

**REPORT OF THE**

**PROCUREMENT POLICIES**

**AND**

**REGULATIONS**

**TASK FORCE**

**SEPTEMBER 2015**



**MONTGOMERY COUNTY COUNCIL**  
**ROCKVILLE, MARYLAND**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

September 15, 2015

The Honorable George Leventhal  
Council President  
Montgomery County Council  
Council Office Building  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, MD 20850

Re: Task Force Report and Recommendations

Council President Leventhal and Members of the Montgomery County Council:

On behalf of the Procurement Policies and Regulations Task Force, I thank you for the opportunity to serve Montgomery County in this volunteer capacity. We were eager to offer our time to review the County's procurement laws and regulations. This task afforded a chance to assess how well the procurement environment functions and to recommend changes that will help the County better award contracts competitively, in a process that is fair and transparent, and results in high quality goods and services being awarded at reasonable prices. We are grateful for the extraordinary assistance of the County staff assigned to assist the Task Force, especially Ms. Linda Price.

Our Task Force is comprised of members of the community with deep expertise in federal, state, and local procurement as business leaders, acquisition professionals, consultants, attorneys, and community leaders. Our four-step process, we believe, permitted us to satisfy the Task Force's implementing Resolution and Scope of Work effectively and efficiently. First, we reviewed the County's Procurement Policies and Regulations to ensure a common baseline of understanding. Second, we met with County officials to understand the process from the County's point of view. Third, we sought input from current contractors and prospective offerors through a widely disseminated survey that received more than 200 responses (a far greater number of responses than we could have achieved through meetings alone). Finally, we compiled the results of our reviews, applied our own analysis to the information provided, and generated what we believe is a comprehensive series of recommendations.

Specifically, our work is governed by two County Council documents, which are reproduced in this Report for your convenience. The first, Resolution 17-1254 that created the Task Force, required us to solicit suggestions for potential reforms of the County procurement system from: elected officials; County residents; business and community leaders; County and agency employees; and other stakeholders. Resolution 17-1254 also required the Task Force to submit a report with recommendations to reform the County's procurement system including supporting rationale for each recommendation. We believe our process, and this Report, satisfies the requirements of Resolution 17-1254.

The second document driving the Task Force's work is a draft Scope of Work provided by Council staff. We requested this work plan in order to more fully inform our work and to avoid any inadvertent duplication of effort between our Procurement Policies and Regulations Task Force and the parallel (but independent) Minority Owned and Local Small Business Task Force. This document added several additional requirements for the Task Force's work. First, we were to "[r]eview national industry standards and best practices, and case studies for procurement; [and] offer recommendations to align County practices with best practices" and to "[s]eek uniformity, when possible, with State and Federal procurement processes, forms, etc." Further, the Scope of Work charged the Task Force with reviewing a series of pending bills concerning the procurement process and asked that we submit comments to the Council for consideration. Although we have satisfied the significant majority of the requirements set forth in the Scope of Work, we have not been able to complete all of the requirements.

Our ability to review national industry standards, best practices, and case studies is somewhat limited by the Task Force's inability to access applicable sufficient background material. These analyses are generally provided to municipal members of associations and councils, and protected by firewalls. We have a pending request to the County to facilitate our access to those materials, but have yet to receive such access. Accordingly, our "best practice" review is limited to comparing County practices against our Task Force's scope of experiences (although we believe this is still a significant body of experiences that satisfy the intent of the Council's request).

We also assessed the ability of the County to harmonize its rules, regulations, and forms with State and federal procurement processes. The Task Force's opinion is that the County's process is so distinct that harmonizing with federal or State acquisition structures and forms would need to be accomplished along with a significant overhaul of the entire acquisition system. Such a step would take substantial time to implement and cause short-term disruption (as well as conversion costs). Accordingly, unless the County wishes to "start over" with its procurement system or undertake a significant and holistic change in approach, the Task Force does not recommend such a step.

With the above as preamble, our Task Force had two major observations concerning the County's procurement system that inform its findings.

- First, the County's process appears to be understood and assessed by County employees as a series of piecemeal steps of incremental legislative and regulatory additions over

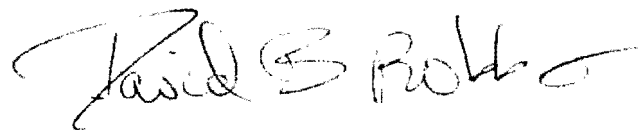
time, rather than as a holistic process. Although each step in the process may make sense when implemented, as described herein, the overall functioning of the procurement system appears to be suffering. Resource constraints and increasing demand for goods and services have pushed the system to the point where it may no longer function as intended, and may no longer function openly, transparently, and in a manner that increases the numbers of offerors, drives down prices, and increases quality. Our recommendations seek to address this difficulty with a variety of options that may be implemented over the short, medium, and long term, should the Council so desire.

- Second, a disconnect appears to exist between the perception of County employees implementing the procurement system and the impressions of offerors and prospective offerors concerning the fundamental operations and fairness of the procurement process. While the procurement system works, in that goods and services are acquired reasonably, effectively and generally with some measure of competition, the public perception of unfairness crowds out additional offerors that could further reduce prices and increase quality. We recommend that the Council make addressing that perception gap a priority over the short-term, while the County considers whether more significant changes to the system are needed.

We have enjoyed working together on the Task Force, hope that our findings and recommendations are useful to the Council, and would be pleased to respond to any questions.

Finally, I also extend my thanks to my employer, the law firm of Shulman, Rogers, Gandal, Pordy & Ecker, P.A., which granted me permission to take on the role of Chair on a pro bono basis in addition to my role as Chairman of the Firm's Government Contracts and Grants Practice. The Firm has a historic commitment to the County and fully supports the efforts to assist the Council in this regard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David B. Robbins", with a stylized flourish at the end.

David B. Robbins  
Task Force Chair



# **Procurement Policies and Regulations**

## **Task Force Membership**

### **MEMBER LIST**

David Robbins, Chair

Charles Atwell\*

Wayne Cobb

Tom Creamer

Eppie Hankins

Buddy Henley

Linda Moore

Daniel Parra

Jan Zappold\*\*

### **STAFF ASSISTANCE**

Linda Price, Legislative Analyst, County Council

Marie Jean-Paul, Legislative Services Coordinator, County Council

Richard Melnick, Division of Finance and Procurement, County Attorney's Office

Mary Anne Paradise, Deputy Clerk, County Council

\*Resigned February 2015

\*\*Resigned April 2015

# Report of the Procurement Policies and Regulations Task Force

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## EXECUTIVE SUMMARY

On October 28, 2014, the Council approved Resolution 17-1254 which established the Procurement Policies and Regulations Task Force. The membership includes members of the community with deep expertise in federal, state, and local procurement as business leaders, acquisition professionals, consultants, attorneys, and community leaders. The Council asked the Task Force to provide options for the needed reform of the County procurement system. Task Force meetings were held from mid-February through late-August of 2015.

### **Observations and Themes:**

While the procurement system works well overall, the Task Force found that there are opportunities to improve competition, ease of use, effectiveness, efficiency, resourcing, technology, transparency, and the impact of volume on the process. These opportunities exist in the overall procurement process as well as in individual steps within the procurement process.

The Task Force observed two themes from internal interviews and observations of the County procurement process. First is a lack of assessment of the County's procurement process as a system, rather than as a series of siloed tasks and steps that may make sense individually, but do not operate optimally as a systemic whole. Secondly, there is a perception among prospective offerors that the County's procurement system is not fair, not transparent, and is overly complex. There is concern that it takes too long to secure a contract. The following subthemes also are present:

1. The procurement system can benefit from re-engineering with respect to staffing (number of people, level of skill) and processes. More help is needed for Using Departments and vendors to engage in the process.
2. The procurement system is too manual given the complexity and volume of contracts, the number of vendors and Using Departments, and the time it takes to complete a procurement. Technology can be used to improve procurement program usability and efficiency; mitigate procurement resource capacity and skills issues; produce metrics for data driven decisions; and aid in transparency.
3. Processes and rules need to be simplified, and more procurement help is needed for Using Departments and vendors to best engage in the process.
4. Greater utilization of businesses that qualify for preferences and other benefits due to, for example, economic status or demographics of owners, is desired by the County. However, the burden of the pre-award compliance work can result in fewer "target" companies competing, as many of these companies are small and often lack the staffing

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or other resources necessary to comply with substantial, up-front pre-contract requirements.

5. There seem to be several programs and initiatives in place to attract the “target” companies that do not have a consistent benefit. This risks de-emphasizing the value of goods and services received by the County and risks the economic assessment of individual offers being overrun by combinations of preferences operating without appropriate business rules.
6. Ongoing engagement of the vendor community as well as transparency is needed.

### **Recommendations:**

The Task Force has grouped recommendations into short-term, medium-term, and long-term sets, which represents an analysis of what might be easier and less budget-intensive versus what might take longer.

#### **Short-Term**

1. **Improve use of technology in the procurement process to improve workflow.** Use existing technology to move away from paper and toward digital procedures.
2. **Utilize or enhance existing tools to increase opportunities for vendors.** The Central Vendor Registration System should be enhanced to let vendors self-identify specific solicitation types.
3. **Address challenges in balancing compliance and enforcement, and the comparative impact on offerors.** Compliance is too front-loaded and deters some potential offerors from competing. Experiment with self-certification and then empower audit staff to track compliance. Also, resources should be increased for audit and enforcement.
4. **Hold de-briefings for unsuccessful bidders to address perceptions of lack of fairness in the process.**
5. **Expand outreach and technical assistance to prospective vendors.** Expand overall outreach efforts and specific outreach to categories that have low percentages of small, local-minority, and women-owned businesses. Partner with the Maryland Procurement Technical Assistance Program to provide help-desk type services. Vendor outreach sessions should include on-site registration in the Vendor Registration System.
6. **Create a more transparent process.** Fairly or not, there is a perception that the County is unwelcoming of new entrants and that too much advanced work before a contract award drives away potential offerors. The “closed ranks” culture which limit the ability of getting through a procurement with limited resources must be changed.

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The County must clearly and fully develop and communicate the intent of the procurement process to internal and external stakeholders.

7. **Clarify County procurement preferences.** County staff and attorneys could not explain how competing preference programs are reconciled for a given procurement. Metrics must be developed to determine if results are being achieved in preference programs. A moratorium should be placed on additional preferences or social responsibility provisions until metrics are established and results are analyzed.

#### **Medium-Term**

8. **Increase outreach and communication.** Engage the business community through outreach events, surveys, training, and town hall meetings to learn more about barriers to doing business in Montgomery County.
9. **Increase transparency.** Develop formal guidelines for de-briefs. Ensure that de-briefs, when requested, always occur. Adopt a de-brief process similar to the one outlined in Federal Acquisition Regulations (FAR 15.505 and 15.506). Allow unsuccessful bidders to review an aggregated, non-confidential scorecard of all bidders. This will help to demonstrate the evaluation process was conducted fairly.
10. **Develop a stronger protest process.** Bidders should have a fair opportunity to protest awards they believe were not evaluated fairly. The first stated remedy in the County Code to a protest is to ratify the flawed award. The County should review and develop a protest process similar to that in the Federal Acquisition Regulations (FAR 33.1).
11. **Increase opportunities for small purchases.** The County should post all small purchasing opportunities on the Procurement website or a webpage specifically for small purchasing opportunities.
12. **Publicize all solicitations.** The County should ensure that all Formal and Informal Solicitations are publicized on the Procurement website. Change the current provision in 11B-17, which requires a Using Department to post on a County website, to instead specify that it must be on the Procurement website.
13. **Train and re-train the procurement staff to improve vendor interactions.**
14. **Increase use of available data and technology and establish goals and priorities.** Determine the impact that technology and increased staffing has on efficient delivery of services. Measure the effects of training and education about incentive programs and contract provisions that reflect social policy. Promote diversity to encourage new ideas and efficiencies. State success for each point in the process. Consider changing or repealing procedures that do not have, or do not meet, goals.

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### **Long-Term**

15. **Review and streamline post-award compliance requirements for small business.** Small businesses find that they are not able to capture the cost of post-award compliance requirements. The County should review whether small businesses should be exempt from some of the reporting requirements.
16. **Improve Procurement Technology.** The Task Force recommends seven specific requirements which are included in the Recommendations section on page 34 of the Report.
17. **Enhance the Current Vendor Registration System.** The Task Force recommends 12 specific requirements that are included in the Recommendations section on page 34 of the full Report.
18. **Implement a task-centric system for service needs and a vendor rating/performance system for participants.**

### **Survey:**

The Task Force sought input from businesses by creating and distributing a survey to over 9,500 business in the Montgomery County Inter-Agency Central Vendor Registration System and through distribution by Task Force members to their business networks. A press release was also issued directing interested parties to complete the survey. There were more than 200 responses. About two-thirds of respondents currently have contracts with Montgomery County. Of the respondents without current contracts, 78% had participated in solicitations. Over half of respondents owned MFD businesses. Over half were registered in the LSBRP program. Survey results are included in the full report.



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## CREATION OF THE TASK FORCE AND SCOPE OF ITS WORK

On September 29, 2014, the Government Operations and Fiscal Policy (GO) Committee met to review a number of County procurement and social policy contracting programs. The Committee reviewed:

- Bill 42-14, Contracts and Procurement-Minority, Female and Disabled (MFD) Owned Business Program-Sunset Date-Amendments;
- Griffin and Strong Disparity Study; and
- Office of Legislative Oversight Report 2014-11: Procurement and Small, Minority, Female, Disabled and Locally-Owned Businesses.

In her September 26, 2014, memorandum to Councilmembers, Councilmember Navarro, GO Committee Chair, supported amending Bill 42-14 to sunset the MFD program after one year. This would allow time to review the program. Councilmember Navarro's memo noted that the "current procurement process is not working for businesses." She recommended creating two Task Forces, working in parallel tracks to review the County's procurement and social policy programs, including the MFD and Local Small Business Reserve Programs. Both Task Forces would report their findings to the Council in September 2015.

### **Mission Statement**

On October 28, 2014, the Montgomery County Council approved Resolution 17-1254 to create and empower a Procurement Policies and Regulations Task Force to identify, and provide options for, needed reform of the County procurement system. Task Force members were appointed on January 20, 2015. The Task Force was requested to:

- Review and evaluate current procurement practices, office structure (Office of Procurement and Office of Business Relations and Compliance)<sup>1</sup>, workflow processes, and funding;
- Offer recommendations to increase, streamline and improve outreach and other processes;
- Review national industry standards, best practices, and related case studies for procurement, and offer recommendations to align County processes with those standards and best practices; and
- Seek uniformity, when possible and appropriate, with State and federal procurement processes, forms, etc.

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<sup>1</sup> At that time, the Office of Procurement ("Procurement") and the Office of Business Relations and Compliance ("OBRC") were divisions of the Department of General Services ("DGS"), which was the County's centralized procurement agency. See Co. Charter §313 & §314. A County re-organization resulted in Procurement separating from DGS and becoming the County's centralized procurement agency. The OBRC also separated from DGS, and became a division of Procurement known as the Division of Business Relations and Compliance ("DBRC").

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Additionally, the Task Force was asked to solicit suggestions for potential reforms of the County procurement system from: elected officials; County residents; business and community leaders; County and agency employees; and other stakeholders.

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Resolution No.:	17-1254
Introduced:	October 28, 2014
Adopted:	October 28, 2014

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Navarro, Branson, Riemer, and Council President Rice

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**SUBJECT:** Procurement Policies and Regulations Task Force

**Background**

1. The County's current procurement laws and regulations are complex and difficult to navigate for both using departments and vendors.
2. County procurement contracts should be awarded competitively and provide the County with high quality goods and services at reasonable prices.
3. Simplifying the County procurement process would increase the number of vendors who seek to do business with the County and result in better value and lower prices.
4. To provide options for the needed reform of the County procurement system, the County Council should create and empower a Montgomery County Procurement Policies and Regulations Task Force whose recommendations must be presented to the Council.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

1. The County Council must create a Montgomery County Procurement Policies and Regulations Task Force not later than January 20, 2015. The Council must appoint 9 members and designate one member as Chair of the Task Force.
2. The Task Force must be composed of persons who are experienced in government, business, or non-profit service delivery, or who otherwise have experience and expertise in government contracting. A person appointed to the Task Force must not be employed by County government or any County-funded agency. At least 7 of the members must be County residents at the time of appointment.

3. The Task Force must solicit suggestions for potential reforms of the County procurement system from: elected officials; County residents; business and community leaders; County and agency employees; and other stakeholders. Council staff must provide support to the Task Force.
4. The Task Force must submit its final report to the Council not later than September 15, 2015. The report must contain the Task Force's recommendations to reform the County procurement system. For each recommendation, the Task Force's report must include the rationale.

This is a correct copy of Council action.

  
Linda M. Lauer, Clerk of the Council

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## **Procurement Policies and Regulations Task Force Scope of Work**

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**Draft**

This document seeks to provide guidance to better define the purpose and scope of work for the Procurement Policies and Regulations Task Force.

### **Background**

On October 28, 2014 the Montgomery County Council approved resolution 17-1254 to create and empower a Procurement Policies and Regulations Task Force to provide options for the needed reform of the County procurement system.

The resolution provides the following background on the need to create the Task Force:

1. The County's current procurement laws and regulations are complex and difficult to navigate for both using departments and vendors.
2. County procurement contracts should be awarded competitively and provide the County with high quality goods and services at reasonable prices.
3. Simplifying the County procurement process would increase the number of vendors who seek to do business with the County and result in better value and lower prices.

Task Force members were appointed on January 20, 2015.

### **Scope and Deliverables**

#### ***Deliverable 1***

The final report of the Task Force must be submitted to the County Council by September 15, 2015. There is no interim report due.

In a September 26, 2014, memo to Councilmembers, Nancy Navarro, Chair of the Government Operations and Fiscal Policy Committee identified the majority of the following tasks that should be performed to aid in the formulation of recommendations to improve Montgomery County procurement.

- Review and evaluate current procurement practices, office structure (Office of Procurement and Office of Business Relations and Compliance), workflow processes, and funding;
- Offer recommendations to increase outreach, enhance streamlining, and improve processes;
- Review national industry standards and best practices, and case studies for procurement; offer recommendations to align County practices with best practices; and
- Seek uniformity, when possible, with State and federal procurement processes, forms, etc.

Per resolution 17-1254, the Task Force must solicit suggestions for potential reforms of the County procurement system from: elected officials, County residents; business and community leaders; County and agency employees; and other stakeholders. Additionally, the Task Force must include the rationale for each recommendation made in the final report.

#### ***Deliverable 2***

Review pending legislation and submit comments to Council for consideration.

1. Due February 26, 2015. The full Council will review Bills 14-14 and 29-14 on March 3. Individual comments will be submitted to Ms. Price by email. Comments will be combined into one document and submitted to the Council for consideration.
  - Bill 14-14, Wage Requirements – Health Insurance – Amendments

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- Bill 29-14, Wage Requirements – Reporting
  2. Due March 2, 2015. The GO Committee Worksession will review Bill 7-15, Reorganization – Executive Branch – Procurement on March 5. The public hearing will be held on February 24, 2015. Copies of testimony will be sent to Task Force members immediately following the hearing. Individual comments will be submitted to Ms. Price by email. Comments will be combined into one document and submitted to the Council for consideration.
  3. Due March 5, 2015. The remaining Bills will be reviewed during the March 5, 2015, Task Force Meeting and comments will be transmitted to the Council reflecting the collective view of the Task Force.
    - Bill 40-14, Prevailing Wage Requirements – Apprenticeship Training
    - Bill 5-15, Health Insurance Preference.

If amendments are recommended during Committee or Council Worksessions, the amended versions of the above bills may need to be re-reviewed by the Task Force.

### **Timeline**

February – April	Introductions/Speakers & Presentations/Review of Pending Bills/ Review of Processes & Issues
May – August	Formulate Recommendations/Public Input/Draft Report
September 15	Final Report Due to Council.

### **Resources**

The following resources are available to aid the work of the Task Force:

- County Code
- Procurement Regulations
- Disparity Study
- FY14 Record of Procurement
- County Stat Procurement Office Performance Review
- County Staff
  - Linda Price, Legislative Analyst (Task Force Staff Liaison), County Council
  - Bob Drummer, Senior Legislative Attorney, County Council
  - David Dise, Director, Department of General Services
  - Pam Jones, Chief, Office of Procurement, Department of General Services
  - Grace Denno, Manager, Office of Business Relations and Compliance, Department of General Services
  - Richard Melnick, Associate County Attorney
- Task Force member resources are not limited to this list.



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## WHAT WAS OUR PROCESS

The Procurement Policies and Regulations Task Force had approximately seven months to perform its work and held a total of 13 meetings (minutes are attached as an Appendix). Early in the process, the Task Force met with Pam Jones from the Office of Procurement to get an overview of the procurement process and the mechanics of the Office of Procurement. This meeting helped set a foundation for further review of the procurement process. Following this meeting, the Task Force held a series of meetings with key contract administrators from Using Departments, which included Stuart Venzke, Department of Health and Human Services, Jeff Knutsen, Department of Transportation, and Jim Osborne, Department of Technology Services. This gave Task Force members an opportunity to hear the views and experiences from the end-user perspective. Additional meeting guests have included, among others:

- Dan Hoffman, Chief Innovation Officer, administrator of the Procurement Innovation Project<sup>2</sup>;
- Peter Bang, Chief Operating Officer, Department of Economic Development;
- Richard Melnick and Karen Federman-Henry of the Office of the County Attorney; and
- Grace Denno and Alvin Boss of the Division of Business Relations and Compliance.

When the Task Force began meeting, members were asked to identify issue areas in the procurement process that they believed would need to be addressed. After hearing from all of the speakers, members revised that list. Based on the revised list of issues, the Task Force developed a survey to gather feedback from the business community on their experiences with County procurement. The Survey was sent to nearly 10,000 businesses registered to contract with the County and received over 200 responses, which the Task Force deemed a sufficient sample of the pool of current and prospective bidders to meet the Task Force's charter.

The Task Force then applied our own analysis to the information gathered, explained our rationale for that analysis, and also gathered and grouped findings from the meetings and the survey by short-term, medium-term, and long-term suggestions. This comprises the body of our Report, which we hereby respectfully submit to the County Council for its review and consideration.

