%	25%	33%	50%
Total Procurement Dollars	\$980.77		\$980.77	\$980.77	\$980.77
Eligible for LSBRP Procurement	\$299.17	30.50%	\$373.96	\$397.90	\$448.76
Procurement Expenditure to LSBRP	\$73.71	24.60%	\$92.14	\$98.03	\$110.57
LSBRP Exp/Eligible		25%	25%	25%	25%
Potential Increase LSBRP Expenditure compared to FY14			\$18.43	\$24.32	\$36.86

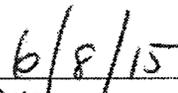
4. If a Bill is likely to have no economic impact, why is that the case?

Bill 23-15 is likely to have a positive economic impact.

5. The following contributed to or concurred with this analysis: David Platt, Mary Casciotti, and Rob Hagedoorn, Finance; Grace Denno, Office of Procurement.



 Joseph F. Beach, Director
 Department of Finance



 Date