

# MINORITY OWNED AND LOCAL SMALL BUSINESS TASK FORCE

## MEETING MINUTES

March 4, 2015 – 5:00 p.m.

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*3<sup>rd</sup> Floor Council Conference Room, Council Office Building*

### ***Members Present***

Mayra Bayonet  
Margo Briggs  
Cherian Eapen  
Janice Freeman  
Julian Haffner

Leon Hollins  
Herman Taylor  
Bethsaida Wong

### ***Member Absent***

Warren Fleming

### ***County Staff Present:***

Grace Denno, Department of General Services  
Bob Drummer, County Council  
Marie Jean-Paul, County Council  
Linda Price, County Council

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## **I. Call to Order and Approval of Minutes**

The meeting was called to order by Task Force Chair Taylor at 5:02 p.m. The minutes from the February 12, 2015 meeting were unanimously approved by all Task Force members present.

## **II. Review of Bills**

- ***Bill 48-14 Purchases from Minority Owned Businesses – Procedures – Request for Proposals***

Mr. Drummer provided a summary of Bill 48-14, which authorize the Office of Procurement to add MFD participation as an evaluation factor in a Request for Proposal.

*Task Force members engaged in a question and answer session with Mr. Drummer and Ms. Denno on Bill 48-14. The following observations and points were made or clarified during the discussion:*

- Currently the County requires prime contracts be subcontracted to MFDs based on availability percentage identified on each contract.
- This Bill would be in addition to the MFD subcontracting requirement.
- Several members expressed concern over the range of points. Mr. Drummer clarified that if the Bill is adopted, the County Executive would transmit Regulations with specifics on implementation of the Bill, including points. The Office of Procurement would determine the appropriate point value for the contract, which would be included in the RFP. The number would not be a range at that point.
- Some members noted that the Bill could be stronger with higher points. Mr. Drummer cautioned that with a higher point value, the County runs the risk of creating a sheltered market. If the MFD points leave non-minority firms with no realistic way to win the contract, there would be an opportunity for the County to be sued and lose the case. The County would need to look at performance then social status.

- There was some discussion on the timing of Task Force recommendations on the Bills and next steps.

The Task Force decided not to make recommendations at this time. The motion was made by Mr. Hollins and a second was made by Mr. Haffner. The Task Force voted unanimously to delay further consideration of Bill 48-14 to a later meeting, allowing time for further review of the Bill.

- **Bill 49-14 Formal Solicitation – Reciprocal Local Preference**

Mr. Drummer provided a summary of Bill 49-14, which would establish a reciprocal preference for a Montgomery County based bidder in certain contracts. The reciprocal preference would be identical to the preference granted by the other jurisdictions to their resident bidders.

*Task Force members engaged in a question and answer session with Mr. Drummer and Ms. Denno on the Bill 49-14. The following observations and points were made or clarified during the discussion:*

- This program is completely separate from the LSBRP. Bill 49-14 would apply to price based low bidders.
- This bill is not a general local preference. The preference would be dependent upon the local preference in the non-local bidders jurisdiction.
- One member noted if a general local preference were in place, a reciprocal local preference would not be needed. Ms. Denno noted, that in the case of local businesses, there is no evidence of a disadvantage (Disparity Study) to support having a general local preference. Some members supported looking into the creation of a general local preference in Montgomery County.
- If Montgomery County instituted a local preference, there was concern expressed on the potential penalty to local businesses pursuing contracts outside of the County if other jurisdictions have a reciprocal local preference.
- Several members felt that local preference and reciprocal local preferences should be studied more to see what other jurisdictions are doing, such as Washington, DC, Howard County, Baltimore and Prince George's County.

The Task Force decided not to make recommendations at this time. The motion was made by Ms. Briggs and a second was made by Ms. Freeman. The Task Force voted unanimously to delay further consideration of Bill 49-14 to a later meeting, allowing time for further review of the Bill.

- **Bill 61-14 Local Business Subcontracting Program**

Mr. Drummer provided a summary Bill 61-14, which would create a mandatory local subcontracting requirement in contracts valued at \$10 million or more.

*Task Force members engaged in a question and answer session with Mr. Drummer and Ms. Denno on the Bill 61-14. The following observations and points were made or clarified during the discussion:*

- There is currently no requirement that high value contracts subcontract out to local business. There is only the MFD subcontracting requirement on high value contracts. In addition to the MFD requirement, this Bill would create a separate requirement for local business subcontracting on high value contracts.

- The prime contractor could potentially fulfil both requirements with the same subcontractor if the sub-contractor is both a local and minority firm.
- There is no restriction on how many subcontractors a prime contractor can have or what percentage of the work they can award a subcontractor.
- Some members expressed concern about keeping smaller businesses in mind and discussed creating a sliding scale from \$1 to \$10 million or generally bringing the number down to include all contracts over \$2 million. Mr. Drummer advised the Task Force that the \$10 million figure originates from the LSBRP program.
- This Bill could impact the MFD program more than the LSBRP program. Prime contractors could address the current 20% MFD requirement and proposed 10% local business requirement by working with an MFD that is local.
- Many members felt that the bill should be geared towards local small businesses or local MFD's, and not just all local businesses. Also, it was suggested that the bill also look at the number of employees and revenues as an indicator of size. Ms. Denno noted that there are a number of medium sized businesses that are left out, which this Bill is trying to address.

The Task Force decided not to make recommendations at this time. The motion was made by Mr. Hollins and a second was made by Ms. Briggs. The Task Force voted unanimously to delay further consideration of Bill 61-14 to a later meeting, allowing time for further review of the Bill.

### **III. Office of Business Relations and Compliance Briefing**

Due to time constraints, the Office of Business Relations and Compliance briefing was rescheduled to the next Task Force meeting.

### **IV. Group Discussion and Public Comment**

*The following discussion points were made:*

- Mr. Taylor noted that the Task Force should weigh in on Bills but they should also look to make their own recommendations above and beyond the legislation under review.
- Ms. Denno recommended the Task Force look at the intent of the Bills but not get too hung up in legislation. The Task Force should look at ways to nurture the market and strengthen programs for MFDs and Local Small Businesses.
- The mission of the Task Force was clarified, which is to make recommendations to the Council by September on ways to increase participation and improve the MFD and Local Small Business Programs.
- Ms. Wong expressed the need to receive and analyze data on County contracts.
- Task Force Members are interested in inviting Council President Leventhal to a future meeting to discuss the Council process for considering Task Force recommendations.
- Ms. Price reminded the group of the next meeting date, March 18, 2015. The Task Force agreed to change the meeting times to 5:30 p.m. going forward.

There were no comments from public meeting participants.

The meeting adjourned at 6:35 p.m.