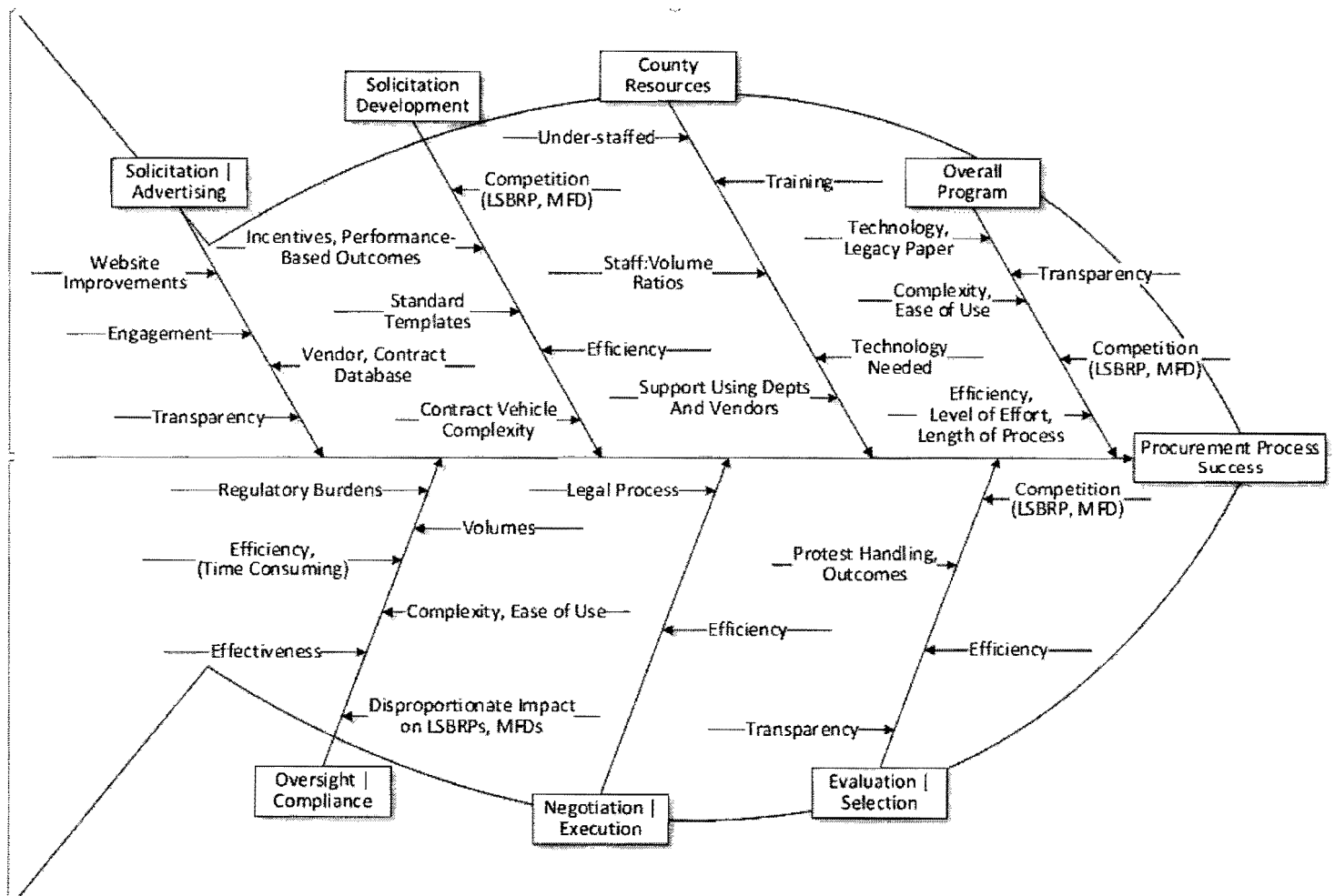
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<sup>2</sup> The Procurement Innovation Project (PIP) is an initiative created by the County Executive and led by the Chief Innovation Officer (CIO). The PIP will take a comprehensive look at procurement processes and the optimal organization structure for the new Office of Procurement. The CIO is expected to report recommendations to the County Executive this September.

# WHAT DID WE LEARN

## I. INTERNAL – MEETINGS

The following section categorizes and catalogs the minutes into the themes and observations of the Task Force across the procurement process. As depicted below, and explained within this Report there are opportunities to improve competition, ease of use, effectiveness, efficiency, resourcing, technology, transparency, or the impact of volume on the process. These opportunities for improvement exist in the overall procurement process, as well as within individual procurement process steps. For those unfamiliar with this consulting industry driven graphic, colloquially referred to as a “fish diagram,” it depicts the various categories of potential improvements to the system. The diagram is to be read vertically. For example, in the broad category of “County Resources,” as explained within this Report, opportunities for improvement include staffing, training, volume of work, and technology/support & maintenance.



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Although the graphic is detailed, and we make many findings and recommendations herein, we do not wish to detract from the reality that, overall, the procurement process works. Solicitations are published and goods and services are provided by vendors. The statistics tracked mirror other local jurisdictions in terms of time to complete certain procurements. However, internal interviews and observations reflect several major themes from the many stakeholders that were interviewed. The unifying and overarching themes appear to be (1) a lack of assessment of the County's procurement process as a system, but rather as a series of siloed tasks and steps that may make sense individually, but do not operate optimally as a systemic whole, and (2) the perception among prospective offerors that the County's procurement system is not fair, is not transparent, and is overly complex. The following subthemes also are present:

1. The procurement program can benefit from re-engineering with respect to staffing (number of people, level of skill) and processes. This includes training staff, leveraging resources outside of the procurement organization itself, using technology to improve process efficiencies and outcome quality, and potentially hiring more people.
2. The procurement process is too manual given: its complexity (particularly with respect to compliance requirements); the volume of new and existing contracts, vendors, and Using Departments; and the typical elapsed time and level of effort it already takes to complete a procurement. Technology can be used to: (a) improve procurement program usability and efficiency by streamlining forms, minimizing repetitive tasks, and enabling greater self-servicing; (b) mitigate procurement resource capacity and skill issues by automating rules and providing access to knowledge bases; (c) produce metrics for data-driven improvements and decision-making; and (d) aid transparency.
3. Even with "under-technologization," processes and rules need to be simplified, and more procurement help is needed for Using Departments and vendors to best engage in the process.
4. Greater utilization of businesses that qualify for preferences and other benefits due to, for example, economic status or demographics of owners, is desired by the County. However, as many of these "target" companies are small, they often lack the staffing or other resources necessary to comply with substantial, up-front pre-contract requirements. The burden of the pre-award compliance work can result in fewer "target" companies competing.
5. Further, there seem to be several programs and initiatives in place to attract the "target" companies that do not have a consistent benefit (*i.e.* specific number of rating points for each category within a maximum range possible for socio-economic/outside the business offer rating factors). This risks de-emphasizing the value of goods and services received by the County and risks the economic assessment of individual offers

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being overrun by combinations of preferences operating without appropriate business rules.

6. Finally, the Task Force agreed that ongoing engagement of the vendor community as well as transparency (forthcoming solicitations, the status of active solicitations, feedback re: award or rejection) is needed. Data collection and procurement program reporting will aid in understanding which vendors, vendor characteristics, or RFP response strategies more often result in contract awards – for instance, is lowest cost the primary driver of contract award arising from a given RFP?

A table view of where and how these themes emerged from our meeting minutes follows.

**Key:**

Competition	The degree to which multiple bidders, including local small and/or minority businesses, have a legitimate chance to compete for and win solicitations.
Ease of use	The degree to which a process, form, technology, or other resource is understandable/usable.
Effectiveness	The degree to which a desired result is met or otherwise achievable.
Efficiency	The elapsed time and level of effort needed to get things done.
Resourcing	The capacity and skills of resources supporting the procurement process.
Technology	The degree to which technology enables the process.
Transparency	The degree to which information is shared.
Volumes	The amount of "stuff" – process steps, rules, contracts, vendors, etc.

**Traceability of Themes to Meeting Notes:**

Ref	Category	Theme	Observations	Minutes	
				Doc	Lines
1	1 Overall program	Effectiveness	A review of best practices from external organizations should be conducted.	Meeting 9	23-24
2	1 Overall program	Transparency	Bidders are subject to too much work upfront with too little transparency on the back-end – this circumstance may be harder on LSBRP vendors.	Meeting 9	16-19
3	1 Overall program	Effectiveness	Communication with other organizations for best practices and lessons learned is needed – e.g., with P.G. County.	Meeting 6	46-47
4	1 Overall program	Efficiency	Contract processing can take from 8-12 months through the Procurement.	Meeting 4	75-76
5	1 Overall program	Competition	Cost barriers exist (for LSBRPs?) in competing for solicitations.	Meeting 6	28
6	1 Overall program	Efficiency	Efficiencies could be introduced by empowering Using Departments to issue their own purchase orders.	Meeting 4	85-88
7	1 Overall program	Efficiency	Given that departments submit budgets in November for May approval and July FY start, they should prepare for solicitations sooner.	Meeting 4	35-37

8	1 Overall program	Efficiency	Incremental, task-based contracts might help the process – smaller results, faster. The process needs to be more agile.	Meeting 4	80-81 92
9	1 Overall program	Technology	More technology automation and use of e-vehicles are needed.	Meeting 6	35
10	1 Overall program	Technology	Process should be electronic and less paper-based	Meeting 6	21-23
11	1 Overall program	Efficiency	RFPs can take up to a year to complete.	Meeting 4	101-102
12	1 Overall program	Ease of use	Solicitation types may vary considerably within and across Using Departments – e.g., competitive RFPs, non-competitive awards through the County Council, grants, etc. – complicated.	Meeting 3	55-60
13	1 Overall program	Efficiency	Standing contracts with pre-qualified vendors who can be tapped as needed speeds up the procurement process for some Using Departments – MCCATS is this kind of vehicle.	Meeting 4	67-73
14	1 Overall program	Efficiency	Strategies are needed to reduce the procurement process cycle time.	Meeting 3	16-17
15	1 Overall program	Efficiency	The County's RFP process is long compared to the processes of peer organizations.	Meeting 2	52-56
16	1 Overall program	Technology	The process cannot be fully automated.	Meeting 4	33-34
17	1 Overall program	Ease of use	The process needs to be easier to navigate.	Meeting 9	20-23
18	1 Overall program	Technology	The procurement process is not automated or user-friendly.	Meeting 4	65-67
19	1 Overall program	Technology	The RFP process is largely paper-based.	Meeting 3	62-64
20	1 Overall program	Efficiency	Traditional RFPs for DHHS, one of the largest County procurers, can take 8-12 to complete.	Meeting 3	62
21	2 County resources	Resourcing	County procurement resources are insufficient (given volumes and process inefficiencies).	Meeting 3	100-102



22	2 County resources	Resourcing	It took six years to fully train procurement specialists; this is a long ramp-up, which might be improved through reorganization, process changes, and automation. Problems include the number of people and their fit for the role.	Meeting 4	82-83 111-112
23	2 County resources	Resourcing	No formalized training exists for Office of Procurement staff.	Meeting 9	37-38
24	2 County resources	Technology	Procurement staff should have two computer monitors to aid efficiency.	Meeting 4	117
25	2 County resources	Ease of use	Resources are needed to help small businesses navigate the process.	Meeting 9	23-24
26	2 County resources	Resourcing	The learning curve is high for new Office of Procurement employees.	Meeting 5	69-72
27	2 County resources	Resourcing	The procurement office is understaffed; additional people are needed.	Meeting 4	31-34 82-84
28	3 Solicitation development	Volumes	A large number of procurements are for small amounts (less than \$10K), and these amounts are difficult to capture in analyzing procurement efficiencies.	Meeting 3	89-90
29	3 Solicitation development	Transparency	A perception exists that the County uses RFPs as RFIs – to figure out its strategy.	Meeting 3	94-95
30	3 Solicitation development	Efficiency	Bidders have to complete too much paperwork upfront – reduce if possible.	Meeting 9	13-15
31	3 Solicitation development	Competition	Contracts over \$100,000 must have formal competition (with some expressly noted exceptions).	Meeting 5	14
32	3 Solicitation development	Effectiveness	Contracts should incorporate outcomes and performance-based incentives.	Meeting 3	64-66
33	3 Solicitation development	Competition	LSBRP set-asides should be done for Direct Purchases.	Meeting 9	26-27
34	3 Solicitation development	Competition	More can be done to improve utilization of LSBRP and MFD vendors – for instance, goals and set-asides.	Meeting 7	13-15 23-24
35	3 Solicitation development	Ease of use	Procurement templates need to be made more consistent with the realities of procurement.	Meeting 4	37

36	3 Solicitation development	Efficiency	Solicitation development is a lengthy process.	Meeting 2	60-61
37	3 Solicitation development	Competition	Solicitations less than \$10K are within the authority of a Department Head, and not signed by Procurement.	Meeting 7	48-49
38	3 Solicitation development	Ease of use	Some contracts (multi-vendor; bridge; public entity) present complex insurance and other compliance issues.	Meeting 4	113-114
39	3 Solicitation development	Ease of use	The overlay of preferences in the procurement system creates confusion.	Meeting 9	29-31
40	3 Solicitation development	Ease of use	Boilerplate template into which a Using Department may place its required scope of work may be helpful.	Meeting 9	32-33
41	3 Solicitation development	Ease of use	Too many types of contracts exist – possibly consolidate.	Meeting 6	28
42	4 Solicitation   advertising	Competition	A database of local businesses and contracting opportunities should be established.	Meeting 4	26-27
43	4 Solicitation   advertising	Transparency	Chamber of Commerce outreach might increase transparency.	Meeting 5	79-83
44	4 Solicitation   advertising	Transparency	Communication with potential vendors prior to selection is a standard practice. This includes notification of forthcoming solicitations as well as pre-proposal fairs/meetings.	Meeting 3	71-74
45	4 Solicitation   advertising	Transparency	Currently, Using Departments may not meet with vendors after RFP issuance.	Meeting 3	80-82
46	4 Solicitation   advertising	Ease of use	LSBRP forms on the Internet are outdated, “discouraging” small businesses.	Meeting 5	55-57
47	4 Solicitation   advertising	Competition	Methods are needed to expand the pool of potential vendors and increase competition to mitigate “vendor lock.” This includes use of more local small businesses.	Meeting 3	16-18 64-70 71-72
48	4 Solicitation   advertising	Competition	More pre-qualified local small businesses should be in the vendor pool for contracts.	Meeting 4	78-79
49	4 Solicitation   advertising	Volumes	The County often -receives 3-4 responses per solicitation.	Meeting 2	98-101

50	4 Solicitation   advertising	Ease of use	The Procurement website should be more educational and appealing and designed to encourage vendor use.	Meeting 9	35-36
51	4 Solicitation   advertising	Transparency	The Task Force e-mailed a survey to 10,000 vendors and discussed increasing participation by leveraging other resources within the County (e.g., the innovation network), translating the survey into Spanish, and posting the report of the survey results on the County's website with a request for comments.	Meeting 8	24-51
52	5 Vendor evaluation   selection	Competition	A perception exists that the odds are stacked against potential vendors if a protest is filed.	Meeting 5	86-87
53	5 Vendor evaluation   selection	Competition	Contracts seem to be awarded to the same business owners, and there is a desire to expand competitive/opportunity.	Meeting 5	79-83
54	5 Vendor evaluation   selection	Transparency	Debriefing opportunities are outlined in letters the County sends to unsuccessful bidders.	Meeting 2	91-93
55	5 Vendor evaluation   selection	Efficiency	QSC review is a lengthy process.	Meeting 2	60-61
56	5 Vendor evaluation   selection	Transparency	The County is "silent" during the initial response review and negotiation.	Meeting 2	57-58
57	5 Vendor evaluation   selection	Efficiency	Timeframes could be reduced by relying more on expressions of interest and rating vendors in parallel with the RFP process.	Meeting 4	108-110
58	5 Vendor evaluation   selection	Transparency	Unsuccessful bidders can request feedback. Some Using Departments may provide a copy of the winning proposal to vendors, if requested. To preserve competition it may be better to provide summarized or scored feedback rather than specific vendor proposals (subject to MPIO requirements).	Meeting 3	75-77
59	6 Negotiation   execution	Efficiency	Negotiation can be a lengthy process.	Meeting 2	60-61
60	6 Negotiation   execution	Efficiency	The turnaround time for legal review varies depending on the experience and expertise of the Using Department.	Meeting 5	61-66
61	7 Oversight   compliance	Volumes	16 Procurement specialists manage 2,000 contracts and respond to 100 MPIO requests and protests each year.	Meeting 2	26-29

62	7 Oversight   compliance	Ease of use	A moratorium is needed on new requirements.	Meeting 9	22-23
63	7 Oversight   compliance	Effectiveness	Challenges exist with helping vendors maintain their Certificate of Insurance.	Meeting 4	105-106
64	7 Oversight   compliance	Efficiency	Compliance and regulatory requirements delay the overall process and impose more burdens on the County and on vendors.	Meeting 4	90-91
65	7 Oversight   compliance	Competition	Compliance programs hurt small businesses - disproportionate impact.	Meeting 6	24-25
66	7 Oversight   compliance	Efficiency	Contract monitoring is time-consuming.	Meeting 3	67-68
67	7 Oversight   compliance	Effectiveness	Non-compliance and poor performance are dealt with through an escalation process up to and including termination; past issues may be considered in evaluating vendors for future solicitations.	Meeting 2	86-90
68	7 Oversight   compliance	Effectiveness	Procurement program metrics are needed for contract monitoring, success determination, and data-driven decision-making.	Meeting 9	22
69	7 Oversight   compliance	Effectiveness	Regulations are too broad to apply equally well to all industries.	Meeting 9	39-40
70	7 Oversight   compliance	Efficiency	Self-certification should be considered for compliance.	Meeting 7	28-35
71	7 Oversight   compliance	Efficiency	Some up-front compliance checks are time-consuming.	Meeting 7	31-32
72	7 Oversight   compliance	Ease of use	State laws add layers of complexity (and time) to the process.	Meeting 5	75-77
73	7 Oversight   compliance	Effectiveness	The prevailing wage system is broken.	Meeting 9	42
74	7 Oversight   compliance	Competition	The threat of fines or contract damages for non-compliance discourages some vendors – particularly because they don't understand the procurement process and forms.	Meeting 7	36-38

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75	7 Oversight   compliance	Ease of use	Using Departments need better training re: the compliance process.	Meeting 6	32
76	7 Oversight   compliance	Efficiency	Wage/compliance review takes a lot of time.	Meeting 4	115-116

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## **II. VENDORS – SURVEYS**

In addition to the requirement for the Task Force to discuss procurement issues with County employees, the Task Force was also responsible for soliciting suggestions for potential reforms of the County procurement system from: County residents; business and community leaders; and other stakeholders. This section addresses that “external” outreach.

### **The Approach**

The Task Force reached out to businesses located in Montgomery County and businesses that included Montgomery County in their market area to obtain information that would reflect the opinions, experiences, and perceptions of Montgomery County’s procurement process. We specifically wanted input from users and prospective users on: what was working and not working; whether the process was viewed as fair or not; and, if a process is not working, some suggested solutions.

The Task Force considered a number of alternatives for obtaining this information and decided that a survey would be the best way to gather information from the largest number of actual and prospective vendors. The survey also provided an opportunity for respondents to answer questions and express in text fields their ideas, opinions, and experiences. The survey responses are attached to this Report in Appendix VI.

The Task Force composition of small business owners in different industry areas, procurement professionals, legal counsel experienced in government procurement, and representatives of business organizations, facilitated the creation of the survey. Our members’ collective experience helped build a survey to gather information that could be useful in forming recommendations to improve the procurement process.

The survey was developed by the Task Force members and based on the members’ experience both as business owners, and providers of services to business and government, and with the assistance of highly capable staff support from the County. The Task Force is greatly appreciative of the information and insights provided by the more than 200 users and prospective users of the Montgomery County procurement process.

### **Survey Distribution and Information Gathering**

The Task Force took advantage of the opportunity to reach a large and diverse number of businesses through the use of existing databases. The survey was distributed to regional vendors active in the Montgomery County Inter-Agency Central Vendor Registration System. Using this vehicle a total of 9,528 contacts received the survey through this database. There were a total of 570 unique clicks on the survey link.

The link was located on a page of the Montgomery County Council website developed for the Task Force. The page also included resource documents and other information regarding the Task Force activities and procurement in Montgomery County.



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Additionally, a press release was issued directing interested parties to complete the survey. The press release was distributed, twice, to: civic associations; the boards, committees, and commissions recruitment list; and general media outlets.

Task Force members also reached out to businesses in their networks.

### **About the Respondents**

There were more than 200 respondents to the survey, representing a wide cross-section of County vendors and prospective bidders for future contracts. About two-thirds of the respondents currently have contracts with Montgomery County and almost half of them obtained a contract with Montgomery County after responding to no more than two solicitations. Of the respondents that are not current Montgomery County contractors, 78% had participated in County procurement solicitations.

Service companies comprise about half of the respondents and about 25% identify their company type as "Consulting". Of the 200 respondents, about half have annual sales that are a half-million dollars or less, and approximately half have annual sales between 1 and 1.5 million dollars. Almost half of the respondents employ 1-5 people, and about 25% of the respondents have between 11-50 and employees.

Over half of the respondents are businesses whose owners are Minority, Female or Disabled and about three-fourths of those businesses are registered in the MFD program. Over half of all respondents are registered in the Local Small Business Reserve Program.

### **Overview of findings**

The survey responses show the County's process has a base of support among successful offerors, and there appears to be opportunity for new vendors to offer goods and services to the County without substantial (or, perhaps, excessively substantial) effort. However, the survey revealed a significant sentiment that the procurement process is unfair, opaque, and unwelcoming. The single most important step that that County can take with reasonable speed in response to this negative sentiment is to expand education and outreach to address the perceptions, in order to seek more vendors who can drive up quality, drive down prices, and expand opportunity for additional vendors. To be clear, short-term information and education is not a panacea. This recommendation is designed to boost participation in the County's procurement over the short-term, while longer-term, systemic change is considered. Selected survey response themes that the Task Force found particularly significant are highlighted in this section.

#### **1) What is Working?**

- Vendors can obtain contracts with their first proposals, suggesting there is room for new entrants to the market.

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- Those who participate in the process and are successful at winning contracts are happy with the process, with example survey responses:
    - Everything works fine with our contract
    - Everything has worked for us
    - This is one of our exceptional contracts, everything works.

## **2) What is not working?**

- Perceptions of unfairness and low potential return on time spent in the process are harming the County and decreasing offerors, based on the following example survey responses:
  - Length of the procurement process is not working
  - It takes a long time to secure a contract
  - It takes a long time for Procurement to review proposals and refer them to Departments
  - After notified of award, the County would not actually sign the contract until a week before the start of the contract contrary to the contractual agreement
  - Entire process is not transparent and takes too long
  - From time of application to time of award, budgets often change
  - It is way too slow!
  - Took until February to get an award for a contract that was to start the previous July
  - Length of time to establish a contract is TOO long!
  - The process is long and the forms exceptionally tedious.

## **3) What is unfair in the process?**

- For those who do not bid, the (addressable) reasons focus on complexity of the process and the lack of information available about the process, based on the following example survey responses:
  - Too much paperwork
  - Too much focus on compliance with the solicitation process
  - The procurement process too elaborate for most small businesses.
- Vendor qualification requirements crowd out offerors, with many responding:
  - Small business application requirements and certifications were so consuming as to not make it worth it to apply.
- Resource requirements to bid were called “overwhelming” and lack of openness /transparency/perception of fairness in the process is an issue, based on the following sample survey responses:

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- Overwhelming amount of work and requirements for contractors
  - Solicitation requirements are cumbersome and forms are difficult to use
  - The forms you have to fill out are unintelligible and rules are not “small business friendly”.

#### **4) Better outreach for small business**

Notwithstanding programs and other outreach efforts, there are still sizeable roadblocks (or, at least, speed bumps) preventing small businesses from participating in County procurements. As small business participation is a County goal, as well as a potential source of new offerors that may propose lower prices or raise quality, these example survey responses deserve particular attention:

- How do we get more exposure? Who are the players?
- I am not receiving requests for bids
- I have not been notified of a bid
- I have not received any solicitations and it is difficult to contact MCPS (Note- MCPS is not an agency subject to County procurement processes)
- Lack of clear information about what is being requested
- Upfront notifications
- I haven't seen an RFQ or RFB in a couple of years
- Broader categories of opportunities in the LSBRP
- May appear to exclude small, MBE, WBE, Disabled businesses because of procurement processes, such as lack of competition in procurements under 10k
- Provide enough information for planning, budget and staffing.

#### **5) What are some solutions?**

The Task Force assessed the information and proffered suggestions for improvement, based on the survey responses. Two general themes emerged in this analysis:

- Education concerning the procurement process is needed, but the language cannot be jargon. It has to be simple, plain language and focused on “this is how you can be successful with County procurement.”
- Alvin Boss is a gem in the County and deserves recognition for his outreach, but additional outreach measures are necessary as Mr. Boss and others charged with this responsibility are not sufficient to address the gaps and misperceptions we found.

Education and outreach is an unmet need and perhaps the best step over the short-term that the County can take to address the perception of unfairness that keeps vendors away. Currently, if a small business contractor is lucky enough to be in the right place at the right time, Mr. Boss will shepherd the company through the procurement process and explain its inner workings. We understand that Mr. Boss' efforts are in addition to his normal duties, and this should be commended. A limited number of others within the County are also responsible for educating vendors concerning business opportunities.

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Unfortunately small numbers of people should not, and cannot, be the primary champions for small-business inclusion in the County, much less responsible for explaining the entire procurement process to vendors of any size in an easily understandable manner. The procurement process does not lend itself well to be described simply and convey its fundamental fairness (*e.g.*, the Task Force has yet to hear a common sense answer to the question of how the various preference categories impact a solicitation and what scoring impacts occur when “dueling preferences” exist; and, the perception exists that no meaningful protest resolution option is present for disappointed bidders, who believe the process is unfair, because a protesting bidder who should have been awarded a contract that was awarded to another may often be limited in its remedies to bid or proposal preparation costs. *See* Montg. Co. Code, § 11B-36; COMCOR § 11B.00.01.14.1) Until systemic changes are made, it is of vital importance to the County’s procurement process goals that it provide focused communication to vendors, in plain language, about how to win contracts and to comply with rules and regulations. This requires dedicated outreach resources. Failing to dedicate appropriate resources to outreach reinforces the perception of unfairness to both the businesses seeking opportunities and, perhaps, to the County staff charged with ensuring access to business opportunities and transparency in the procurement process. It is reasonable to assume that this also decreases the numbers of offerors, and, therefore, deprives the County of potentially better pricing or increased quality.

While the MFD program has a star in Alvin Boss, and the current County outreach efforts are commendable, there is a significant need for additional staff to perform those services that have been identified as helpful. The County must begin to address the lack of timely responses to questions regarding the procurement process.

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### III. OUR ANALYSIS

After reviewing all of the available information, the Task Force then assembled the totality of our information into categories of recommendations for improvement over the short, medium, and long-term. Please note that these suggestions offer a menu of potential options to policy makers and County staff. Some are systemic, while others are “one off.” Our goal was to bring forward as many recommendations as we could, that the Task Force could agree upon, and that might be useful to the County. Note also that we do not recommend specific time periods, nor do we recommend that all of these items be addressed by the Council. However, we do recommend their consideration as part of a larger examination of the County’s procurement process.

The analysis we applied (grouping into “short,” “medium,” and “long-term” recommendations) represents the spectrum of what we believe might be easier and less-budget intensive goals, versus goals that might take longer or require more funds to implement. Themes and suggestions do repeat themselves in these categories. Some of our recommendations are considered to be short-term and low-budget activities. For example, in the short-term the County should hold debriefings for unsuccessful bidders. In the medium-term, the County should align their debriefing practices with Federal Acquisition Regulations. These recommendations are building blocks for then achieving medium-term goals, such as tracking and reporting quarterly on procurement operating efficiencies, as well as the long-term goals of creating a culture of innovation and continuous improvement. The stated short-term, medium-term, and long-term goals all reflect the overall theme of the need to view procurement in the County as a system.

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## RECOMMENDATIONS

### I. SHORT-TERM

With goals of increasing the number of offerors, decreasing costs to the County, and increasing the quality of goods and services provided, the Task Force encountered several recurring recommendations in considering the perceived shortcomings in the current system. For the short term, these included: increasing the use of technology to improve work flow; increasing the number of procurements that qualify for simplified processing; and, expanding outreach and training opportunities to increase vendor participation including through debriefings with unsuccessful offerors.

#### *1. Improve use of technology in the procurement process to improve workflow.*

The County seems to be overly dependent on the transfer of physical documents through the various stages of the procurement process. The Task Force recommends a significant increase in the use of existing information technology to move away from paper and toward digital procedures. When possible, new or reassigned resources should be provided to ensure that the procurement process is able to meet established goals.

#### *2. Utilize or enhance existing tools to increase opportunities for vendors.*

Responses to the Task Force's procurement survey revealed a perception of a lack of procurement opportunity for vendors. The Task Force recommends that the existing Central Vendor Registration System (CVRS) be enhanced to allow vendors to self-identify specific solicitation types in order to enable National Institute of Governmental Purchasing Commodity Services Codes (or other appropriate work category-driven) alerts to be published for relevant solicitation opportunities.

#### *3. Address challenges in balancing compliance and enforcement, and the comparative impact on offerors.*

Although not necessarily a short-term solution, the Task Force discussed at length the County policy of extensive compliance checks on prospective awardees during contract formation and after award. This is a potential hindrance to competition because of the amount of labor involved or, at a minimum, because of the perception of the amount of labor required of potential offerors. We discussed shifting the risk/effort balance by experimenting with self-certification during formation or with rolling requirements for qualification as of specific periods of time post-award and empowering the County's audit function to track compliance. However, the Task Force felt this substantial change would impact the procurement system substantially and require new resources for audit and (potentially) for enforcement that do not presently exist. However, we were unable to form a specific recommendation, other than to note the apparent lack of audit and enforcement resources to "police" the current system, perhaps as a result of the County's front-loaded compliance policy choice.

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**4. *Hold debriefings for unsuccessful bidders to address perceptions of lack of fairness in the process.***

Overall, the Task Force feels that the County's procurement process should be more mindful of the challenges faced by its vendors and suppliers when complying with the occasionally onerous County procurement requirements. But that would require fairly substantial adjustments to the process itself. Instead, for the short-term, the Task Force recommends that the County increase and improve the debrief process for unsuccessful bidders in a process more closely aligned with the federal system and investigate new methods of outreach and training, including online tutorials and video training.

**5. *Expand outreach and technical assistance to prospective vendors.***

The Task Force recommends that the County expand overall outreach efforts, especially in categories that have low percentages of small, local minority and woman owned businesses or any other areas where underrepresented businesses may yield increased competition, decreased pricing, or enhanced quality to the County. To address the sometimes daunting bid process, we recommend that the County partner with the Maryland Procurement Technical Assistance Program to provide help-desk type services and assistance to vendors in responding to County solicitations and actively promote and refer new vendors to this service.

Based on survey feedback, the Task Force also recommends that the Division of Business Relations and Compliance (DBRC) conduct regular vendor outreach sessions. These sessions should include on-site registration in the Vendor Registration System with a goal of every attendee being registered at the end of the session. In addition, these DBRC sessions should include demonstrations on how to use the online contract database to determine whether suitable opportunities exist and when they will be competed. The County should consider co-sponsoring events with community strategic partners and business organizations with outreach to specific populations (e.g. Hispanic Chamber of Commerce Montgomery County, Asian American Chamber of Commerce, African American Chamber of Commerce, Montgomery County Chamber of Commerce, etc.). These partners might lead to an increased numbers of contractors bidding and help to make the procurement process easier to navigate by internal and external users with outreach, training and educational events, and technical assistance toward improving competition for procurement contracts.

**6. *Create a more transparent process.***

The County must address the culture of its procurement system, and communicate a sense of urgency in creating more transparent access to procurement opportunities for all. Currently there appears to be a "closed ranks" culture of getting through a lengthy and resource-intensive procurement process with limited resources, and that does not lend itself to expanding the pool of offerors or acquiring goods and services on economically beneficial terms. The Task Force recognizes that the culture of the County and the resources allocated to procurement are critical to the ability of procurement stakeholders to achieve the desired

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results, and this must be communicated throughout the County system. The County must clearly and fully develop the intent of the procurement process and communicate it to internal and external stakeholders, whenever possible. Internal stakeholders' procurement training must be expanded and additional staff resources engaged, while new vendor training sessions should be made available to offerors in order to provide an overview of vendor reporting requirements. Stated differently, culture drives outcomes, and a culture that is perceived (fairly or not) as being unfriendly to business, unwelcoming of new entrants, or requiring far too much advanced work before a contract is awarded, drives away potential bidders. A culture that is welcoming, and that is mindful of business realities (and, potentially, that appropriately balances risk tolerance with benefits to the County) will drive a process that is seen as functioning, welcoming, and achieving its goals.

#### **7. Clarify County procurement preferences.**

The Task Force observed that it is difficult to reconcile competing preference programs in a given procurement. Competing preferences would be reconciled on a contract-by-contract basis. Procurement currently administers four preference programs, which include a local tie-breaker preference, a reciprocal local preference, a preference for small businesses certified as offering health insurance; and an evaluation factor for purchases from minority owned businesses. This is one example that reinforces the perceptions illustrated in survey responses that County contracting is unfair and that the social preference programs may have overcome business considerations in County procurement. Accordingly, metrics must be developed to determine if desired results are being achieved in preference programs, social policies, process improvements, productivity and financial metrics. A moratorium should be placed on additional changes to County procurement process, to include additional preferences or social responsibility programs and provisions, until those metrics are established to determine if desired results are being achieved.

## **II. MEDIUM-TERM**

The Task Force identified several actions that the County may undertake in the medium-term to improve the participation of businesses in the procurement process. With these recommendations we move from the, perhaps, easier-to-implement suggestions into others that attempt to address the more systemic challenges in County procurement.

*To address the perception that the County's procurement process does not offer a fair opportunity to new entrants we recommend the following:*

#### **8. Increase outreach and communication.**

We recommend engaging the business community through increased vendor outreach events, surveys, training and technical assistance. Additional communication channels may include surveys or town hall meetings to learn the barriers to doing business with the County. This will also provide an opportunity for County contracting professionals and policy makers to learn the true effect that mounting regulations have on businesses, both in terms of cost and



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labor usage. Outreach activities may help identify areas where businesses feel overburdened by regulations that the County could modify and save money to get more contractors involved in the future. The only way to find out is to communicate.

**9. *Increase transparency.***

Some businesses that have tried to participate in the process do not believe they were evaluated fairly. We recommend that the County strive to develop a more transparent debrief process that includes providing meaningful feedback to unsuccessful bidders and require that the information be provided. Currently, the County appears to have no formal guidelines for debriefs. Also, debriefs, when requested, do not always occur. We recommend adoption of a debrief process similar to the process used by the federal government as outlined in the Federal Acquisition Regulations (FAR 15.505 Preaward Debriefing for Offerors, see Appendix III and FAR 15.506 Postaward Debriefing for Offerors, see Appendix IV). This is a strongly emphasized recommendation because, standing alone, it may help overcome the negative sentiment among offerors concerning some of the other weaknesses in process and comparative lack of opportunity to address improper awards through protest.

Allowing unsuccessful bidders to view aggregate, non-confidential/non-sensitive Score Card scores of all bidders as well as the scores for the successful offeror(s) would also be useful to demonstrate that the evaluation process was conducted fairly.

**10. *Develop a stronger protest process.***

Bidders who have expended the resources to bid on a contract should have a fair opportunity to protest award actions if they believe they were not evaluated fairly. A perception exists that a fair process currently does not exist for bidders on County contracts because (as noted above) a protesting bidder who should have been awarded a contract that was awarded to another may often be limited in its remedies to bid or proposal preparation costs. This results in perception challenges concerning the system, crowds out potential new offerors, and causes complaints to elected officials rather than channeling solicitation protests through administrative processes. We recommend the County review and develop a protest process similar to that of the federal government. This process may be found in FAR 33.1 (see Appendix V).

*Montgomery County awarded contracts for goods, services and construction in FY14 totaling almost \$1B, yet many firms seeking opportunities to do business with the County aborted their efforts after being unable to identify contracting opportunities. The Task Force recommends the following be considered to address this issue to make available and publish contracting opportunities:*

**11. *Increase Opportunities for Small Purchases.***

Simplified procurements should offer a 'foot in the door' for businesses new to the County procurement system. The Task Force found that these opportunities are difficult, if not impossible, for most new vendors to find. The County should post small purchasing

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opportunities on the main Procurement website, or establish a webpage specifically for smaller purchases.

***12. Publicize all solicitations.***

Many vendors do not do business with the County because they are unable to identify opportunities in their service areas. This is due to the multiple categories of contracts that do not require open competition. The County should ensure that all Formal and Informal Solicitations are publicized by posting on the Procurement Office's Solicitation Website. The regulations pertaining to web site posting are unclear. The Task Force recommends that 11B-17A be changed from "Each using department must post each planned purchase of construction, goods, or professional and non-professional services,... on a County web site for 5 business days before making a purchase..." to read "...on the County Office of Procurement's solicitation web site page for 5 business days...."

***13. Train and re-train the procurement staff to improve vendor interactions.***

The Task Force received input that some of the County's Procurement staff and Using Departments appear to need training or re-training concerning the County's procurement regulations and policies. This reported lack of knowledge (or, perhaps, willingness to assist) limits the staff's ability to provide useful answers and information to vendors seeking assistance and leaves vendors (including prospective offerors that may increase quality and drive down prices) feeling like they are "getting the run around" rather than an answer. The Task Force recommends increased training, the provision of technology, instruction and staffing to provide an appropriate level of service to internal and external procurement stakeholders.

***14. Increase use of available data and technology and establish goals and priorities:***

Medium term actions for consideration include:

- a) Evaluate the procurement data to determine the impact that the use of technology and increased staffing have on efficient delivery of services.
- b) Measure the effects of training and events to educate internal and external stakeholders about incentive programs and contract provisions that reflect social policy.
- c) Establish a coordinated County-wide initiative to promote diversity and inclusion in the workforce and in procurement because reaching beyond the historical/traditional staffing model may result in new ideas and efficiencies.
- d) State, in business terms, success metrics for each point in the process or each new initiative, and consider changing or repealing procedural steps that do not have (or do not meet) appropriate goals.

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### III. LONG-TERM

As stated frequently in this Report, the current County procurement processes lack cohesion; it is neither viewed nor treated as a single system. Rather, it is a piecemeal approach with each step in an overcomplicated process making sense standing alone, but not in the context of a system as a whole. This contributes to the perception of unfairness and burden that drives away potential bidders. For just one example, all the various preference programs do not exist within a system where there is a cap on ratings/ceiling on evaluation points that makes sense to Using Departments, Procurement, or vendors. A system approach seeks to answer the questions “how will my bid be evaluated?” and “how do you serve as effective stewards of tax dollars?” simply, without jargon, and effectively. The system, as it stands, does not lend itself well to provide these explanations. The County should study how to make the system make sense, and remove bottlenecks, while assessing whether the appropriate balance is in place between fiscal and social responsibility.

The County must create a business climate and organizational climate culture within Procurement that encourages a culture of innovation—thinking about new ways to do what they have been charged with doing—and continuous improvement that will enable the system to deliver a better result through the use of technology and infrastructure improvements. In order to reach this goal, the County must conduct a procurement process assessment to identify opportunities to deliver a process that is more efficient and focuses on continuous improvement. If persistent delays are the result of certain functions, or resources, these metrics will provide support for corrective measures that can be taken. We further recommend increased staffing and training for the procurement function until such time as technology and process improvements permit a reduction in staffing.

Additional long-term recommendations include:

***15. Review and streamline post-award compliance requirements for small businesses.***

The County has complex post-award compliance regulations that are viewed as being very burdensome, and it seems that additional regulations that impact small business continue to be added. In many cases, small business finds that the post-award compliance process of these regulations exceed the costs they are able to capture in their indirect rates, making working with the County appear to be unprofitable. The cost of these compliance regulations should be measured against the social benefit gained from their implementation. As part of its review of compliance regulations, the County should consider an exemption of small businesses from some of the reporting requirements.

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***16. Improve procurement technology.***

The Task Force recommends that the County invest in the development of procurement technology that will let it:

- Have workflows, and event/time driven queues
- Support a paperless procurement process
- Support an (mostly) electronic compliance auditing function that enforces policies and vendors adherence to policies during contract execution
- Support on-line collaboration of QSC members (with business/submitters)
- Support task-centric model for service related needs
- Integrate with the business portal
- Publish/receive/comment on solicitations

***17. Enhance the current Central Vendor Registration System.***

The County's CVRS should be enhanced to provide a vendor portal for business to:

- Receive Solicitations
- Receive Tasks
- Allow Self-certification (1 time per year)
- Allow for Pre-certification
- Respond to solicitation/tasks (provide comments)
- Formally submit responses to solicitations/tasks (as a workflow)
- Receive responses to solicitation comments from the County (with comments from the County)
- Allow visibility of aggregate, non-confidential/non-sensitive Score Card scores of all bidders on a particular solicitation
- Allow visibility of winning bid for each solicitation
- Allow vendors to submit invoices
- Allow visibility of invoice payment information
- Make data for procurement solicitation, awards, spending, outcomes, and re-solicitation available per contract in one place. This market data might entice new business entrants/competition for County services

***18. The County should implement a task-centric system for services needs and a vendor rating/performance system for participants.***

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## CONCLUSION

It has been our pleasure to serve the County in a volunteer capacity on this Task Force. We put substantial time and energy into the process, as did our wonderful, dedicated County staff support. We hope and trust this Report will be useful to the County, and we would be pleased to respond to any follow-up questions.

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## APPENDICES

- A1        Appendix I: Appointment Resolution 18-24
- A3        Appendix II: Meeting Agendas and Minutes
- A74       Appendix III: Federal Acquisition Regulations 15.505 -- Preaward  
Debriefing of Offerors
- A76       Appendix IV: Federal Acquisition Regulations 15.506 --  
Postaward Debriefing of Offerors
- A78       Appendix V: Federal Acquisition Regulations 33.1. Protests
- A92       Appendix VI: Survey Responses

## **Appendix I**

Resolution No.:	<u>18-24</u>
Introduced:	<u>January 20, 2015</u>
Adopted:	<u>January 20, 2015</u>

### **COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Appointments to Procurement Policies and Regulations Task Force

#### **Background**

1. Resolution No. 17-1254 adopted on October 28, 2014, established the Procurement Policies and Regulations Task Force to solicit suggestions for potential reforms of the County procurement system.
2. The Task Force must be composed of persons who are experienced in government, business, or non-profit service delivery, or who otherwise have experience and expertise in government contracting. A person appointed to the Task Force must not be employed by County government or any County-funded agency. At least 7 of the members must be County residents at the time of appointment.
3. The Task Force will make recommendations to reform the County procurement system in a final report to be submitted to the Council not later than September 15, 2015.

#### **Action**

The County Council for Montgomery County, Maryland approves the following resolution:

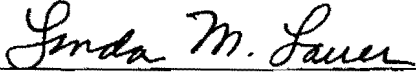
1. The following individuals are hereby appointed to the Procurement Policies and Regulations Task Force:

Charles Atwell  
Tom Creamer  
Robert Henley  
Daniel Parra  
Jan Zappold

Wayne Cobb  
Eppie Hankins  
Linda Moore  
David Robbins

2. Mr. David Robbins will serve as Chair.

This is a correct copy of Council action.

  
\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council



## Appendix II

Meeting #1, February 12, 2015

### AGENDA

#### Joint Meeting of the Minority Owned and Local Small Business Task Force and Procurement Policies and Regulations Task Force

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##### WELCOME FROM TASK FORCE CHAIRS (5:00 P.M.)

The Honorable Herman Taylor, Minority Owned and Local Small Business Task Force Chair  
David Robins, Procurement Policies and Regulations Task Force Chair

##### INTRODUCTION OF MEMBERS (5:10 P.M.)

###### *Minority Owned and Local Small Business Task Force*

Mayra Bayonet	Janice Freeman
Margo Briggs	Julian Haffner
Cherian Eapen	Leon Hollins
Warren Fleming	Bethsaida Wong

###### *Procurement Policies and Regulations Task Force*

Charles Atwell	Robert "Buddy" Henley
Wayne Cobb	Linda Moore
Tom Creamer	Daniel Parra
Eppie Hankins	Jan Zappold

##### COUNCILMEMBER REMARKS (5:30 P.M.)

Council President George Leventhal  
Councilmember Nancy Navarro, Government Operations and Fiscal Policy Committee Chair

##### LOGISTICS AND ADMINISTRATIVE ITEMS (5:50 P.M.)

Open Meetings Law  
Attendance  
Snow Policy  
Background Material  
Minutes  
Future Meeting Schedule

##### TIMELINE (TENTATIVE) (6:10 P.M.)

February – April	Introduction / Speakers & Presentations / Review of Pending Bills / Review of Process & Issues
May – August	Formulate Recommendations / Public Input / Draft Report
September 15	Final Report Due to Council

##### GROUP DISCUSSION / PUBLIC COMMENT (6:20 P.M.)

##### ADJOURN (6:30 P.M.)

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

**JOINT MEETING MINUTES**  
Minority Owned and Local Small Business Task Force  
Procurement Policies and Regulations Task Force  
February 12, 2015 – 5:00 p.m.  
5<sup>th</sup> Floor Council Conference Room  
Council Office Building

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Minority Owned and Local Small Business

*Task Force Members Present:*

Mayra Bayonet	Julian Haffner
Margo Briggs	Leon Hollins
Warren Fleming	Herman Taylor
Janice Freeman	Bethsaida Wong

*Task Force Members Absent:*

Cherian Eapen

Procurement Policies and Regulations

*Task Force Members Present:*

Charles Atwell	Linda Moore
Wayne Cobb	David Robbins
Tom Creamer	Daniel Parra
Eppie Hankins	Jan Zappold
Buddy Henley	

County Staff Present:

Grace Denno, Department of General Services	Pam Jones, Department of General Services
David Dise, Department of General Services	Richard Melnick, County Attorney
Bob Drummer, County Council	Linda McMillan, County Council
Karen Federman Henry, County Attorney	Linda Price, County Council
Beryl Feinberg, Department of General Services	Veronica Walton, Department of General Services
Marie Jean-Paul, County Council	

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The Joint meeting was called to order by Task Force Chairs Taylor and Robbins at 5:03 p.m.

**I. Introductions and Remarks**

The Chairs introduced themselves and then asked members of the Minority Owned and Local Small Business (MOLSB) and Procurement Policies and Regulations (PPR) Task Forces to introduce themselves and briefly say why they were interested in serving.

Council President George Leventhal and Councilmember Nancy Navarro, Chair of the Government Operations and Fiscal Policy Committee welcomed the members and gave remarks. Council President Leventhal spoke on the 8 contracts and procurement related Bills that are pending, and requested that Task Force members review the pending pieces of legislation and provide comments to the Council. Councilmember Navarro also noted that bills 14-14 and 29-14 have been voted out of Committee, but have not yet gone to the full Council.

The following bills are pending before the Council:

14-14 Wage Requirements – Health Insurance – Amendments;  
29-14 Wage Requirements – Reporting;  
40-14 Prevailing Wage Requirements – Apprenticeship Training;

48-14 Purchases from Minority Owned Businesses – Procedures – Request for Proposals;  
49-14 Formal Solicitation – Reciprocal Local Preference;  
61-14 Local Business Subcontracting Program;  
5-15 Health Insurance Preference; and  
7-15 Reorganization – Executive Branch – Procurement.

David Dise, Director of the Department of General Services, introduced himself. He noted that there has been a need to streamline the procurement process. He also emphasized the need to get more participation and engagement so that more firms, particularly MFD firms, apply. He noted that the Disparity Study showed that 65% of African American firms that applied were selected, but there are not enough MFD firms applying.

Pam Jones, Chief of Procurement, introduced herself and said there is a need for better outreach and that she is hoping the Task Forces can provide specific recommendations.

Grace Denno, Manager of the Office of Business Relations and Compliance (OBRC), introduced herself and gave a brief description of the programs she oversees such as Minority Female and Disabled Owned Business Program, Local Small Business Reserve Program, Living Wage, Prevailing Wage and Equal Benefits Law. She introduced her colleague Veronica Walton who has just started as the Marketing Program Manager for the OBRC. She mentioned an upcoming outreach event that OBRC is hosting on February 25.

Richard Melnick and Karen Federman Henry from the County Attorney's office introduced themselves as did Bob Drummer, Council Attorney. Mr. Melnick will serve as a legal contact for the Procurement Policies and Regulations Task Force, while Ms. Federman-Henry will serve as a legal contact for the Minority Owned and Local Small Business Task Force.

## **II. Questions and Comments**

There was a brief question and answer session between Task Force members and DGS and legal Staff.

- Department of Economic Development involvement.
  - Chair Taylor asked how Procurement coordinates with DeVance Walker's programs in the Department of Economic Development, noting that some people think that Mr. Walker handles contracting. Grace Denno clarified that DED markets all of the procurement programs as a part of their overall business outreach activities.
- Procurement Innovation Project
  - In response to questions, David Dise said that the Procurement Innovation Project will be a workflow process mapping to find the low-hanging fruit for streamlining the process in coordination with the creation of a separate Procurement Department.
- Data metrics
  - A member inquired if there is data on the percentage of contractors, such as Latino Tier 2/Tier 3 contractors. Currently, the Task Forces can ask DGS for data by commodity. However, DGS will soon roll out software that can track data by subcontractor.

- Bill 61-14
  - A question was asked whether the local business requirement in Bill 61-14 (Local Business Subcontracting Program) could be met by a large firm like Marriott. Bob Drummer, responded that the bill is aimed at large value contracts, which are mostly construction, so the expectation is that this will be a requirement for subcontracting. However, if Marriott were to bid on a contract they would be considered a local business.

### **III. Logistics and Administrative Items**

The meeting was turned over to Linda Price, who is serving as staff liaison for both Task Forces to discuss logistics and administrative items.

- Open Meetings Law - Signs will be posted for all meeting, which are open to the public. There will soon be a link to the Task Forces off the Council homepage with meeting schedules, agendas, and minutes. Finally, Ms. Price reminded members to refer to the Open Meetings Law that was provided to all members when their application was confirmed.
- Attendance - Ms. Price advised all members to notify her and their respective Chair prior to the meeting if they will be absent. Additionally, members can attend by conference call, with approval from the Chair for special circumstances. Finally, Ms. Price reminded members of the absenteeism policy that was provided to all members.
- Snow Policy (Inclement Weather) – Both Task Forces will follow MCPS school closures when deciding to postpone or cancel meetings, even if Montgomery County Government is open. Therefore, if Montgomery County Public Schools open late, morning meetings are cancelled; if schools close early, or if afternoon or evening activities are cancelled, evening meetings are cancelled; if schools are closed all day, all meetings for that day will be cancelled. However, Staff will still notify the group of any cancellations.
- Background Material - Both Task Force members received binders with the Task Force creation and appointment resolutions, member contact list, Procurement Regulations, Disparity Study, and FY14 Record of Procurements.
  - Members of the MOLSB Task Force also received the Minority Owned Business and Local Small Business Reserve Program sections of the County Code, OLO Report 2014-11 and bill packets and testimony for Bills 48-14, 49-14, 61-14.
  - Members of the PPR Task Force also received the County State Procurement Presentation, and bill packets and testimony for Bills 14-14, 29-14, 40-14, 5-15, 7-15.
- Minutes - Action minutes will be distributed prior to the next regularly scheduled meeting. Task Force members should review the minutes and notify the group of any changes or corrections ahead of the meeting in order to have the final minutes voted on at the start of the next meeting.
- Future meeting schedule - Staff recommends that both Task Forces set a bi-monthly meeting schedule. Both groups can revisit and revise the schedule after the first month or two of meetings.
  - The Minority Owned and Local Small Business Task Force voted to hold their next meeting on Wednesday, February 25<sup>th</sup> from 6:00 - 7:30 pm.
  - Chair Robbins advised Procurement Policies and Regulation Task Force members that a date for the next meeting would be discussed over email.

- Timeline - Staff laid out a tentative timeline for both Task Forces to assist in developing a work plan through September. Ms. Price advised both Task Forces that September 15 is the deadline for report submission to the Council. She suggested using from now through April to hear from speakers and review pending legislation, processes and issues. May through September 15 could then be used to draft recommendations, seek public input, and finalize and transmit reports to the Council. It was noted that seeking public input is a requirement from the Council.

Chair Robbins asked Ms. Price to better define a scope of work for the PPR Task Force. He also requested that members review all of the materials that have been provided in their binder before the next meeting and identify three areas of concern. For example, some areas that come to mind are a lack of a uniform contract and the need for improvements to the dispute rules.

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

Task Force members expressed their desire for there to be a link between the Procurement Innovation Project, with the suggestion that the Task Forces receive some kind of report. Additionally, a request was made to receive the names of the vendors sampled in the Disparity Study. Lastly, Task Force members asked to receive the Council meeting dates for the upcoming worksessions on the pending contracts and procurement bills, which are listed below.

Bill 14-14	Council Worksession, tbd
Bill 29-14	Council Worksession, tbd
Bill 40-14	GO Committee Worksession, March 12, 2015
Bill 48-14	GO Committee Worksession, March 19, 2015
Bill 49-14	GO Committee Worksession, March 12, 2015
Bill 61-14	GO Committee Worksession, March 19, 2015
Bill 5-15	Public Hearing, March 3, 2015, GO/HHS Committee Worksession, March 19, 2015
Bill 7-15	Public Hearing, February 24, 2015 and GO Committee Worksession, March 9, 2015

There were no comments from public meeting participants.

The meeting adjourned at 6:26 p.m.

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**AGENDA**  
**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

CALL TO ORDER AND APPROVAL OF MINUTES (4:00 P.M.)

OVERVIEW OF COUNTY PROCUREMENT PRACTICES (4:05 P.M.)

*Pam Jones, Chief, Department of General Services (DGS), Office of Procurement*

FUTURE MEETING PLANNING & DISCUSSION (5:10 P.M.)

GROUP DISCUSSION / PUBLIC COMMENT (5:25 P.M.)

ADJOURN (5:30 P.M.)

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., location tbd*

Thursday, March 19, 2015	Thursday, June 25, 2015
Thursday, April 2, 2015	Thursday, July 9, 2015
Thursday, April 16, 2015	Thursday, July 23, 2015
Thursday, April 30, 2015	Thursday, August 6, 2015
Thursday, May 14, 2015	Thursday, August 20, 2015
Thursday, May 28, 2015	Thursday, September 3, 2015
Thursday, June 11, 2015	

## **PROCUREMENT POLICES AND REGULATIONS TASK FORCE**

### **MEETING MINUTES**

March 12, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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#### ***Members Present***

Wayne Cobb	David Robbins, Chair
Tom Creamer	Daniel Parra
Eppie Hankins	Jan Zappold
Buddy Henley	
Linda Moore	

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

Marie Jean-Paul, County Council  
Pam Jones, Chief, Office of Procurement, DGS  
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 Robbins at 4:00 p.m. The minutes from the February 12, 2015 meeting were unanimously approved by all Task Force members present.

#### **II. Updates**

Chair Robbins recapped items transmitted through email due to snow delays. This included a Scope of Work prepared by County Staff and a straw poll of procurement issues and focus areas that were submitted by Task Force members. A memo grouping straw poll topics into major categories was distributed by Chair Robbins (Attachment 1). Mr. Robbins suggests the group review the straw poll areas at the start of each meeting to ensure they are on track.

#### **III. Overview of County Procurement Practices**

Ms. Jones presented an overview of the Office of Procurement and the County procurement process. Presentation topics included an overview of the Office of Procurement, including the Procurement Operations and Procurement Services sections, using departments, and a walk-through of the procurement process.

- Procurement Operations Section

- In FY14 there were \$930 million in procurements.
- There are 16 Procurement Specialists managing 2,000 contracts (around 159 contracts per Specialist).
- Procurement Staff review Maryland Public Information Act (MPIA) requests and protests, with around 100 requests each fiscal year.
- Procurement stakeholders include the Office of Procurement and the Office of Business Relations and Compliance (OBRC), businesses, using departments, the Office of Management and Budget, Division of Risk Management, and the County Attorney's Office.
- Compliance programs are embedded in the procurement process.

- Procurement Services Section
  - Responsibilities include budget, human resources, escrow deposits, scanning and archiving documents, training, tracking, national certifications, customer service for using departments, and implementation of topic specific contract administrator forums.
- Using Departments
  - Using departments have Contract Administrators (200+ Countywide) who determine projects and purchases in a given year, draft scope of work/specifications, review invoices, and process payments.
- Procurement Process
  - There are multiple procurement methods. Highlighted methods include Request for Proposal (RFP)/Invitation For Bid (IFB)/Informal's.
    - Dollar thresholds assigned to RFP/IFB above \$100,000
    - Informal Procurements are between \$10,000-\$100,000
  - The solicitation template is around 39 pages. Standard sections include Legal notices, Table of Contents, Scope of Services, Performance Period, Method of Award, Contract Administrator, Special Terms and Conditions.
  - Length of process and benchmark comparisons are indicated below starting from the completion of the solicitation by using department through execution of contract.

	IFB	RFP	Construction	Compliance Programs
Montgomery County	5 months	9 months	4 months	MFD, Living Wage, LSBRP
MD State Dept. of Transportation	6 months	9 months*	6 months	MFD, Living Wage, LSBRP
Fairfax County	3.5 months	7 months	No construction reported separately	No compliance programs
Anne Arundel	4 months	8-12 months	18 months	No compliance programs
Frederick County	3 months	4 months (partial year numbers)	No data	No compliance programs
M-NCPPC	Estimated 2 months	Estimated 4 months, depending on staffing and negotiations	No construction reported separately	No compliance programs

\* includes architecture/engineering, the expression of interest and inquiry phase takes 18-24 months

- The two periods of silence in procurement were discussed, including initial review of proposals and negotiation periods.
  - Workflow chart for procurement process was reviewed (Attachment 2).
  - Longhiest parts of the process include QSC review and contract development and negotiation.
- Question and Answer session – the following points were made or clarified following the Procurement Overview Presentation.



- Chair Robbins asked about moving the negotiation phase forward in the process and if any benchmarking had been completed to look at the location of the negotiation phase in the procurement process. Ms. Jones replied that negotiation could be done earlier in certain kinds of RFPs. She added that the negotiation phase was moved up in 2010 when the regulations were changed. Negotiation had been done after QSC review and public posting. These changes to the Procurement Regulations were included in the County Register for public comment and feedback was solicited from using departments. Ms. Jones added that COG, MPP, and NIGP support where the negotiation phase is currently located in the process.
- Ms. Jones clarified that it is highly encouraged that contractors submit their MFD subcontractor plans early in the process. However, the plan is not required with the proposal. Additionally, there is no penalty to businesses if they do complete this early in the process. Ms. Jones will check with OBRC to see if there is any data on how many offerors submit their plans early in the process.
- Ms. Moore asked if there have been any comments or concerns related to bid shopping. Ms. Jones has not heard of any issues of this nature, but will speak with OBRC.
- Ms. Jones addressed the issue of prompt payments and recommended that businesses under subcontracting plan call OBRC to look into issues with payments. Although there is no contractual relationship between the County and subcontractors, the County will investigate issues if they get a request.
- Ms. Jones clarified the process for contractors that are not meeting contract terms. Contractors would get a pre-cure notice or issuance of cure notice. If issues are not resolved the contract would be terminated, which would be considered for future contracts to see if there is a history of non-compliance. If compliance programs are violated, there would be an audit/investigation.
- Mr. Parra inquired on education and feedback opportunities for unsuccessful offerors and bidders. Debriefing opportunities are outlined in the unsuccessful offeror or bidder letters that are sent out.
- Mr. Cobb asked if a benchmark study had been done on Living Wage and MFD compliance programs, which could potentially increase what the County pays. Ms. Jones does not know of a formal study, but when legislation is introduced cost impacts are factored into the economic statement.
- Ms. Jones clarified that there are 2,000 active contracts, this number does not represent the number of new contracts each year. There is no statistic on lack of response for IFBs/RFPs. On average there are 3-4 responses on these solicitations.

#### **IV. Future Meeting Planning and Discussion**

The following discussion points were made:

- Chair Robbins opened the discussion by reiterating that the group examine what is currently not working in the process and concentrate on what can be fixed and opportunities for improvements.
- Chair Robbins suggested pairing listening and working sessions to begin to develop the Task Force report.

- The Task Force decided to postpone working on the report until they have had time to learn more about the County procurement process.
- Ms. Price will arrange appropriate using departments to speak at future meetings.
- The Task Force would also like to hear from businesses in future meetings.
- Chair Robbins encouraged Task Force members to talk to businesses and invite them to attend future meetings and participate in the discussions.
- Due to snow delays, the meeting schedule was adjusted with March 26 selected as the next meeting date.
- Ms. Price will let Task Force members know when Griffin & Strong discussion will take place with the Minority Owned and Local Small Business Task Force. This briefing is scheduled for April 1 at 5:30 p.m.

**V. Public Comment**

There were no comments from public meeting participants.

The meeting adjourned at 5:53 *p.m.*

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## Attachment 1

### MEMORANDUM

**TO:** Members, Procurement Policies and Regulations Task Force  
**FROM:** David Robbins, Chair  
**DATE:** March 12, 2015  
**SUBJECT:** Mission, Summary of Straw Poll, and Status of Effort

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Dear Task Force Colleagues,

Thank you for weathering the snow and for rearranging plans to meet today. And thank you for the work you have done to review the binder of County materials, and generate your initial "Straw Poll" of areas of concern. By this Memo I am asking your concurrence to summarize and keep track of our straw poll items of concern in County Procurement to make sure we handle these issues as a Task Force. Our Straw Poll choices are informed by our background reading of materials supplied by the County and the Scope of Work document delivered to us.

SUMMARY OF STRAW POLL ITEMS: Quickly grouping the straw poll responses, here are our concerns:

- Need for the County to follow rules for procurement, and perhaps better express those rules to avoid perception they're not being followed (5 related comments)
- Need for easier processes to welcome competition, this includes increasing small business opportunities and outreach needs (5 related comments)
- Concerns about restricting competition either overtly by inviting few to bid or indirectly through onerous procedures, including issues relating to micro/small purchase process, need for prompt payment to encourage small businesses, numbers of emergency procurements without competition, and general contract fairness (5 related comments)
- Need for adequate staffing, training and support for County staff to conduct their missions. procure effectively, and uniformly follow the rules (5 related comments)

Comments receiving one mention each:

- Concern about liquidated damages as penalties
- Questioning the benefit of social policy requirements if the beneficiaries live outside the County (e.g., health insurance requirements that end up ensuring residents of other Counties)
- Protest process concerns

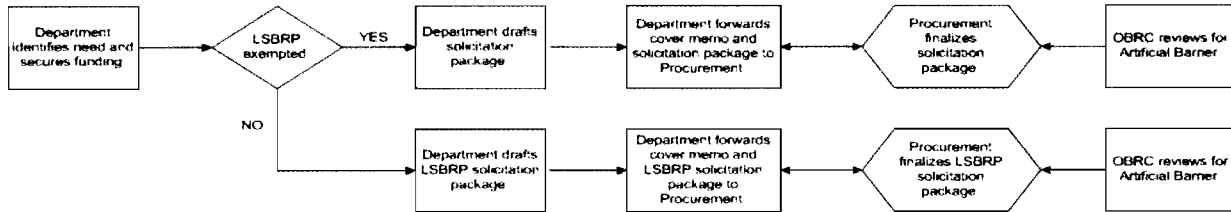
- “Verbal teaming agreement” concerns

Status of Effort: Today, we will hear from the County concerning how their processes work, and what their friction points are. Suggest we use our list, and items that arise today, to decide who we need to hear from in upcoming meetings to identify additional concerns, identify problems, and begin to fashion possible solutions in line with our Scope of Work.

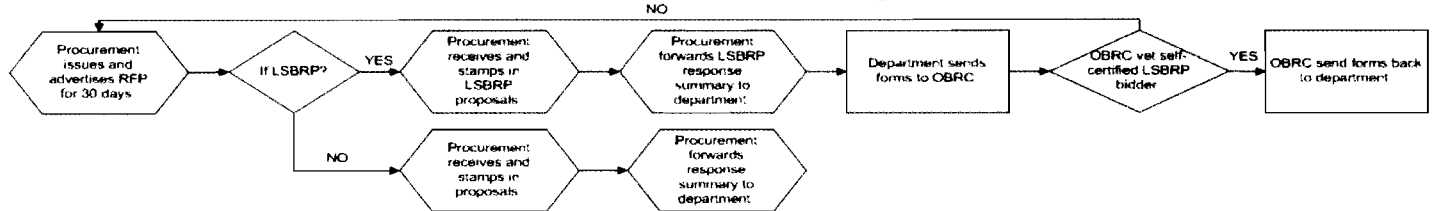
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## Attachment 2

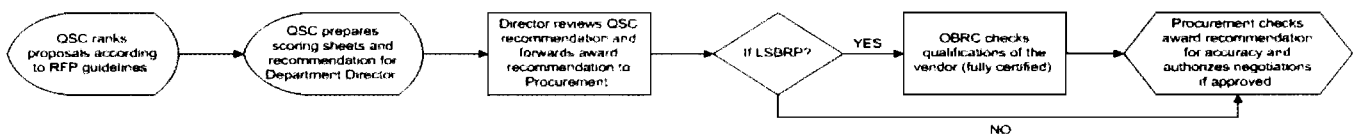
### Phase 1 – Solicitation Development



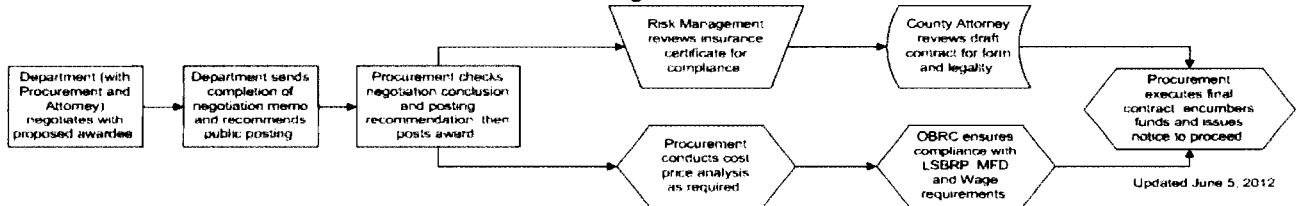
### Phase 2 – Solicitation and Advertising



### Phase 3 – Vendor Evaluation and Selection



### Phase 4 – Contract Negotiation and Execution



Updated June 5, 2012

**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

CALL TO ORDER AND APPROVAL OF MINUTES (4:00 P.M.)

PROCUREMENT INNOVATION PROJECT (4:05 P.M.)

*Dan Hoffman, Chief Innovation Officer, Procurement Innovation Project*

USING DEPARTMENTS PROCUREMENT DISCUSSION (4:20 P.M.)

*Stuart Venzke, Chief Operating Officer, Department of Health and Human Services*

GROUP DISCUSSION / PUBLIC COMMENT (5:15 P.M.)

ADJOURN (5:30 P.M.)

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., location tbd*

Thursday, April 9, 2015	Thursday, July 2, 2015
Thursday, April 23, 2015	Thursday, July 16, 2015
Thursday, May 7, 2015	Thursday, July 30, 2015
Thursday, May 21, 2015	Thursday, August 13, 2015
Thursday, June 4, 2015	Thursday, August 27, 2015
Thursday, June 18, 2015	Thursday, September 10, 2015

**PROCUREMENT POLICES AND REGULATIONS TASK FORCE**  
**MEETING MINUTES**

March 26, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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***Members Present***

Wayne Cobb  
Tom Creamer  
Eppie Hankins  
Buddy Henley  
Linda Moore

David Robbins, Chair  
Jan Zappold

***Member Absent***

Daniel Parra

***County Staff Present:***

Dan Hoffman, Chief Innovation Officer, Procurement Innovation Project  
Marie Jean-Paul, County Council  
Linda McMillan, County Council  
Mary Anne Paradise, County Council  
Linda Price, County Council  
Phil Royston, Department of Health and Human Services  
Stuart Venzke, Chief Operating Officer, Department of Health and Human Services

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

The meeting was called to order by Task Force Chair Robbins at 4:02 p.m. The minutes from the March 12, 2015, meeting were unanimously approved by all Task Force members present.

**II. Procurement Innovation Project (PIP)**

Mr. Hoffman presented an overview of the PIP. Topics covered included a background and overview of the project, review process, and the contract award status.

- Background

- Mr. Hoffman reviewed the County Executive's goals for the project, including reducing the time needed for the procurement process and utilizing more local small businesses for government contracts.
- Recently, the County Executive sent to the Council a reorganization plan to establish an Office of Procurement, separate from the Department of General Services, in order to allow more attention to be given to the procurement process.
- PIP will identify recommendations that will align with the new Procurement Office structure. Once PIP completes its review, Procurement may have a completely new office structure.

- Process

- A consultant will be brought in to work with an internal working group with the goal of developing a discreet series of recommendations. Mr. Hoffman indicated that the project is intended to be completed within four to five months and will receive input from the using departments, and that the goal is to balance concerns of vendors with the needs of the County departments to provide the best value for taxpayers.

- Award Status
  - He noted that nine to ten solicitations were received through the LSBRP. He hopes to make an award in the coming days.
  - Ms. Moore said the public's perception of the project must be considered throughout its duration. She noted the short notice period when the solicitation was released.

### **III. Discussion – Procurement Process for Using Departments**

Mr. Venzke, Chief Operating Officer and Phil Royston, Lead Contract Manager from the Department of Health and Human Services (HHS) participated in this initial discussion with County using departments.

To guide the discussion, HHS was asked to provide information on the following topics:

- Volume/Amount of contracts per year;
- Types of procurements (RFP/IFB/Informal/Non-Competitive);
- Length of time it generally takes from creation of solicitation through contract award;
- Any issues that have come up during the procurement process; and
- Areas for improvement.

After giving an overview of the programs and structure of HHS, Mr. Venzke spoke to the following points:

- HHS has 588 active contracts, 90 contracts are awarded through RFPs, 146 are non-competitive through the County Council, 127 are community grants, 130 are open contracts where the department publishes a rate, 8 are commodities based bridge contracts, 24 are grant-designated, 7 are IFB's, 13 informal contracts, and 30 contracts are with other public entities. Most of DHHS' contracts are awarded to non-profit organizations and many include an inflationary adjustment. The Department averages approximately 30 solicitations per year.
- Traditional RFPs take an average of eight months to a year to complete. DHHS is the largest single procurer in the County, and Mr. Venzke said it remains a paper-based process. Challenges to the process include vendor lock, and the department is working to expand the potential pool of vendors and to move toward outcomes-based contracts and to provide performance incentives. There is also a push to have contracts in place by the start of the new fiscal year on July 1. A significant amount of time is spent on contract monitoring, and eighty percent of contracts are for re-solicitations. The departments wants to balance the contracts and compensations models while allowing room for vendors' innovations.
- Mr. Venzke said the department conducts pre-proposal meetings with vendors and would like to see real competition for contracts. The department spends time with vendors prior to the RFP, and needs to be able to let vendors know when a large contract is forthcoming. This has been done through the use of vendor fairs and other means. Unsuccessful bidders can request feedback, and Ms. Moore noted that vendors can request a copy of the winning proposal. Mr. Cobb suggested that the scoring of individual proposals, or aggregate scores, be made available.



- Chair Robbins said the group would consider feedback challenges more in depth at a future meeting.
- Ms. Hankins suggested that end user department heads meet with new vendors. Mr. Venzke said this has not been done historically, and noted that the department is prohibited from meeting with vendors after issuance of the RFP.

#### **IV. Future Meeting Planning and Discussion**

The following discussion points were made:

- The Task Force agreed that it is premature to provide feedback about the County Council's pending procurement legislation and requested that the Council staff provide a specific list of questions for consideration.
- Ms. Moore noted that the amount of procurements \$10,000 and below is a large number. She would like to get more information on this and would like to know how big of a spending push is done at the end of the fiscal year.
- It was suggested that the Task Force revisit the straw poll of issues after the next meeting to sharpen the group's focus.
- It was expressed that many feel the County uses the RFP as an RFI to figure out its strategy.
- Ms. Price suggested it may be helpful to hear from a smaller County department that is an infrequent use of the procurement system. Speakers at the next meeting will be asked what they would change in the procurement system and for suggestions to increase the speed and transparency of the process.
- Ms. McMillan said the issues are the time it takes to complete formal solicitations, and the lack of departmental resources. She suggested the Task Force ask what might change outside the department and involvement from other County offices, such as the County Attorney. She indicated that a separate Office of Procurement is seen as favorable by the County Council and the County Executive.
- The next meeting on April 9, 2015, will continue discussions with County using departments. The Department of Transportation and the Department of Technology Services will participate in this meeting. Chair Robbins requested that a representative from the County Attorney's Office attend the next meeting or send an alternate.
- Ms. Price said a discussion with Griffin & Strong will be held on April 1, 2015, at 5:30 p.m. with the Minority Owned and Local Small Business Task Force.
- Ms. Price noted that there is an Internal Procurement Guide for use by departments and is scheduled to be updated.

#### **V. Public Comment**

There were no comments from public meeting participants.

The meeting adjourned at 5:32 p.m.

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**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

CALL TO ORDER AND APPROVAL OF MINUTES (4:00 P.M.)

DEPARTMENT OF ECONOMIC DEVELOPMENT INVOLVEMENT IN  
COUNTY PROCUREMENT (4:05 P.M.)

*Peter Bang, Chief Operating Officer, Department of Economic Development*

USING DEPARTMENTS PROCUREMENT DISCUSSION, CONTINUED (4:30 P.M.)

*Jim Osborne, Department of Technology Services*

*Jeff Knutsen, Department of Transportation*

GROUP DISCUSSION/PUBLIC COMMENT (5:15 P.M.)

ADJOURN (5:30 P.M.)

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, April 23, 2015

Thursday, May 7, 2015

Thursday, May 21, 2015

Thursday, June 4, 2015

Thursday, June 18, 2015

Thursday, July 2, 2015

Thursday, July 16, 2015

Thursday, July 30, 2015

Thursday, August 13, 2015

Thursday, August 27, 2015

Thursday, September 10, 2015

**PROCUREMENT POLICES AND REGULATIONS TASK FORCE**  
**MEETING MINUTES**

April 9, 2015 – 4:00 p.m.

*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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***Members Present***

Wayne Cobb  
Linda Moore  
David Robbins, Chair

***Members Absent***

Tom Creamer  
Eppie Hankins  
Buddy Henley  
Daniel Parra

***County Staff Present:***

Peter Bang, Department of Economic Development  
Jeff Knutsen, Department of Transportation  
Richard Melnick, County Attorney's Office  
Jim Osborne, Department of Technology Services  
Mary Anne Paradise, County Council  
Linda Price, County Council

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

The meeting commenced at 4:02 p.m. A quorum was not achieved with three of seven members present. The minutes of the March 26, 2015, meeting will be considered at the April 23, 2015, meeting.

**II. Department of Economic Development Involvement in County Procurement**

Mr. Peter Bang, Chief Operating Officer, DED, explained that the Department's mission is to retain existing businesses in the County and to attract new ones, market new programs, and educate the public about the County's assets. DED has a different perspective than other agencies because it operates as a government agency, but is also heavily involved as a resource to improve the experience for businesses.

- The County has 32,000 to 38,000 businesses with 29,000 private employers
- 252 businesses with over 200 people; 1323 businesses with over 50 people
- 21,062 businesses with 5 or fewer employees
- The department serves as a complaint line for businesses
- Government contracting not appropriate for all small businesses, given the requirements of certain contracts
- Hopes to establish a database of local businesses and government contracting opportunities
- DED helped create the Local Small Business Reserve Program for the County. The program was moved to Procurement in 2007

Mr. Bang also offered some personal observations on the County's procurement program and DED's experience as a using department.

- The County's Procurement Office is very understaffed; delays due to capacity issues, not legal review, unless the scope is unclear
- Some automation has helped decrease time, but additional manpower is needed as the process can't be fully automated

- Agencies should start the procurement process earlier. The Council passes the budget for the July 1 fiscal year start in May. However, departments submit their budgets the preceding November, which gives departments time to prepare for procurements.
- Need proper information in the procurement templates; limited categories cause difficulties
- DED tries to use different vendors for different occasions and regularly utilizes the LSBRP program

### **III. Using Departments Procurement Discussion: Department of Technology Services (DTS) and Department of Transportation (DOT)**

To guide the discussion, DTS and DOT were asked to provide information on the following topics:

- Department background;
- Volume/Amount of contracts per year;
- Types of procurements (RFP/IFB/Informal/Non-Competitive);
- Length of time it generally takes from creation of solicitation through contract award;
- Any issues that have come up during the procurement process;
- What in the procurement process takes the most time or holds up the process;
- What are some areas of improvement or changes you'd make within your department to improve the procurement process; and
- What are some areas of improvement or changes that you'd make with the parties involved in the procurement process (OMB, Procurement, County Attorney, businesses, etc.)?

Mr. Osborne, Contract Manager for the Department of Technology Services, is responsible for procuring the County's core IT systems, radio systems, desktop computers, software, etc. DTS' focus is the County as an enterprise. DTS has 60-100 contracts actively maintained, \$54 million annually. Mr. Osborne also spoke to the following points:

- Procurement system not automated. The current system is not user friendly, and discourages vendors. There is a need to develop a good e-procurement system.
- DTS has standing contracts, which have saved money and time. One contract is the MCCATS. MCCATS stands for Montgomery County Consulting and Technical Services, which are sets of processes and procedures for Montgomery County, Maryland through the Department of Technology Services (DTS) to procure IT consulting and technical services for the County on an as needed basis. This helps ensure a quick procurement process using a pre-qualified list of 10 vendors. There is an 8-11 day turnaround with \$20 million in MCAT contracts annually.
- LCATS for local businesses forthcoming – 27 businesses applied for IT work
- With Office of Procurement contract processing time can take anywhere from 8-12 months
- Risk mitigated by doing vendor qualifications up front
- Growing local businesses is a benefit to the County, want to have LSBRPs in the pre-qualified pool

- Understaffing of procurement office an issue; need to re-engineer the procurement process to be more agile
- Procurement is down 33% of manpower, it took around 6 years to fully train Procurement Specialist and now the department has only been hiring interns, which hasn't helped retention
- Only the Procurement Office can issue purchase orders, which has been taking 30-40 days. Procurement process can be improved by not limiting the requisition of purchase orders to the procurement office – give more local authority to the using departments
- In DTS there used to be 4 contract administrator, but there is now only Mr. Osborne
- Compliance programs and legislation on procurement process are delaying the process. The regulations also increase overhead for contractors
- Use of an incremental contract (task-based) approach would help the process

Mr. Jeff Knutsen, DOT Highway Services Contract Administrator, said the County is responsible for maintaining over 5,000 miles of roadway. Work is weather-impacted – snow, paving, leaf removal. The department has around 105 contracts; with \$35 million in the Capital Improvements budget. There are 65 open solicitation contacts every two years and 40 IFBs annually (salt for roads, pipes, asphalt). There are 17 construction contracts. His office completes two informal solicitation each year. Mr. Knutsen also spoke to the following points:

- IFBs for construction can take around 6-7 months, while material procurements take around 3-4 months
- RFPs can take up to a year to complete
- Procurement has been very helpful with emergency weather event procurements
- Helping contractors maintain COI's has been an issue, but there is a new system in place to help track insurance expirations
- Contracts go through Office of Management and Budget (OMB) exemption process
- Departments are now doing Requests for Expressions of Interest, which can done in parallel with RFP process
- Processing time could be reduced by rating vendors in parallel with the RFP
- Procurement office is understaffed; unable to keep good, well-trained staff
- There are only 2 team leaders, which creates a delay in getting solicitations reviewed
- DOT has a lot of multi-vendor contracts; bond requirements must be met, specs are complicated; difficult to do bridge contracts with the State
- MFD requirements are reviewed to determine if appropriate for the type of solicitation; wage review adds time to process; review process take the most time
- Procurement staff should have two computer monitors to increase efficiency

#### **IV. Future Meeting Planning**

- Chair Robbins requested that the County Attorney's Office discuss its procurement process.
- The Task Force should focus on talking to businesses outside the County.

- Ms. Price noted that the Office of Procurement budget will be considered by the Council's Government Operation and Fiscal Policy (GO) Committee on April 28 at 2:00 p.m.

The meeting adjourned at 5:39 p.m.

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**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

CALL TO ORDER AND APPROVAL OF MARCH 26 AND APRIL 9 MINUTES (4:00 P.M.)

PROCUREMENT PROCESS AND COUNTY ATTORNEY'S OFFICE (4:05 P.M.)

*Richard Melnick, Office of the County Attorney*

TASK FORCE WORKSESSION (4:35 P.M.)

GROUP DISCUSSION/PUBLIC COMMENT (5:20 P.M.)

ADJOURN (5:30 P.M.)

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, May 7, 2015

Thursday, May 21, 2015

Thursday, June 4, 2015

Thursday, June 18, 2015

Thursday, July 2, 2015

Thursday, July 16, 2015

Thursday, July 30, 2015

Thursday, August 13, 2015

Thursday, August 27, 2015

Thursday, September 10, 2015

## PROCUREMENT POLICES AND REGULATIONS TASK FORCE

### MEETING MINUTES

April 23, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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#### ***Members Present***

Wayne Cobb  
Eppie Hankins  
Daniel Parra  
David Robbins, Chair

#### ***Members Absent***

Tom Creamer  
Buddy Henley  
Linda Moore

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

Karen Federman-Henry, County Attorney's Office  
Richard Melnick, County Attorney's Office  
Mary Anne Paradise, County Council  
Linda Price, County Council

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### **I. Call to Order**

The meeting was called to order 4:05 p.m.

### **II. Procurement Process and the Office of the County Attorney**

Mr. Melnick and Ms. Federman-Henry presented an overview of the role of the Office of the County Attorney (OCA) in the procurement process, and Chapter 11B regarding Procurement Law.

- Contracts over \$100,000 must have formal competition
- The Chief Administrative Officer is responsible for leading the business of the County.
- The Office of Procurement is now its own office, separate from the Department of General Services. The Department of Finance, Risk Management, and the Office of Management and Budget are involved in the procurement process.
- Contract sign offs are a four-step process, starting with the head of the using department and ending with the Director of DGS.
- Within the County Attorney's Office, 2 paralegals do preliminary intake and review of contract documents. An attorney reviews documents for form and legality of the contract. Six attorneys within the Office handle the bulk of contracts. Using departments are notified of any issues to be resolved.
- The Office has an internal checklist of common issues that come up during the negotiation process, and there is an e-contract resource center available on the County's intranet; preapproved forms have been created by OCA and Procurement for use by departments that do not have to be submitted back to the Office.
- Using departments must develop the contract's scope of work. There is no boilerplate template for this.
- The Office has a goal of 0 – 3 business days for internal review of documents. Instances where review has taken longer than 3 business days include documents



that have been sent back to the using department to address issues, or the assigned attorney is out of the office.

- The office doesn't generally review solicitations. This is only done upon request.
- Contracts include the scope of work, compensation, method of payment, priority of documents provision. Sometimes a price adjustment clause is included. A waiver from the CAO is required for price adjustments. Certain construction contracts include performance and payment bond terms, acceptance and testing clauses, and software development agreements. Software contracts include source code escrow agreements and Y2K provisions.
- The County Attorney's Office serves in an advisory function to using departments and the Contract Review Committee, and addresses issues brought forth by contract administrators or the Office of Procurement.
- OCA also assist with public policy legislation, respond to protests and MPIA requests, draft letters for pre-cure and cure notices, and advise on legal and regulatory provisions.
- The Contract Review Committee includes a representative from the Chief Administrative Officer's Office, Office of Management and Budget, the Office of Procurement and the County Attorney's serve as an advisor.
- Question and Answer session: *The following points were made or clarified following the presentation:*
  - Mr. Parra noted that forms for LSBRP on the internet have not been updated, and discourage small business owners. OCA will follow-up with the Office of Business Relations and Compliance about the forms. Mr. Parra also asked if the Office receives many solicitation protests – not many, was the answer provided by Ms. Federman-Henry. She also noted that the economy has usually driven the amount of protests.
  - Mr. Cobb questioned what is the correct way to measure the turnaround time of documents. Ms. Federman-Henry clarified that the turnaround time is for reviewing the form and legality of documents. The larger contracts can take longer than 3 days, and depend on the experience and expertise of the using department. It's hard to measure the length of time to review negotiation items as there are many stakeholders involved.
  - The County Attorney's Office will get involved if asked to help with vendors' questions.
  - Chair Robbins asked how the County knows the process is working. Mr. Melnick commented that the Office of Procurement staff has varying degrees of expertise and experience, and there is a significant learning curve for new employees. Also, the Contract Administrators in using departments usually perform this role in an 'other duties as assigned' capacity, which limits the amount of accountability. However, using departments should ask Procurement if they need help in developing contracts. He also noted issues outside of the County's control, such as State laws adding layers to the process. Also, new practices and patterns are constantly introduced and the technology hasn't quite caught up to those needs.
  - Mr. Parra said that contracts seem to go to the same business owners and questioned how others might succeed. Mr. Robbins noted the need for

increased transparency and suggested a questionnaire or outreach to Chambers of Commerce, and recommended have a metric to validate that the system is working.

- Ms. Hankins asked who ensures the proposal meets solicitation criteria. Mr. Melnick said the Quality Selection Committee reviews the contracts.
- Mr. Robbins expressed the view that the odds are stacked against potential contractors if a protest is filed.

### **III. Group Discussion/Future Meeting Plans**

- Mr. Robbins mentioned the discussion had with County Executive Leggett. He shared Mr. Leggett's desire that the Task Force cast a broad net.
- Mr. Robbins suggested the group review the minutes and revise their top 3 straw poll issues.
- Ms. Price will invite the Office of Business Relations to attend a future meeting and give a presentation on their office.
- A press release will be issued directing the public to complete a questionnaire accessible from the Task Force's website. A special inbox will be created for the responses.
- It was mentioned that the Task Force could also leverage DED's business database for questionnaire outreach.

### **IV. Approval of Minutes**

The minutes of March 26 and April 9, 2015, were unanimously approved by all Task Force members present.

The meeting adjourned at 5:28 p.m.

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**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

CALL TO ORDER AND APPROVAL MINUTES (4:00 P.M.)

TASK FORCE WORKSESSION (4:05 P.M.)

PUBLIC COMMENT (5:20 P.M.)

ADJOURN (5:30 P.M.)

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, May 21, 2015

Thursday, June 4, 2015

Thursday, June 18, 2015

Thursday, July 2, 2015

Thursday, July 16, 2015

Thursday, July 30, 2015

Thursday, August 13, 2015

Thursday, August 27, 2015

Thursday, September 10, 2015

## **PROCUREMENT POLICES AND REGULATIONS TASK FORCE**

### **MEETING MINUTES**

May 7, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

#### ***Members Present***

Tom Creamer  
Wayne Cobb  
Eppie Hankins  
Buddy Henley  
Linda Moore  
David Robbins, Chair

#### ***Members Absent***

Daniel Parra

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

Linda Price, County Council  
Mary Anne Paradise, County Council  
Richard Melnick, Office of the County Attorney

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

The meeting was called to order at 4:05 p.m. with a quorum of members present. The minutes of the April 23, 2015, meeting were unanimously approved by all Task Force members present.

### **II. Task Force Worksession**

- In preparation for this meeting Chair Robbins asked Task Force members to:
  - a) Review the minutes of past task force meetings and come up with three ideas for potential findings/recommendations for our report; and
  - b) Identify three interest groups/people/communities from which we should solicit input as we begin to search beyond the county government for input?
  - c) Members offered their issues of concern regarding the County's procurement process, which included the following:
    - Perception issue that the procurement system is broken
    - System needs to be streamlined, because additional staffing is unlikely
    - Process should be electronic and less paper-based
    - The procurement process takes too long, need to increase resources or streamline the process, possibly by raising the dollar thresholds
    - Compliance programs are hurting for small businesses, ie. Liquidated damages
    - Number of non-competitive contracts and waivers
    - Companies are not required to submit an MFD plan
    - Too many types of contracts; consolidate the number
    - Monitoring and compliance of contracts
    - No review of solicitations; cost barriers to participation
    - Clear objectives are needed
    - Training for departments regarding procurement processes
    - Large amount of informal contracts and p-card purchases; better tracking is needed as the process is not transparent
    - Needs IT automation improvement and increased use of online vehicles

- Mr. Melnick clarified that with the creation of the Office of Procurement, it is no longer part of the Department of General Services (DGS) – DGS does not have the final signoff on procurement contracts. Risk Management determines the County’s level of exposure and insurance requirements. Faribi Kassiri is the Acting Director for the Office of Procurement. Ms. Price noted that there is Procurement Innovation Project underway; Mr. Creamer expressed the view that while top management may change, the lower level workers remain the same and significant change is unlikely.
- Ms. Hankins commented on barriers to entry, and suggested that the MFD Program Manager Alvin Boss attend the next session. She noted that Prince George’s County has implemented a new program, and suggested it may be beneficial to hear from them. Ms. Price said that she would be comparing MFD programs in Atlanta, Baltimore, and Memphis, and would share the information. She indicated that Grace Denno, who manages all compliance programs would attend the next meeting.
- Mr. Robbins suggested a short questionnaire be developed to gather information from contractors. Members suggested possible questions, subject to further wordsmithing. The best way to distribute the survey was discussed. Ms. Price said she would ask Grace Denno for her list of vendors, and would follow up with the Department of Economic Development. Agreed to be as broad as possible and to attempt to reach people unlikely to be listed in databases, through use of a press release and chambers of commerce.

**The following questions were selected to be included in the procurement survey:**

1. Are you a current Montgomery County contractor? Yes/No response  
IF YES
2. How many solicitations did you participate in before obtaining a contract? Text box response
3. What is working with the county procurement process? Text box response
4. What is not working with the county procurement process? Text box response  
Go to common questions  
IF NO
5. Have you participated in any county procurement solicitations? Yes/No response  
IF NO
6. Select each of the reasons that you feel have prevented you from participating in any county solicitations: (check box responses)  

Process too complicated	No opportunities in service area
Lack of information	Bond/insurance requirements
Other _____	
7. Do you think your bid was handled fairly? Yes/No response  
IF YES: Go to common questions  
IF NO
8. How do you think the process was unfair? (Text box response or check boxes????)
9. How could the process be improved? Text box response

**Common Questions (for all participants)**

10. On a scale of 1-5 (with 1 being lowest and 5 being highest) how relevant to the bid decision are *(reduced from scale of 10)*:

Length of solicitation period	1	2	3	4	5
Insurance requirements	1	2	3	4	5
Time to obtain signed contract	1	2	3	4	5
Compliance Set-Aside requirements	1	2	3	4	5
Perception of fairness in process	1	2	3	4	5
Possible return on investment of solicitation	1	2	3	4	5

11. Resources are available to help me be competitive in the county bid process. Yes/No response

**Demographic Questions (for all participants)**

12. How many employees in your company? Text box response  
13. Approximate annual sales? Text box response  
14. Type of company (consulting, construction, sales, etc)? Text box response  
15. Is your company location within Montgomery County? Yes/No response  
16. In what other jurisdictions are you doing contract work? (check box responses)
- |                       |                      |
|-----------------------|----------------------|
| Prince Georges County | Frederick County     |
| Howard County         | Baltimore County     |
| State of Maryland     | District of Columbia |
| Fairfax County        | Loudoun County       |
| Arlington County      | State of Virginia    |
| None                  | Other _____          |

- Ms. Price will determine if \$300 is available to conduct the survey via Survey Monkey, and how best to most broadly distribute the survey to local businesses.
- Additionally, Ms. Price will explore other contacts and avenues to best distribute the survey to a broad audience.
- Mr. Robbins will contact the Montgomery County Chamber of Commerce to request that the Task Force survey be available at their event on Friday, May 15.
- Ms. Price will request written information of bond and insurance requirements from the Department of Finance, Risk Management Division to disseminate to Task Force members. If follow-up is needed, Ms. Price will request that a Division representative brief the Task Force.
- Mr. Creamer will send a written draft of the survey questions to Ms. Price.

The meeting adjourned at 5:45 p.m.

**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

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CALL TO ORDER AND APPROVAL MINUTES (4:00 P.M.)

OFFICE OF BUSINESS RELATIONS AND COMPLIANCE (4:05 P.M.)

TASK FORCE SURVEY REVIEW AND WORKSESSION (4:50 P.M.)

PUBLIC COMMENT (5:25 P.M.)

ADJOURN (5:30 P.M.)

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, June 4, 2015

Thursday, June 18, 2015

Thursday, July 2, 2015

Thursday, July 16, 2015

Thursday, July 30, 2015

Thursday, August 13, 2015

Thursday, August 27, 2015

Thursday, September 10, 2015

## PROCUREMENT POLICES AND REGULATIONS TASK FORCE

### MEETING MINUTES

May 21, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

#### ***Members Present***

Tom Creamer  
Eppie Hankins  
Buddy Henley  
Linda Moore  
David Robbins, Chair

#### ***Members Absent***

Wayne Cobb  
Daniel Parra

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

Alvin Boss, Office of Business Relations and Compliance  
Grace Denno, Office of Business Relations and Compliance  
Richard Melnick, County Attorney's Office  
Linda Price, County Council  
Mary Anne Paradise, County Council

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

The meeting was called to order at 4:14 p.m. with a quorum of members present. The minutes of the May 7, 2015, meeting were unanimously approved by all Task Force members present.

### **II. Presentation from Office of Business Relations and Compliance**

Ms. Denno said the Office is responsible to ensure that compliance laws and regulations are followed during the procurement process. She presented an overview of the procurement process, and efforts undertaken to increase utilization of companies registered in the Local Small Business Reserve (LSBRP) or Minority, Female and Disabled Persons (MFD) program. The County has approximately 400 contracts under the Living Wage Law program, mostly service contracts. Contracts under the Prevailing Wage Law program must report to the Office every pay period, and Ms. Denno noted that prevailing wages are posted on the State's website.

Mr. Boss, MFD Program Specialist, said the County can do better with respect to improving utilization of MFD companies, and that more education is needed, both internally and externally, to improve the process. He works with prime contractors to ensure good faith accountability. Mr. Boss expressed the view that set asides should be established and incentives should be provided to reach goals.

Ms. Denno indicated businesses have expressed the view that the County procurement process should be less onerous than the Federal government's process. The amount of paperwork involved depends on the size of the contract. Contracts valued at over \$100,000 are formal solicitations. She said there has not been any discussion concerning whether businesses would self-certify compliance with regulations, with a punishment for failure, or the County would verify compliance at the front end. Ms. Denno noted that the Office receives good support from the County Attorney's Office. Mr. Robbins noted



that some of the up-front checks are time consuming. He questioned the possibility of removing some of the checks from the front-end of the process, but have more self-certifying and penalizing businesses that have been dishonest. A question was posed on whether enforcement mechanisms are adequate.

Mr. Henley commented that small subcontracting companies get discouraged from participating because of possible fines, and that many do not understand the procurement process and the paperwork involved. Ms. Denno pointed out that penalties for noncompliance apply only to prime contractors, and it is up to them how to assist their subcontractors. Mr. Melnick said enforcement efforts concerning violations are complaint driven. Mr. Henley also asked if MFD forms were entirely a paper process. The Department will soon be piloting a PRISM software to automate part of this process.

Mr. Boss commented that it is important for MFD companies to be certified, that it establishes them as at least 51% minority owned and that services are verified. It is up to the prime vendor to determine their liability, and that minority vendors will have access to prime vendors. He noted that the County needs stronger rules and regulations around the program and noted that reporting is very critical to the program.

Regarding small, informal solicitations, Ms. Denno said all are posted on the County's website, and that those below \$10,000 are not subject to the procurement process. Vendors need to know about these solicitations and available resources to provide assistance.

Ms. Moore asked about Bill 40-14 Apprenticeship Training's impact on small business. According to Ms. Denno there are 330 State apprenticeship programs. She does not believe the 25 cent fee will necessarily burden businesses. The charge comes out of employee pay and not the business owners. The Department of Labor aspect of this bill still needs to be worked out with the Council.

### **III. Task Force Survey Review and Worksession**

The members reviewed the draft survey and made a few edits to the survey. The Task Force agreed that the survey should be made available on the website as soon as possible. A press release will be issued when the survey is ready and businesses will be encouraged to participate. Survey responses will be collected through July.

The Task Force agreed not to hold a meeting on June 4, but will meet next on June 18. Members should report back via email who they shared the survey with.

The meeting adjourned at 6:04 p.m.

# *Welcome!*

## **Office of Procurement**

**Fariba Kassiri**  
*Acting Director*



## **Office of Business Relations and Compliance**

**Grace Denno**  
*Manager*

**MONTGOMERY COUNTY'S Contracting Opportunities  
for Minority, Small, Local Businesses**



MONTGOMERY COUNTY'S  
**Office of Business Relations and Compliance**

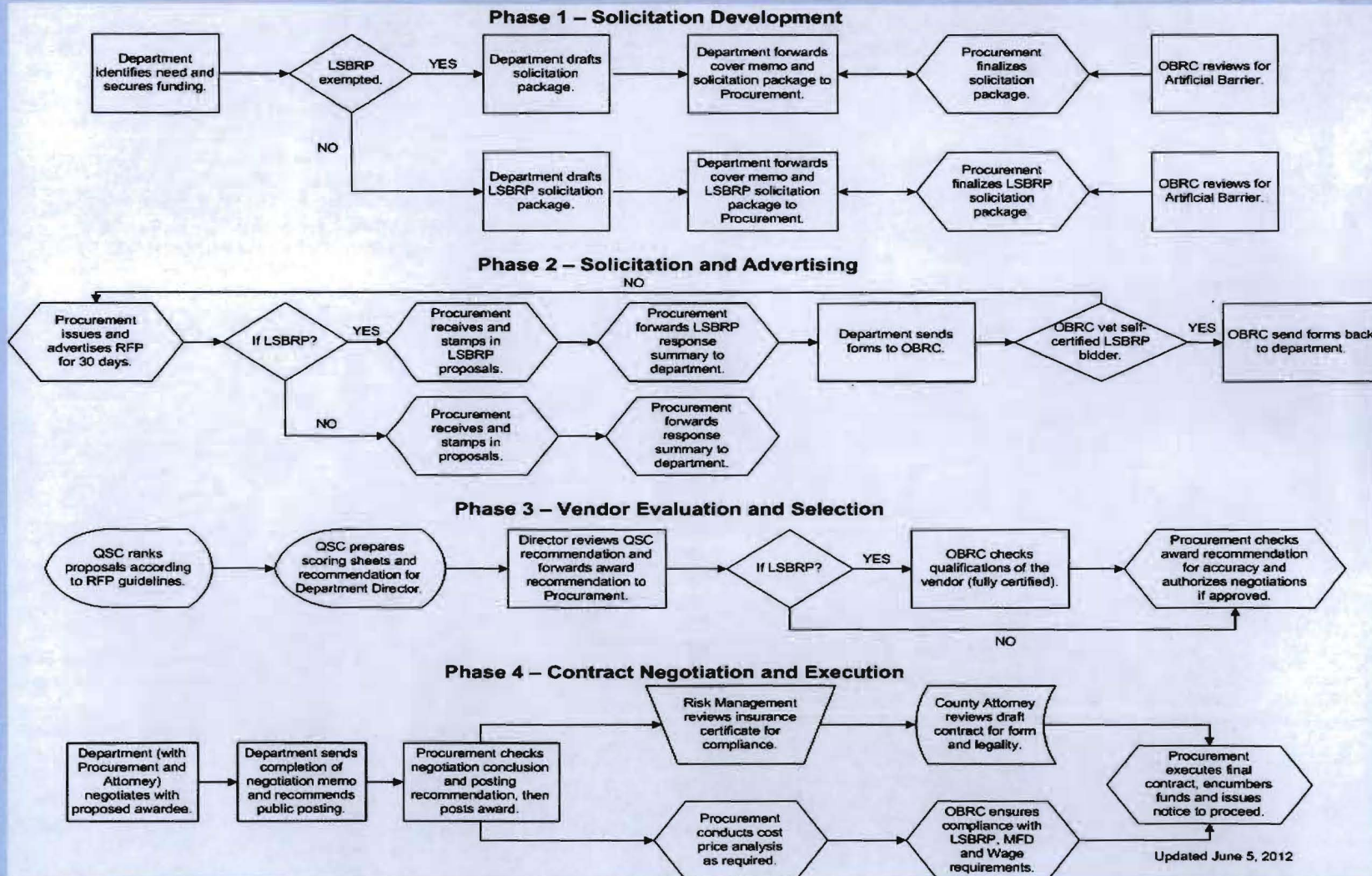
**KEY RESPONSIBILITIES: Compliance Laws and Regs**

- **Minority, Female and Disabled (MFD) Owned Business Program** – Bills 42-14 (passed), 48-14 (passed)
- **Local Small Business Reserve Program (LSBRP)**
- **Wage Requirements (Living Wage) Law**
  - Bills 14-14 (passed), 29-14 (passed), 5-15 (pending)
- **Prevailing Wage Law --** Bill 40-14 (pending)
- **Equal Benefits Law -- Repealed**
- **Business Relations and Outreach**
- **Other Bills on Local Businesses**
  - 49-14 (passed), 61-14 (pending)



# MONTGOMERY COUNTY'S Office of Business Relations and Compliance

## Procurement Process





# MONTGOMERY COUNTY'S Office of Business Relations and Compliance

## DIRECTORY OF LSBRP and MFD VENDORS

MONTGOMERY COUNTY Maryland		Central Vendor Registration System				
		February 26, 2013				
		Search For <b>Local Small Business</b> with (/c=918-20,918-21,918-75,918-76) [EXPORT to Excel] { LSBRP - <b>S</b> = <b>Self Certified</b> / <b>F</b> = <b>Fully Certified by MCG DGS-OBRC</b> } { MFD - Certified as Minority, Female, Disabled Owned Business by <b>agency</b> - confirmed by MCG DGS-OBRC }:				
VENDORS		21 to 30 of 136 Previous -- Next				
LOG ON		LSBRP	MFD	Company Name	Contact/Address	Phone/Email
REGISTER						Commodities/Services
LOG OFF						
SEARCH						
SOLICITATION LISTINGS						
CONTACTS						
FAQs						
AGENCY						
NEED HELP? CLICK TO CHAT NOW						
		S (09/20/2010)		Business Matters Etc (BME)	Rina Russ 1 Research Ct Ste 450 Rockville, MD, 20850	(301) 529-3668 <a href="mailto:rruss@businessmattersetc.com">rruss@businessmattersetc.com</a>
						Ammonia and Other Chemicals, Household (Plain or S Applicators, Floor Finish Types (Except Brush Disinfectants, Spray and Powdered, Environment (more...)
		S (02/09/2012)	MDOT,MSDC	Business Promotion Consultants Inc	Norma Byrd 8730 Georgia Ave Ste 312 Silver Spring, MD, 20910	(301) 589-0942 <a href="mailto:normabyrd@bpci.com">normabyrd@bpci.com</a>
						Meter Boxes, Meter Valves and Valve Boxes (See 2 Meters, Water Meter Fittings, Water, Accessories, Parts, and Con (more...)
		S (01/31/2012)	MDOT,SBA8a	Business-Community Synergies	A Rani Parker 104 Elm Avenue Takoma Park, MD, 20912	(301) 270-2241 <a href="mailto:rparker@bcsynergies.com">rparker@bcsynergies.com</a>
						Anthropology Consulting Communications: Public Relations Consulting Community Development Consulting (more...)
		S (07/19/2010)	MDOT	Clark Concepts LLC	Pamela Clark 155 Gibbs St Ste 531 Rockville, MD, 20850	(301) 340-7445 <a href="mailto:pam@clarkconcepts.com">pam@clarkconcepts.com</a>
						Souvenirs: Promotional Advertising, etc. Signage, Advertising Types (Interior and Exterior) Advertising Agency Services (more...)
		S (10/11/2011)		Clavis LLC	Valerie Navolio 5500 Roosevelt St Bethesda, MD, 20817	(301) 922-6860 <a href="mailto:vnavolio@clavis.us">vnavolio@clavis.us</a>
						Prisoner Tracking Device Electronic (Wrist and L Monitoring Services: Parolee, Patient, Convict Management Consulting (more...)



# MONTGOMERY COUNTY'S Office of Business Relations and Compliance

RESIDENTS	GOVERNMENT	BUSINESSES	CULTURE & LEISURE
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## OFFICE OF PROCUREMENT - CONTRACT LOG

[Procurement](#)
[Public Information](#)
[Services](#)

[Home](#) | [Awardees](#) | [Bill 3-04](#) | [Bid Tabulations](#) | [Contracts](#) | [County Council Awards](#) | [Open Solicitations](#) | [Pending Solicitations](#) | [Projects](#)

### VIEW THE CONTRACT LOG [HELP](#)

The form below consists of the contract database fields on which you may search and return contracting information and publicly releasable portions of documents. You may search using one or more fields and your search can include partial or complete information within a field. All contracting documents may not be available for download at this time. A weekly maintenance is performed every Monday afternoon between 5:00pm and 7:00pm. During this time, you may perform searching functions but will not be able to download actual documents.

All available contracting documents are compressed and in PDF format. You will need a decompression utility (i.e., Winzip, Stuffit, 7-Zip) and [Adobe Reader](#) in order to view all documents.

Contract Number:   
 Description:   
 Vendor:   
 Contract Type:   
 Department:   
 Expiration (mm/dd/yyyy): between  and   
 Extension (mm/dd/yyyy): between  and

Record(s) found: 52 [Click on the Contract Number for detail](#)

Page 1 of 6 [Previous](#) [Next](#)

☞ - Indicate there are documents available for downloading.

Contract Number	Description	Vendor	Department
<a href="#">9802000105AA</a> ☞	Consulting Services for Green Business Certification Program	GHD INC	Department of Environmental Protection
<a href="#">9801000126AA</a>	Water Quality and Watershed Consulting Services	CH2M HILL	Department of Environmental Protection
<a href="#">9505503008CC</a> ☞	Parking Operations Consulting Services	WISS JANNEY ELSTNER ASSOC	Department of Transportation
<a href="#">9505503008BC</a> ☞	Parking Operations Consulting Services	CARL WALKER INC	Department of

RESIDENTS	GOVERNMENT	BUSINESSES	CULTURE & LEISURE
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## OFFICE OF PROCUREMENT - CONTRACT LOG

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[Home](#) | [Awardees](#) | [Bill 3-04](#) | [Bid Tabulations](#) | [Contracts](#) | [County Council Awards](#) | [Open Solicitations](#) | [Pending Solicitations](#) | [Projects](#)

### VIEW THE CONTRACT LOG [HELP](#) [PRINT](#)

Contract: 9331000349AA

Description: Labor/Economic Consulting Services in Support of Collective Bargaining

Expiration: 8/2/2012

Extension: 8/2/2012

Insurance Expiration: 11/30/2011

Bond Expiration: 1/1/9999

Contract Execution: 7/29/2009

Vendor

Public Financial Management, Inc  
Two Logan Square, 18th and Arch Street, Suite 1600  
Philadelphia PA 19103-2770

Contact: Michael Nadol

Phone: 2155676100

Fax: 2155674180

Buyer: [Hudson, Janique](#)

Phone: 240 777 9954

Fax: 240 777 9952

Department: Office of Human Resources

Administrator: Jenna Shovlin

Phone: 2407775039

Available Contract Documents

Select at least one contract document from below option(s). Click [here](#) for instructions on how to uncompress and view your documents

☐ CONTRACT
 ☐ SOLICITATION



# Opportunities for MFD Businesses



MONTGOMERY COUNTY'S  
**Minority, Female, Disabled Persons Program**



## Minority, Female and Disabled Persons (MFD) Program Certifications

Agency	Program	Description
<b>Maryland Department of Transportation</b>	Minority Business Enterprise	MDOT Directory of Certified MBE and/or DBE firms (MDOT-MBE)
<b>Virginia Department of Small, Women and Minority Owned Business Program</b>	Small Woman and Minority	Directory of Certified firms (SWAM)
<b>Federal Small Business Administration</b>	8(a) Program	Directory of Certified 8a firms (SBA)-8a
<b>Women's Business Enterprise National Council</b>	Women's Business Enterprise	Women's Business Enterprise (WBENC)
<b>Maryland/District of Columbia Minority Supplier Development Council</b>	Minority Business Enterprise	Minority Business Enterprise (MSDC)
<b>City of Baltimore</b>	Minority and Women's Business Opportunity Office	Minority and Women's Business Opportunity Office (MWBOO)



## 2013 MFD Disparity Study Findings

<b>Purchasing Categories</b>	<b>Availability</b>	<b>2014 Utilization</b>	<b>2013 Utilization</b>
<b>Construction</b>	<b>27%</b>	<b>22.84%</b>	<b>32.69%</b>
<b>Professional Services</b>	<b>18%</b>	<b>12.86%</b>	<b>12.07%</b>
<b>Non-Professional Services</b>	<b>25%</b>	<b>31.01%</b>	<b>28.85%</b>
<b>Goods</b>	<b>14%</b>	<b>14.01%</b>	<b>15.52%</b>

**Each Category also breaks down into 6 groups:**

- African American
- Hispanic American
- Asian American
- Native American
- Female
- Person with Disability



# MONTGOMERY COUNTY'S Minority, Female and Disabled Persons (MFD) Program

## INFORMATION AND NETWORKING OPPORTUNITIES



### Prime-Sub contractors Meet and Greet for Silver Spring Library Construction

**When:** Wednesday, July 25th 2pm - 4pm

**Where:** Lobby Auditorium, Executive Building, 101 Monroe St. Rockville, MD

**Audience:** MFD vendors (Minority, Female, Disabled persons owned businesses)

Potential Prime Contractors who will be presenting:

- The Donohoe Companies, Inc.
- Clark Construction Group, LLC
- Costello Construction
- Hess Construction & Engineering Services, Inc.
- Morgan-Keller, Inc.
- Dustin Construction, Inc.
- Coakley & Williams Construction, Inc.
- Grunley Construction Co.

Other presenting departments/agencies:

- Division of Building Design and Construction, DGS
- Office of Special Projects, DGS
- Office of Planning & Development, DGS
- Division of Transportation Engineering, DOT
- Montgomery County Public School
- Montgomery College
- Housing Opportunity Commission
- WSSC
- MNCPPC

Office of Business Relations and Compliance  
Department of General Services



### Local and Minority Vendor Meet and Greet

**When:** Wednesday, October 30<sup>th</sup>, 2013 2-4 pm

**Where:** Great Hall, Silver Spring Civic Build,  
1 Veterans Place, Silver Spring, MD 20910

**Registration:** No registration required. The event is free.

**Projects:** Dennis Avenue Health Center  
Colesville Maintenance Depot Addition and Renovation

Presenting Prime Contractors:	Presenting County Agencies/Departments:
Coakley & Williams Construction, Inc.	DGS Building Design & Construction
Dustin Construction, Inc.	DGS Office of Special Projects
Keller Brothers, Inc.	DGS Office of Planning & Development
W.M. Schlosser	DGS Office of Business Relations & Compliance
Tech Contracting Co., Inc.	DGS Facility Maintenance Services
Hess Construction + Engineering Services, Inc.	DOT/Transportation Engineering
Howard Shockey & Sons, Inc.	Department of Economic Development
Walsh Construction Company, LLC	Department of Environmental Protection
The Whiting-Turner Contracting Co.	MCPD Construction Procurement
Norvaco, LLC	Montgomery College Construction Procurement

Contact: Al Boss at 240-777-9912. Or Michael Brown at 240-777-9913  
[alboss@montgomerycountymd.gov](mailto:alboss@montgomerycountymd.gov)

Office of Business Relations and Compliance  
Department of General Services  
Montgomery County, Maryland



# MONTGOMERY COUNTY'S Minority, Female and Disabled Persons (MFD) Program

## Monitoring, Tracking and Reporting Requirements

MONTGOMERY COUNTY, MARYLAND  
MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR  
PERFORMANCE PLAN

Contractor's  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email: \_\_\_\_\_

CONTRACT NUMBER/PROJECT DESCRIPTION: \_\_\_\_\_

A. Individual assigned by Contractor to ensure Contractor's compliance with MFD Subcontractor Performance Plan:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email: \_\_\_\_\_

B. This Plan covers the life of the contract from contract execution through the final contract expiration date.

C. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is \_\_\_\_\_ % of the total dollars awarded to Contractor.

D. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

I hereby certify that the business(s) listed below are certified by one of the following: Maryland Department of Transportation (MDOT); Virginia Small, Woman and Minority Owned Business (SWAM); Federal SBA (8A); MD/DC Minority Supplier Development Council (MSDC); Women's Business Enterprise National Council (WBENC); or City of Baltimore.  
A Certification Letter must be attached.  
For assistance, call 240-777-9912.

I. Certified by: \_\_\_\_\_


Subcontractor Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

Circle MFD Type:  
AFRICAN AMERICAN ASIAN AMERICAN DISABLED PERSON  
FEMALE HISPANIC AMERICAN NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor: \_\_\_\_\_

This subcontractor will provide the following goods and/or services: \_\_\_\_\_

 Montgomery County  
Office of Business  
Relations and Compliance  
SAMPLE ONLY! NOT TO BE USED BY PRIME

MFD Report of Payments Received For Office Use

MFD Subcontractor Company Name: \_\_\_\_\_  
Prime Contractor Company Name: \_\_\_\_\_

Contract Number/Title: \_\_\_\_\_  
Project Location: \_\_\_\_\_  
MFD Subcontract Amount: \$ \_\_\_\_\_

READ CAREFULLY BEFORE SIGNING

This certifies that for the month of \_\_\_\_\_, my company received \$ \_\_\_\_\_ for work performed, services rendered and/or materials supplied on the above contract.

TOTAL AMOUNT OF SUBMITTED INVOICES TO DATE: \$ \_\_\_\_\_  
TOTAL PAYMENTS RECEIVED TO DATE: \$ \_\_\_\_\_

Are you experiencing any contract problems with the prime contractor and/or the project? YES ☐ NO ☐

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that the above information is true and accurate to the best of my record documentation and knowledge.

(TYPED/PRINTED COMPANY NAME) \_\_\_\_\_  
(TYPED/PRINTED NAME OF COMPANY OFFICIAL) \_\_\_\_\_ (TITLE) \_\_\_\_\_  
SIGNATURE OF COMPANY OFFICIAL \_\_\_\_\_ (DATE) \_\_\_\_\_

( ) - ( ) -  
TELEPHONE FAX E-MAIL

Return by: Email - [MFD@montgomerycountymd.gov](mailto:MFD@montgomerycountymd.gov) FAX - 240-777-9952  
For assistance, contact the MFD Office at 240-777-9912



# MONTGOMERY COUNTY'S

## Minority, Female and Disabled Persons (MFD) Program

**Comparison of MFD Contract Activity: FY 12 to FY 14**

<b>Fiscal Year</b>	<b>Total \$Subject to MFD</b>	<b>Total \$ Encumbered to MFD</b>	<b>Total # of Purchase Orders</b>	<b>Total # of Purchase Orders to MFD</b>	<b>% of Total \$ Encumbered to MFD</b>	<b>% of # of Purchase Orders to MFD</b>
<b>FY 14</b>	\$755,666,309	\$147,818,712	6,330	2,237	19.56%	35.34%
<b>FY 13</b>	\$738,405,857	\$148,285,518	6,364	2,334	20.08%	36.68%
<b>FY 12</b>	\$667,257,831	\$128,964,095	5,360	1,748	19.33%	32.61%





# Opportunities for Small Businesses



MONTGOMERY COUNTY'S  
**Local Small Business Reserve Program**



MONTGOMERY COUNTY'S  
**Local Small Business Reserve Program**

**ELIGIBILITY THRESHOLDS – what is “SMALL”?**

**NEW** Size and Sales Eligibility\*

Type of Business	Employee Limit		Prior 3 Years' Average Sales	Compliance Requirement
Retail	30	or	\$5 million	Wage-MFD
Wholesale	30		\$5 million	Wage-MFD
Service	50		\$5 million	Wage-MFD
Construction	50		\$14 million	Prevailing-MFD
Manufacturing	40		\$14 million	Wage-MFD





# MONTGOMERY COUNTY'S Local Small Business Reserve Program

## INFORMATION AND NETWORKING OPPORTUNITIES



### IT Open House for Montgomery County IT vendors

**When:** June 3, 2013 1:00 pm to 3:00 pm

**Location:** Montgomery County Executive Office Building Auditorium  
101 Monroe St. Rockville, MD 20850

**Registration:** No registration is required, this event is free

Calling for Montgomery County IT vendors! Come and meet with contract administrators and decision makers on purchasing IT products and services. Explore possible opportunities for doing business in the IT field with Montgomery County departments and agencies.

#### Presenting Participants:

Montgomery County Department of Technology Services

- Cable Office
- Networking and Telecommunication
- IT Professional Services
- IT Commodities

Montgomery County Department of Liquor Control (IT team)

Montgomery County Department of Transportation (IT team)

Montgomery County Department of Health and Human Services (IT team)

Montgomery County Department of General Services (IT procurement team and OBRC)

Montgomery County Department of Economic Development  
(Small Business Development team)

Montgomery College (Procurement)

Montgomery County Public Schools (Procurement and IT team)

#### Contact:

Office of Business Relations and Compliance, DGS

240-777-9913

[obrc@montgomerycountymd.gov](mailto:obrc@montgomerycountymd.gov)



### How to write good proposals

**When:** March 16, 2012 10:00 am -12:00 noon

**Location:** Lobby Auditorium, Executive Building,  
101 Monroe St. Rockville, MD 20850

**Speakers:** Pam Jones, Chief, Office of Procurement  
Department of General Services  
Montgomery County, Maryland

Jackie Wolfe  
CEO  
Wolfe Proposals



#### Agenda:

**10am:** Opening Remarks David Dize  
Director, Department of General Services

**10:05am:** Introduction Grace Denno  
Acting Manager, Office of Business Relations and Compliance

**10:10am:** Checklist: Writing an effective proposal — Pam Jones  
(What is Montgomery County looking for in your proposal)

**11:00am:** Break

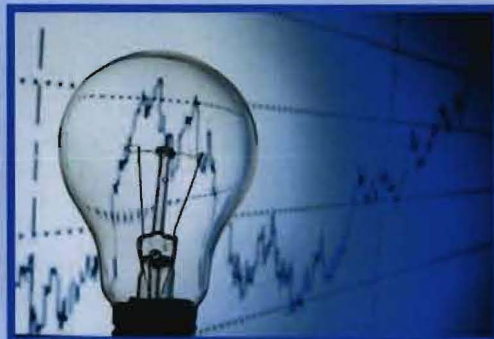
**11:10am:** How to make your proposal stand out — Jackie Wolfe  
(Perfecting writing techniques and delivering winning proposals)

**12:00pm:** Meeting Adjourned



# MONTGOMERY COUNTY'S Local Small Business Reserve Program

Exempt Contract Expenditures, FY11-FY14 (\$ in Millions)								
	FY11		FY12		FY13		FY14	
Exemption Categories	\$	%	\$	%	\$	%	\$	%
Chief Administrative Officer Waiver	\$ 0.30	0.03%	\$ 0.00	0%	\$ 0.00	0%	\$0.00	0%
Conflicts with law or grant	\$ 13.00	1.34%	\$ 11.37	1.68%	\$ 5.82	0.81%	\$6.34	0.95%
Public or Emergency Procurement	\$ 43.50	4.47%	\$ 6.12	0.90%	\$ 10.99	1.54%	\$14.94	2.27%
Non-competitive contract	\$ 22.30	2.29%	\$ 12.75	1.88%	\$ 25.35	3.55%	\$51.61	7.83%
Pre-existing Contract	\$307.80	31.66%	\$465.25	68.71%	\$452.56	63.30%	\$407.54	61.84%
Procurement Exceeds \$10 million	\$561.90	57.80%	\$163.39	24.13%	\$210.35	29.42%	\$172.57	26.19%
No LSBRP vendor deemed qualified	\$ 23.40	2.41%	\$ 18.29	2.70%	\$9.82	1.37%	\$6.03	0.91%
<b>Total</b>	<b>\$972.20</b>	<b>100%</b>	<b>\$677.17</b>	<b>100%</b>	<b>\$714.90</b>	<b>100%</b>	<b>\$659.03</b>	<b>100%</b>





**MONTGOMERY  
COUNTY'S  
Local Small  
Business Reserve  
Program**

	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>Solicitations Reserved under LSBRP and Awarded to LSBRP vendor</b>	60	62	46	56
<b>In \$ Values</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>Total Encumbrance to LSBRP</b>	\$46,929,791	\$72,501,369	\$96,749,607	\$96,270,979

MONTGOMERY COUNTY'S  
**Office of Business Relations and Compliance**

## On-line Resources



- **Registration and Certification:** [www.mcipcc.net](http://www.mcipcc.net)
  - Register as a vendor
  - Register up to 100 NIGP codes
  - Declare LSBRP and MFD certifications
  - Vendor Search
- **Solicitation Postings:**  
[http://www6.montgomerycountymd.gov/content/DGS/pro/public\\_solicitations.asp](http://www6.montgomerycountymd.gov/content/DGS/pro/public_solicitations.asp)
- **Contract Search:**  
<http://www.montgomerycountymd.gov/contractregister>
- **Details on each program:**  
<http://www.montgomerycountymd.gov/obrc>
- **Montgomery County Building Construction Projects:**  
<http://www.montgomerycountymd.gov/neighborhoodprojects>



# Living Wage Law Program



## MONTGOMERY COUNTY'S Wage Requirements Law (Living Wage Law)

Jack Gibala, Program Manager, 240-777-9918 [livingwage@montgomerycountymd.gov](mailto:livingwage@montgomerycountymd.gov)

**MONTGOMERY COUNTY'S**  
**Wage Requirements Law (Living Wage Law Program)**

## **The Law and the rate**

- **Effective Dat: July 1, 2003**
- **Scope:**

Any contract for procurement of **services** by a County department or office must require the contractor and any subcontractor to comply with the wage requirements of this Section 11B-33A. As used in this Section, “covered employer” refers to any contractor or subcontractor that is subject to this Section.

- **The current Living Wage Rate:**  
\$14.15/hour for FY15



**MONTGOMERY COUNTY'S**  
**Wage Requirements Law (Living Wage Law Program)**

**Wage Office Responsibilities**

- **Approve Wage Exemptions**
- **Monitor Living Wage compliance (review reports, site visits to check postings, etc.)**
- **Investigate disputes and complaints**
- **Initiate Wage Audits (in coordination with the Internal Audit Office)**
- **Generate Wage Annual Report for CE and Council**



## MONTGOMERY COUNTY'S Wage Requirements Law (Living Wage Law Program)

### Resources



- **Wage Requirements for Services Contracts Addendum to General Conditions of Contract between the County & Contractor** (PMMD177, attached in the solicitation):

<http://portal.mcgov.org/apps/procurement/forms.asp>



- **Wage Requirements Law Payroll Reporting Form** (PMMD183):

<http://portal.mcgov.org/apps/procurement/forms.asp>



- **Details about the Living Wage Law Program:**

<http://www.montgomerycountymd.gov/livingwage>



# Prevailing Wage Law Program



## MONTGOMERY COUNTY'S Prevailing Wage Law

Jack Gibala, Program Manager, 240-777-9918 [prevailing@montgomerycountymd.gov](mailto:prevailing@montgomerycountymd.gov)

## MONTGOMERY COUNTY'S Prevailing Wage Law

### The Law and the rate

- **Effective Date: 7/1/2009**
- **Scope:**

It requires that the prevailing wage as calculated by the State of Maryland be paid to workers on County financed construction contracts that exceed \$500,000 in value. It applies to the general contractor and all of its sub-contractors.

- **The prevailing wage rate: (MD state)**

<https://dllr.state.md.us/PrevWage/PWRequestRates.aspx>

- **Penalties:**
  - \$10 per person per day for late submission of payroll
  - \$20 per person per day for misclassification



## **MONTGOMERY COUNTY'S Prevailing Wage Law**

### **Wage Office Responsibilities**

- **Monitor prevailing wage compliance (work with a contractor to review payroll records, conduct site visits, etc.)**
- **Investigate disputes and complaints**
- **Calculate penalties (based on the contractor's final report at completion of the project)**
- **Generate Prevailing Wage Annual Report for CE and Council**
- **Recommend the final decision on the imposition of penalties to the Director of Procurement**



## MONTGOMERY COUNTY'S Prevailing Wage Program

### Resources



- Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor (PMMD185):

<http://portal.mcgov.org/apps/procurement/forms.asp>



- Details on the prevailing wage program:

<http://www.montgomerycountymd.gov/prevailingwage>



- Montgomery County Neighborhood Projects

<http://www.montgomerycountymd.gov/neighborhoodprojects>



**Thank You**

**[www.montgomerycountymd.gov/obrc](http://www.montgomerycountymd.gov/obrc)**

**Grace Denno**

**240-777-9959**

**[grace.denno@montgomerycountymd.gov](mailto:grace.denno@montgomerycountymd.gov)**

**Manager, Office of Business Relations and Compliance  
Office of Procurement  
Montgomery County, Maryland**



**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

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(4:00 P.M.) CALL TO ORDER AND APPROVAL MINUTES

(4:50 P.M.) WORKSESSION

- REVIEW OF SURVEY RESULTS
- REPORT DEVELOPMENT

(5:25 P.M.) PUBLIC COMMENT

(5:30 P.M.) ADJOURN

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, July 16, 2015

Thursday, August 27, 2015

Thursday, July 30, 2015

Thursday, September 10, 2015

Thursday, August 13, 2015

## **PROCUREMENT POLICES AND REGULATIONS TASK FORCE**

### **MEETING MINUTES**

July 2, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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#### ***Members Present***

Wayne Cobb  
Tom Creamer  
Buddy Henley  
Linda Moore  
Daniel Parra  
David Robbins, Chair

#### ***Member Absent***

Eppie Hankins

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

Linda Price, County Council  
Mary Anne Paradise, County Council

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

The meeting was called to order at 4:04 p.m. with a quorum of members present. The minutes of the May 21, 2015, meeting were unanimously approved by all Task Force members present.

#### **II. Worksession**

Ms. Price informed the group that Bill 5-15 (Health Insurance Preference) and Bill 40-14 (Apprenticeship Training), will be discussed at the joint Government Operations and Fiscal Policy/Health and Human Services Committee meeting on July 16, 2015 and July 23, respectively. She noted that the bill would apply to all contracts subject to wage requirements, and agreed to provide information on the number of preference programs in place and to forward Bill 5-15 and 40-14 to the group for review and comment. Mr. Robbins made a motion to pre-approve any comments that come in from members as speaking for the entire Task Force. The motion was seconded and carried unanimously.

#### **Review of Survey Results**

Mr. Cobb suggested leaving the survey open to receive comments, and said he is contacting the Innovation Centers as a way to obtain further input. Ms. Price said the survey was emailed to approximately 10,000 vendors and a press release was issued. To date about 200 responses have been received. Ms. Moore inquired about obtaining access to external best practices to ensure that there is a level of agreement with the recommendations of the Task Force. Ms. Price responded that the Office of Procurement may have access through various memberships with best practice guides. Ms. Price will follow-up with Ms. Moore and work to obtain best practices information. Mr. Parra suggested translating the survey into Spanish; Mr. Robbins suggested asking for open-ended input regarding the procurement process in Spanish. Mr. Parra volunteered to work with the Spanish community on this.

### **Report Development**

The Task Force discussed a possible framework for the report: 1) outlining what the Task Force was asked to do 2) the process used 3) what the Task Force learned including from the within the government, from the survey and Task Force member thoughts 4) reconciliation, which could include best practices and 5) recommendations.

Mr. Cobb suggested the possibility of vetting the report through focus groups, if time is available. The group considered providing the Council, other County departments and vendors advance copies of the report in order to obtain feedback, as well as posting the report on the County website for open-ended comment. As a possible final step, the use of focus groups was suggested to address any gaps in the report. Ms. Moore said the recommendations must be actionable, with specific points.

Ms. Price provided an update on restructuring efforts in the new Office of Procurement. Cherri Branson was appointed as Director of the Office on June 16, 2015. The Procurement Innovation Project report will be issued to the County Executive in mid-September.

### **III. Next Meeting**

At the next meeting, the goal is to complete the “what did we learn” section of the report, including information from inside government, the procurement community, and the depth of effort to gain broad input; as well as policy choices impacting the procurement process, and disconnects. The group will also develop thoughts on reconciliation and recommendations that are specific and actionable.

The Chair asked members to write down what they learned and outline their responses to the above topics.

The next meeting is scheduled for July 16, 2015.

The meeting adjourned at 4:58 p.m.

**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

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(4:00 P.M.) CALL TO ORDER AND APPROVAL MINUTES

(4:05 P.M.) WORKSESSION - REPORT DEVELOPMENT

- WHAT DID WE LEARN
- RECONCILIATION AND RECOMMENDATION DEVELOPMENT

(5:25 P.M.) PUBLIC COMMENT

(5:30 P.M.) ADJOURN

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, July 30, 2015

Thursday, August 27, 2015

Thursday, August 13, 2015

Thursday, September 10, 2015

## PROCUREMENT POLICES AND REGULATIONS TASK FORCE

### MEETING MINUTES

July 16, 2015 – 4:00 p.m.

*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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#### ***Members Present***

Wayne Cobb  
Tom Creamer  
Eppie Hankins  
Linda Moore  
David Robbins, Chair

#### ***Members Absent***

Buddy Henley  
Daniel Parra

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

Richard Melnick, Office of the County Attorney  
Linda Price, County Council  
Mary Anne Paradise, County Council

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

The meeting was called to order at 4:05 p.m. with a quorum of members present. The minutes of the July 2, 2015, meeting were unanimously approved by all Task Force members present.

#### **II. Worksession – Recommendation Development**

Members presented their initial recommendations and ideas for inclusion in the report:

- Mr. Creamer suggested raising the procurement dollar thresholds to reduce the amount of paperwork for procurement staff; too much paperwork is required of bidders prior to consideration.
- Mr. Cobb said the County in general has a posture of risk aversion – too much work up front with no follow through at the back end of the procurement process; decentralize the process to allow for more decision making; not enough automation; reduce/eliminate paper.
- Ms. Moore indicated she saw little “fire in the belly” from procurement staff; establish an easier navigation process, both internal and external to make it more user friendly; noted a need for metrics to describe success in procurement process; need a moratorium on new requirements – get resources to support small businesses; suggested getting information on best practices from outside organizations. She questioned the amount spent (\$227 million) on direct County purchases; suggested setting a pool so small businesses have a better chance at success.
- Mr. Robbins offered his suggestions, as reflected in his email of July 15.
- Mr. Melnick commented on recent legislation that highlights tension on the procurement system; overlay of preferences creates confusion – policy makers have tried to make improvements but makes the system more cumbersome. He noted the lack of a boiler plate scope of work for contracts (developed on a case-by-case basis) – suggested more legal staff is needed to deal with the procurement process and meet turnaround times.



- Ms. Price suggested transparency improvements are needed, the procurement website should be more appealing and educational, and noted staffing issues.
- Mr. Robbins noted Ms. Jones' comment that there is no formalized training for procurement staff.
- Mr. Henley emailed his comments: regulations are broad and don't fit specific industries; there is a disconnect between the using branch and the executive branch; and he supported the front-end vetting of vendors and expressed the view that the prevailing wage system is broken.

The members of the Task Force had no objections to any of the above findings.

### **III. Reconciliation and Report Development**

Task Force members generally agreed on the following format for the report:

I.	Introduction
	A. Why Are We Here/Mission Statement/Resolution
	B. What Was Our Process
	C. What We Learned
	i. Internal – Meetings
	ii. Vendors – Surveys
	iii. Our Analysis
II.	Recommendations
	A. Short term
	B. Medium Term
	C. Long Term
III.	County Reaction
IV.	Vendor Reaction
V.	Conclusion

- Short term recommendations will generally be low money, low time requirements; medium term recommendations are mid-range; long term recommendations would be longer time, higher dollar solutions.

Mr. Robbins requested members to put their detailed recommendations in an email to Linda Price so they can be discussed amongst the group. An outline with bullets is acceptable, but it would be better to be as detailed now as possible. This is due by July 27.

Ms. Moore volunteered to draft the vendor survey section; Ms. Price will complete the why are we here and process sections; Mr. Cobb will draft the internal meetings section; and Ms. Hankins and Mr. Creamer will draft the recommendations section. Initial drafts of the written sections are due at the August 13 meeting.

The next meeting is July 30, 2015.

The meeting adjourned at 5:11 p.m.

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**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

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(4:00 P.M.) CALL TO ORDER AND APPROVAL MINUTES

(4:05 P.M.) WORKSESSION

- REVIEW AND STRAW POLL OF INITIAL RECOMMENDATIONS

(5:25 P.M.) PUBLIC COMMENT

(5:30 P.M.) ADJOURN

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, August 13, 2015

Thursday, September 10, 2015

Thursday, August 27, 2015

## PROCUREMENT POLICES AND REGULATIONS TASK FORCE

### MEETING MINUTES

July 30, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

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#### ***Members Present***

Wayne Cobb

Linda Moore

Tom Creamer

Daniel Parra

Eppie Hankins

David Robbins, Chair

Buddy Henley

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

Linda Price, County Council

Mary Anne Paradise, County Council

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

The meeting was called to order at 4:05 p.m. with a quorum of members present. The minutes of the July 16, 2015, meeting were unanimously approved by all Task Force members present.

#### **II. Worksession – Review and Straw Poll of Initial Recommendations**

Members reviewed and discussed draft recommendations, and generally agreed with all ideas put forth. Further consideration will be given to certain recommendations as to whether they can be combined or moved to another category (short, medium, or long-term), as well as to revised wording.

Ms. Price agreed to follow-up with Grace Denno regarding the posting of solicitation opportunities on the main procurement website. It was suggested that the Task Force review a solicitation at the next meeting to see the exact requirements needed when responding to a bid or proposal.

Ms. Hankins suggested that the County's debriefing process should be more formalized, possibly similar to the Federal government's process.

Noting that some recommendations may be outside of the scope of the Task Force's mission, members agreed to include more specific recommendations pertaining to MFD businesses in endnotes or footnotes.

Mr. Creamer, Ms. Hankins, and Mr. Parra will draft more narrative and more specific language to be included in the recommendations. Additionally, three themes were identified amongst the recommendations: culture, process, and the need for a systematic approach, which would help organization the recommendations.

Members were asked to submit their assigned sections to Ms. Price by August 10<sup>th</sup>. The document will be emailed to members for review prior to the August 13<sup>th</sup> meeting.

The meeting adjourned at 5:42 p.m.

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**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

*(4:00 P.M.)*    CALL TO ORDER AND APPROVAL MINUTES

*(4:05 P.M.)*    WORKSESSION  
                  ▪    REVIEW REPORT DRAFT

*(5:25 P.M.)*    PUBLIC COMMENT

*(5:30 P.M.)*    ADJOURN

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**UPCOMING MEETING DATES**

*Unless noted otherwise, meetings will take place at 4:00 p.m., Council Office Building, 5<sup>th</sup> Floor Conference Room.*

Thursday, August 27, 2015      Thursday, September 10, 2015

## PROCUREMENT POLICES AND REGULATIONS TASK FORCE

### MEETING MINUTES

August 13, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

#### ***Members Present***

Wayne Cobb  
Tom Creamer  
Buddy Henley  
Linda Moore  
Daniel Parra  
David Robbins, Chair

#### ***Members Absent***

Eppie Hankins

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

Mary Anne Paradise, County Council  
Linda Price, County Council

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

The meeting was called to order at 4:06 p.m. with a quorum of members present. The minutes of the July 30, 2015, meeting were unanimously approved by all Task Force members present.

#### **II. Worksession – Review Report Draft**

Chair Robbins commented that because there wasn't enough time to coordinate sections of the report drafted by members, the draft report was not yet available for review. He said that he would draft language to harmonize the report and submit it to members for review. He also expressed the view that time constraints would prevent the solicitation of feedback on the report from government and other entities, but suggested that a preview of the report could be provided by Ms. Price to key County staff.

When asked if the report was missing anything, Mr. Creamer commented that the recommendation that the County copy the debriefing process used by the Federal government regarding solicitations was not included in the draft. Ms. Price also suggested that the best practices could be included. Mr. Robbins noted the report could be presented to the County, which it could then use as an opportunity to determine if the recommendations are in agreement with standard best practices.

Mr. Robbins thanked members for their input on the report, and indicated he would provide a "letter from the Chair" after the draft report was developed. He indicated that he would forward the draft report with his added language to members by Saturday, August 15, and requested members provide any comments no later than Tuesday, August 18.

The meeting adjourned at 4:29 p.m.

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**AGENDA**

**PROCUREMENT POLICIES AND REGULATIONS TASK FORCE**

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*Council Office Building, 100 Maryland Avenue, 5<sup>th</sup> Floor Conference Room, Rockville, MD*

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*(4:00 P.M.)*    **CALL TO ORDER AND APPROVAL MINUTES**

*(4:05 P.M.)*    **WORKSESSION**

- **DISCUSSION OF FINAL REPORT**
- **ANY OTHER BUSINESS?**

*(5:25 P.M.)*    **PUBLIC COMMENT**

*(5:30 P.M.)*    **ADJOURN**

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**UPCOMING DATES TO NOTE**

Tuesday, September 15, 2015	<i>Transmittal of Final Report to County Council</i>
Thursday, October 15, 2015, 9:30 a.m., 3 <sup>rd</sup> Floor Conf. Room	<i>Government Operations and Fiscal Policy (GO) Committee meeting to review Task Force Report</i>

## **Appendix III**

### **15.505 -- Preaward Debriefing of Offerors.**

Offerors excluded from the competitive range or otherwise excluded from the competition before award may request a debriefing before award (10 U.S.C. 2305(b)(6)(A) and 41 U.S.C. 3705).

(a)

(1) The offeror may request a preaward debriefing by submitting a written request for debriefing to the contracting officer within 3 days after receipt of the notice of exclusion from the competition.

(2) At the offeror's request, this debriefing may be delayed until after award. If the debriefing is delayed until after award, it shall include all information normally provided in a postaward debriefing (see 15.506(d)). Debriefings delayed pursuant to this paragraph could affect the timeliness of any protest filed subsequent to the debriefing.

(3) If the offeror does not submit a timely request, the offeror need not be given either a preaward or a postaward debriefing. Offerors are entitled to no more than one debriefing for each proposal.

(b) The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable, but may refuse the request for a debriefing if, for compelling reasons, it is not in the best interests of the Government to conduct a debriefing at that time. The rationale for delaying the debriefing shall be documented in the contract file. If the contracting officer delays the debriefing, it shall be provided no later than the time postaward debriefings are provided under 15.506. In that event, the contracting officer shall include the information at 15.506(d) in the debriefing.

(c) Debriefings may be done orally, in writing, or by any other method acceptable to the contracting officer.

(d) The contracting officer should normally chair any debriefing session held. Individuals who conducted the evaluations shall provide support.

(e) At a minimum, preaward debriefings shall include --

(1) The agency's evaluation of significant elements in the offeror's proposal;

(2) A summary of the rationale for eliminating the offeror from the competition; and

(3) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed in the process of eliminating the offeror from the competition.

(f) Preaward debriefings shall not disclose --

- (1) The number of offerors;
- (2) The identity of other offerors;
- (3) The content of other offerors proposals;
- (4) The ranking of other offerors;
- (5) The evaluation of other offerors; or
- (6) Any of the information prohibited in 15.506(e).

(g) An official summary of the debriefing shall be included in the contract file.

## **Appendix IV**

### **15.506 -- Postaward Debriefing of Offerors.**

(a)

(1) An offeror, upon its written request received by the agency within 3 days after the date on which that offeror has received notification of contract award in accordance with 15.503(b), shall be debriefed and furnished the basis for the selection decision and contract award.

(2) To the maximum extent practicable, the debriefing should occur within 5 days after receipt of the written request. Offerors that requested a postaward debriefing in lieu of a preaward debriefing, or whose debriefing was delayed for compelling reasons beyond contract award, also should be debriefed within this time period.

(3) An offeror that was notified of exclusion from the competition (see 15.505(a)), but failed to submit a timely request, is not entitled to a debriefing.

(4)

(i) Untimely debriefing requests may be accommodated.

(ii) Government accommodation of a request for delayed debriefing pursuant to 15.505(a)(2), or any untimely debriefing request, does not automatically extend the deadlines for filing protests. Debriefings delayed pursuant to 15.505(a)(2) could affect the timeliness of any protest filed subsequent to the debriefing.

(b) Debriefings of successful and unsuccessful offerors may be done orally, in writing, or by any other method acceptable to the contracting officer.

(c) The contracting officer should normally chair any debriefing session held. Individuals who conducted the evaluations shall provide support.

(d) At a minimum, the debriefing information shall include --

(1) The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;

(2) The overall evaluated cost or price (including unit prices), and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;

(3) The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror; and

(6) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

(e) The debriefing shall not include point-by-point comparisons of the debriefed offeror's proposal with those of other offerors. Moreover, the debriefing shall not reveal any information prohibited from disclosure by 24.202 or exempt from release under the Freedom of Information Act (5 U.S.C. 552) including --

(1) Trade secrets;

(2) Privileged or confidential manufacturing processes and techniques;

(3) Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and

(4) The names of individuals providing reference information about an offeror's past performance.

(f) An official summary of the debriefing shall be included in the contract file.



## **Appendix V**

### **FAR -- Part 33.1**

#### **Protests**

##### **33.101 -- Definitions.**

As used in this subpart--

“Day” means a calendar day, unless otherwise specified. In the computation of any period --

(1) The day of the act, event, or default from which the designated period of time begins to run is not included; and

(2) The last day after the act, event, or default is included unless --

(i) The last day is a Saturday, Sunday, or Federal holiday; or

(ii) In the case of a filing of a paper at any appropriate administrative forum, the last day is a day on which weather or other conditions cause the closing of the forum for all or part of the day, in which event the next day on which the appropriate administrative forum is open is included.

“Filed” means the complete receipt of any document by an agency before its close of business. Documents received after close of business are considered filed as of the next day. Unless otherwise stated, the agency close of business is presumed to be 4:30 p.m., local time.

“Interested party for the purpose of filing a protest” means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

“Protest” means a written objection by an interested party to any of the following:

(1) A solicitation or other request by an agency for offers for a contract for the procurement of property or services.

(2) The cancellation of the solicitation or other request.

(3) An award or proposed award of the contract.

(4) A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

“Protest venue” means protests filed with the agency, the Government Accountability Office, or the U.S. Court of Federal Claims. U.S. District Courts do not have any bid protest jurisdiction.

### **33.102 -- General.**

(a) Without regard to the protest venue, contracting officers shall consider all protests and seek legal advice, whether protests are submitted before or after award and whether filed directly with the agency or the Government Accountability Office (GAO), or the U.S. Court of Federal Claims. (See 19.302 for protests of small business status, 19.305 for protests of disadvantaged business status, 19.306 for protests of HUBZone small business status, and 19.307 for protests of service-disabled veteran-owned small business status and 19.308 for protests of the status of an economically disadvantaged women-owned small business concern or of a women-owned small business concern eligible under the Women-Owned Small Business Program.)

(b) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency may --

(1) Take any action that could have been recommended by the Comptroller General had the protest been filed with the Government Accountability Office;

(2) Pay appropriate costs as stated in 33.104(h); and

(3) Require the awardee to reimburse the Government’s costs, as provided in this paragraph, where a postaward protest is sustained as the result of an awardee’s intentional or negligent misstatement, misrepresentation, or miscertification. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the awardee under any contract between the awardee and the Government.

(i) When a protest is sustained by GAO under circumstances that may allow the Government to seek reimbursement for protest costs, the contracting officer will determine whether the protest was sustained based on the awardee’s negligent or intentional misrepresentation. If the

protest was sustained on several issues, protest costs shall be apportioned according to the costs attributable to the awardee's actions.

(ii) The contracting officer shall review the amount of the debt, degree of the awardee's fault, and costs of collection, to determine whether a demand for reimbursement ought to be made. If it is in the best interests of the Government to seek reimbursement, the contracting officer shall notify the contractor in writing of the nature and amount of the debt, and the intention to collect by offset if necessary. Prior to issuing a final decision, the contracting officer shall afford the contractor an opportunity to inspect and copy agency records pertaining to the debt to the extent permitted by statute and regulation, and to request review of the matter by the head of the contracting activity.

(iii) When appropriate, the contracting officer shall also refer the matter to the agency debarment official for consideration under Subpart 9.4.

(c) In accordance with 31 U.S.C. 1558, with respect to any protest filed with the GAO, if the funds available to the agency for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such a contract would otherwise expire, such funds shall remain available for obligation for 100 days after the date on which the final ruling is made on the protest. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such appeal or request, whichever is later.

(d) *Protest likely after award.* The contracting officer may stay performance of a contract within the time period contained in subparagraph 33.104(c)(1) if the contracting officer makes a written determination that --

(1) A protest is likely to be filed; and

(2) Delay of performance is, under the circumstances, in the best interests of the United States.

(e) An interested party wishing to protest is encouraged to seek resolution within the agency (see 33.103) before filing a protest with the GAO, but may protest to the GAO in accordance with GAO regulations (4 CFR Part 21).

(f) No person may file a protest at GAO for a procurement integrity violation unless that person reported to the contracting officer the information constituting evidence of

the violation within 14 days after the person first discovered the possible violation (41 U.S.C. 2106).

### **33.103 -- Protests to the Agency.**

(a) *Reference.* Executive Order 12979, Agency Procurement Protests, establishes policy on agency procurement protests.

(b) Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions.

(c) The agency should provide for inexpensive, informal, procedurally simple, and expeditious resolution of protests. Where appropriate, the use of alternative dispute resolution techniques, third party neutrals, and another agency's personnel are acceptable protest resolution methods.

(d) The following procedures are established to resolve agency protests effectively, to build confidence in the Government's acquisition system, and to reduce protests outside of the agency:

(1) Protests shall be concise and logically presented to facilitate review by the agency. Failure to substantially comply with any of the requirements of subparagraph (d)(2) of this section may be grounds for dismissal of the protest.

(2) Protests shall include the following information:

(i) Name, address, and fax and telephone numbers of the protester.

(ii) Solicitation or contract number.

(iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.

(iv) Copies of relevant documents.

(v) Request for a ruling by the agency.

(vi) Statement as to the form of relief requested.

(vii) All information establishing that the protester is an interested party for the purpose of filing a protest.

(viii) All information establishing the timeliness of the protest.

(3) All protests filed directly with the agency will be addressed to the contracting officer or other official designated to receive protests.

(4) In accordance with agency procedures, interested parties may request an independent review of their protest at a level above the contracting officer; solicitations should advise potential bidders and offerors that this review is available. Agency procedures and/or solicitations shall notify potential bidders and offerors whether this independent review is available as an alternative to consideration by the contracting officer of a protest or is available as an appeal of a contracting officer decision on a protest. Agencies shall designate the official(s) who are to conduct this independent review, but the official(s) need not be within the contracting officer's supervisory chain. When practicable, officials designated to conduct the independent review should not have had previous personal involvement in the procurement. If there is an agency appellate review of the contracting officer's decision on the protest, it will not extend GAO's timeliness requirements. Therefore, any subsequent protest to the GAO must be filed within 10 days of knowledge of initial adverse agency action (4 CFR 21.2(a)(3)).

(e) Protests based on alleged apparent improprieties in a solicitation shall be filed before bid opening or the closing date for receipt of proposals. In all other cases, protests shall be filed no later than 10 days after the basis of protest is known or should have been known, whichever is earlier. The agency, for good cause shown, or where it determines that a protest raises issues significant to the agency's acquisition system, may consider the merits of any protest which is not timely filed.

(f) *Action upon receipt of protest.*

(1) Upon receipt of a protest before award, a contract may not be awarded, pending agency resolution of the protest, unless contract award is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. Such justification or determination shall be approved at a level above the contracting officer, or by another official pursuant to agency procedures.

(2) If award is withheld pending agency resolution of the protest, the contracting officer will inform the offerors whose offers might become eligible for award of the contract. If appropriate, the offerors should be requested, before expiration of the time for acceptance of their offers, to extend the time for acceptance to avoid the need for resolicitation. In the event of failure to



obtain such extension of offers, consideration should be given to proceeding with award pursuant to subparagraph (f)(1) of this section.

(3) Upon receipt of a protest within 10 days after contract award or within 5 days after a debriefing date offered to the protester under a timely debriefing request in accordance with 15.505 or 15.506, whichever is later, the contracting officer shall immediately suspend performance, pending resolution of the protest within the agency, including any review by an independent higher level official, unless continued performance is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. Such justification or determination shall be approved at a level above the contracting officer, or by another official pursuant to agency procedures.

(4) Pursuing an agency protest does not extend the time for obtaining a stay at GAO. Agencies may include, as part of the agency protest process, a voluntary suspension period when agency protests are denied and the protester subsequently files at GAO.

(g) Agencies shall make their best efforts to resolve agency protests within 35 days after the protest is filed. To the extent permitted by law and regulation, the parties may exchange relevant information.

(h) Agency protest decisions shall be well-reasoned, and explain the agency position. The protest decision shall be provided to the protester using a method that provides evidence of receipt.

### **33.104 -- Protests to GAO.**

Procedures for protests to GAO are found at 4 CFR Part 21 (GAO Bid Protest Regulations). In the event guidance concerning GAO procedure in this section conflicts with 4 CFR Part 21, 4 CFR Part 21 governs.

(a) *General procedures.*

(1) A protester is required to furnish a copy of its complete protest to the official and location designated in the solicitation or, in the absence of such a designation, to the contracting officer, so it is received no later than 1 day after the protest is filed with the GAO. The GAO may dismiss the protest if the protester fails to furnish a complete copy of the protest within 1 day.

(2) Immediately after receipt of the GAO's written notice that a protest has been filed, the agency shall give notice of the protest to the contractor if the award has been made, or, if no award has been made, to all parties who appear to have a reasonable prospect of receiving award if the protest is denied. The agency shall furnish copies of the protest submissions to such parties with instructions to

(i) communicate directly with the GAO, and

(ii) provide copies of any such communication to the agency and to other participating parties when they become known. However, if the protester has identified sensitive information and requests a protective order, then the contracting officer shall obtain a redacted version from the protester to furnish to other interested parties, if one has not already been provided.

(3)

(i) Upon notice that a protest has been filed with the GAO, the contracting officer shall immediately begin compiling the information necessary for a report to the GAO. The agency shall submit a complete report to the GAO within 30 days after the GAO notifies the agency by telephone that a protest has been filed, or within 20 days after receipt from the GAO of a determination to use the express option, unless the GAO --

(A) Advises the agency that the protest has been dismissed; or

(B) Authorizes a longer period in response to an agency's request for an extension. Any new date is documented in the agency's file.

(ii) When a protest is filed with the GAO, and an actual or prospective offeror so requests, the procuring agency shall, in accordance with any applicable protective orders, provide actual or prospective offerors reasonable access to the protest file. However, if the GAO dismisses the protest before the documents are submitted to the GAO, then no protest file need be made available. Information exempt from disclosure under 5 U.S.C.552 may be redacted from the protest file. The protest file shall be made available to non-intervening actual or prospective offerors within a reasonable time after submittal of an agency report to the GAO. The protest file shall include an index and as appropriate --

- (A) The protest;
- (B) The offer submitted by the protester;
- (C) The offer being considered for award or being protested;
- (D) All relevant evaluation documents;
- (E) The solicitation, including the specifications or portions relevant to the protest;
- (F) The abstract of offers or relevant portions; and
- (G) Any other documents that the agency determines are relevant to the protest, including documents specifically requested by the protester.

(iii) At least 5 days prior to the filing of the report, in cases in which the protester has filed a request for specific documents, the agency shall provide to all parties and the GAO a list of those documents, or portions of documents, that the agency has released to the protester or intends to produce in its report, and those documents that the agency intends to withhold from the protester and the reasons for the proposed withholding. Any objection to the scope of the agency's proposed disclosure or nondisclosure of the documents must be filed with the GAO and the other parties within 2 days after receipt of this list.

(iv) The agency report to the GAO shall include --

- (A) A copy of the documents described in 33.104(a)(3)(ii);
- (B) The contracting officer's signed statement of relevant facts, including a best estimate of the contract value, and a memorandum of law. The contracting officer's statement shall set forth findings, actions, and recommendations, and any additional evidence or information not provided in the protest file that may be necessary to determine the merits of the protest; and
- (C) A list of parties being provided the documents.

(4)

(i) At the same time the agency submits its report to the GAO, the agency shall furnish copies of its report to the protester and any intervenors. A party shall receive all relevant documents, except --

(A) Those that the agency has decided to withhold from that party for any reason, including those covered by a protective order issued by the GAO. Documents covered by a protective order shall be released only in accordance with the terms of the order. Examples of documents the agency may decide to exclude from a copy of the report include documents previously furnished to or prepared by a party; classified information; and information that would give the party a competitive advantage; and

(B) Protester's documents which the agency determines, pursuant to law or regulation, to withhold from any interested party.

(ii)

(A) If the protester requests additional documents within 2 days after the protester knew the existence or relevance of additional documents, or should have known, the agency shall provide the requested documents to the GAO within 2 days of receipt of the request.

(B) The additional documents shall also be provided to the protester and other interested parties within this 2-day period unless the agency has decided to withhold them for any reason (see subdivision (a)(4)(i) of this section). This includes any documents covered by a protective order issued by the GAO. Documents covered by a protective order shall be provided only in accordance with the terms of the order.

(C) The agency shall notify the GAO of any documents withheld from the protester and other interested parties and shall state the reasons for withholding them.

(5) The GAO may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to an interested party. Protective orders prohibit or restrict the disclosure by the party of procurement sensitive information, trade secrets or other proprietary or confidential research, development or commercial information that is contained in such document.

Protective orders do not authorize withholding any documents or information from the United States Congress or an executive agency.

(i) *Requests for protective orders.* Any party seeking issuance of a protective order shall file its request with the GAO as soon as practicable after the protest is filed, with copies furnished simultaneously to all parties.

(ii) *Exclusions and rebuttals* Within 2 days after receipt of a copy of the protective order request, any party may file with the GAO a request that particular documents be excluded from the coverage of the protective order, or that particular parties or individuals be included in or excluded from the protective order. Copies of the request shall be furnished simultaneously to all parties.

(iii) *Additional documents.* If the existence or relevance of additional documents first becomes evident after a protective order has been issued, any party may request that these additional documents be covered by the protective order. Any party to the protective order also may request that individuals not already covered by the protective order be included in the order. Requests shall be filed with the GAO, with copies furnished simultaneously to all parties.

(iv) *Sanctions and remedies.* The GAO may impose appropriate sanctions for any violation of the terms of the protective order. Improper disclosure of protected information will entitle the aggrieved party to all appropriate remedies under law or equity. The GAO may also take appropriate action against an agency which fails to provide documents designated in a protective order.

(6) The protester and other interested parties are required to furnish a copy of any comments on the agency report directly to the GAO within 10 days, or 5 days if express option is used, after receipt of the report, with copies provided to the contracting officer and to other participating interested parties. If a hearing is held, these comments are due within 5 days after the hearing.

(7) Agencies shall furnish the GAO with the name, title, and telephone number of one or more officials (in both field and headquarters offices, if desired) whom the GAO may contact who are knowledgeable about the subject matter of the protest. Each agency shall be responsible for promptly advising the GAO of any change in the designated officials.

(b) *Protests before award.*

(1) When the agency has received notice from the GAO of a protest filed directly with the GAO, a contract may not be awarded unless authorized, in accordance with agency procedures, by the head of the contracting activity, on a nondelegable basis, upon a written finding that --

(i) Urgent and compelling circumstances which significantly affect the interest of the United States will not permit awaiting the decision of the GAO; and

(ii) Award is likely to occur within 30 days of the written finding.

(2) A contract award shall not be authorized until the agency has notified the GAO of the finding in paragraph (b)(1) of this section.

(3) When a protest against the making of an award is received and award will be withheld pending disposition of the protest, the contracting officer should inform the offerors whose offers might become eligible for award of the protest. If appropriate, those offerors should be requested, before expiration of the time for acceptance of their offer, to extend the time for acceptance to avoid the need for resolicitation. In the event of failure to obtain such extensions of offers, consideration should be given to proceeding under subparagraph (b)(1) of this section.

(c) *Protests after award.*

(1) When the agency receives notice of a protest from the GAO within 10 days after contract award or within 5 days after a debriefing date offered to the protester for any debriefing that is required by 15.505 or 15.506, whichever is later, the contracting officer shall immediately suspend performance or terminate the awarded contract, except as provided in subparagraphs (c)(2) and (3) of this section.

(2) In accordance with agency procedures, the head of the contracting activity may, on a nondelegable basis, authorize contract performance, notwithstanding the protest, upon a written finding that --

(i) Contract performance will be in the best interests of the United States; or



(ii) Urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for the GAO's decision.

(3) Contract performance shall not be authorized until the agency has notified the GAO of the finding in paragraph (c)(2) of this section.

(4) When it is decided to suspend performance or terminate the awarded contract, the contracting officer should attempt to negotiate a mutual agreement on a no-cost basis.

(5) When the agency receives notice of a protest filed with the GAO after the dates contained in subparagraph (c)(1), the contracting officer need not suspend contract performance or terminate the awarded contract unless the contracting officer believes that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Government's interest.

(d) *Findings and notice.* If the decision is to proceed with contract award, or continue contract performance under paragraphs (b) or (c) of this section, the contracting officer shall include the written findings or other required documentation in the file. The contracting officer also shall give written notice of the decision to the protester and other interested parties.

(e) *Hearings.* The GAO may hold a hearing at the request of the agency, a protester, or other interested party who has responded to the notice in paragraph (a)(2) of this section. A recording or transcription of the hearing will normally be made, and copies may be obtained from the GAO. All parties may file comments on the hearing and the agency report within 5 days of the hearing.

(f) *GAO decision time.* GAO issues its recommendation on a protest within 100 days from the date of filing of the protest with the GAO, or within 65 days under the express option. The GAO attempts to issue its recommendation on an amended protest that adds a new ground of protest within the time limit of the initial protest. If an amended protest cannot be resolved within the initial time limit, the GAO may resolve the amended protest through an express option.

(g) *Notice to GAO.* If the agency has not fully implemented the GAO recommendations with respect to a solicitation for a contract or an award or a proposed award of a contract within 60 days of receiving the GAO recommendations, the head of the contracting activity responsible for that contract shall report the failure to the GAO not later than 5 days after the expiration of the 60-day period. The report

shall explain the reasons why the GAO's recommendation, exclusive of costs, has not been followed by the agency.

(h) *Award of costs.*

(1) If the GAO determines that a solicitation for a contract, a proposed award, or an award of a contract does not comply with a statute or regulation, the GAO may recommend that the agency pay to an appropriate protester the cost, exclusive of profit, of filing and pursuing the protest, including reasonable attorney, consultant, and expert witness fees, and bid and proposal preparation costs. The agency shall use funds available for the procurement to pay the costs awarded.

(2) The protester shall file its claim for costs with the contracting agency within 60 days after receipt of the GAO's recommendation that the agency pay the protester its costs. Failure to file the claim within that time may result in forfeiture of the protester's right to recover its costs.

(3) The agency shall attempt to reach an agreement on the amount of costs to be paid. If the agency and the protester are unable to agree on the amount to be paid, the GAO may, upon request of the protester, recommend to the agency the amount of costs that the agency should pay.

(4) Within 60 days after the GAO recommends the amount of costs the agency should pay the protester, the agency shall notify the GAO of the action taken by the agency in response to the recommendation.

(5) No agency shall pay a party, other than a small business concern within the meaning of section 3(a) of the Small Business Act (see 2.101, "Small business concern"), costs under paragraph (h)(2) of this section

(i) For consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Government pursuant to 5 U.S.C. 3109 and 5 CFR 304.105; or

(ii) For attorney's fees that exceed \$150 per hour, unless the agency determines, based on the recommendation of the Comptroller General on a case-by-case basis, that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee. The cap placed on attorneys' fees for businesses, other than small businesses, constitutes a benchmark as to a "reasonable" level for attorney's fees for small businesses.

(6) Before paying a recommended award of costs, agency personnel should consult legal counsel. Section 33.104(h) applies to all recommended awards of costs that have not yet been paid.

(7) Any costs the contractor receives under this section shall not be the subject of subsequent proposals, billings, or claims against the Government, and those exclusions should be reflected in the cost agreement.

(8) If the Government pays costs, as provided in paragraph (h)(1) of this section, where a postaward protest is sustained as the result of an awardee's intentional or negligent misstatement, misrepresentation, or miscertification, the Government may require the awardee to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the awardee under any contract between the awardee and the Government.

### **33.105 – Protests at the U.S. Court of Federal Claims.**

Procedures for protests at the U.S. Court of Federal Claims are set forth in the rules of the U.S. Court of Federal Claims. The rules may be found at <http://www.uscfc.uscourts.gov/rules-and-forms> .

### **33.106 -- Solicitation Provision and Contract Clause.**

(a) The contracting officer shall insert the provision at 52.233-2, Service of Protest, in solicitations for contracts expected to exceed the simplified acquisition threshold.

(b) The contracting officer shall insert the clause at 52.233-3, Protest After Award, in all solicitations and contracts. If a cost reimbursement contract is contemplated, the contracting officer shall use the

## Appendix VI

### Procurement Policies and Regulations Task Force Montgomery County Procurement Survey, 204 Responses

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This survey was distributed to regional vendors active in the Montgomery County Inter-Agency Central Vendor Registration System. A total of 9,528 contacts received the survey through this database. There were a total of 562 unique clicks on the survey link. Additionally, a press release was issued directing interested parties to complete the survey. The press release was distributed to civic associations, the boards, committees, and commissions recruitment list, as well as general media outlets. The press release was reissued on June 22. A total of 204 respondents completed the survey. Task Force members also reached out to businesses in their networks.

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The following responses were received. An asterisk (\*) denotes a required question.

1. Are you a current Montgomery County contractor?\*

	#Responses	%Responses
Yes	117	62%
No	87	46%

2. How many solicitations did you respond to before obtaining a contract? \*

	#Responses
One	35
Two	13
Three	7
Four	3
Five	5
Six - Ten	8
Eleven - Twenty	5
Twenty+	4
Zero	124

3. Based on your experience with the County procurement process, what is working?

- Alvin Boss has been a tremendous help.
- As a registered vendor since 2012, I have never received an opportunity to do business with Montgomery County. Our services are utilized in the event of an emergency, after a disaster as well as reconstruction.
- At first, the process seemed daunting, but in the end, it all made sense.
- Based on my experience nothing works well. There seems to be a lot of turn over and as a result contract wording and procedures don't change with the times.
- Based on my experiences, I don't find much that is working well with the current processes that I've experienced.
- Being informed of the solicitations.
- Checks are received in a timely manner.
- Contracts and notice to proceed are issued more quickly than previously.
- Disbursement of funds and bid process are satisfactory.
- Ease of invoicing and speed of payment.
- Email Notices

- Evaluation Criteria are very detailed and well written. Detailed scopes of work are extremely important. Personnel availability for questions by phone.
- Everything is acceptable.
- Everything looks very well prepared, packages, bids, info, plans and the people from the County always willing to help.
- Everything worked fine.
- Excellent coordination with facility managers. Payment are very timely.
- Fast payment once the final sign is completed.
- General focus on local business.
- Generally well written procurement documents with clear instructions. A reasonable amount of time is given for preparing and submitting a response.
- Generally, it feels like the system is efficient.
- I am a landlord and my procurements are the County supplementing tenant's rents. The County does an excellent job helping tenants.
- I am not receiving solicitations timely, they are not coming to my registered email address.
- I am paid through a senior citizen's group so I don't go through the County system.
- I believe that fundamentally the County maintains corrupt practices. The County employees reach out to friends or others they already know, tell them about an upcoming solicitation and then select them during the bidding and proposal process. There is no effort to secure new contractors and support small businesses.
- I couldn't say because I never receive anything that applies to us.
- I don't think enough County agencies know about us. We have received requests from MC and Rockville Economic Development organizations. We have donated \$1500 worth of printing to the WBC of Montgomery County.
- I haven't seen a RFQ or RFB in a couple of years.
- I just became a green Business member in Montgomery County--does this put me automatically as a procurement contractor?
- I just started working with the MCFRS this Spring so I don't really know of issues yet
- I was able to obtain a contract.
- I would say for the most part the process is efficient.
- It is useful to have a procurement rep within the requiring agency, to bridge communications gaps among the requiring agency, the contracting activity, the small business advocates, and the offeror. Having a more streamlined process, like informal solicitations, makes good sense in keeping the cost of procurement down.
- It's difficult to understand how one competes with a training product that may include conflict resolution, stress management, building resilience and coping skills, high performance team building, and management and leadership. Most County work seems to focus on services.
- It's working well.
- I've only bid on 2 projects, both of which are pending.
- Level of detail provided in the solicitation.
- Local Small business Reserve Program is working and keeps business in Montgomery County. It is good to see you have now started to LSBRP small temporary work services.
- Makes an effort to include small, local, minority, woman-owned and disabled-owned businesses.
- Montgomery County is extremely organized and well-polished with procurement, from posting the bids available, to bid tabulations and awards. Overall, the procurement staff is easy to deal with, courteous and tries to be helpful within their scope and the law.
- Needs no change.
- No experience as nothing has come up that we specialize in.
- No. You bid, but you don't receive proper answers on status of your submission. The process is not transparent and your portal does not update the proper status in progress.
- Not much, I am never notified of any bids.

- Not sure what the processes are nothing has happen with our contract or PO to date.
- Nothing. The RFP is written for a certain company or person. It is prohibitive for any new company to enter the market.
- Nothing. We are a print shop. Most of the print orders go to the County print shop. Many of our County clients tell us they do not like to deal with then County print shop because they are slow, inaccurate and costly. They prefer to do direct purchase if possible with us because they get the product faster, more cost effectively and accurate. We are sure the County print shop also has to vend out work however we are never included in the bid opportunity even though we are approved County vendors, and the print shop has our information. Also most of the requested through the Small Business Reserve Program are either too vague or too specialized for most of the small print shops here in the County. Also the 50+ page contacts are so detailed and lengthy with legal disclaimers, it's almost to the point you need a lawyer to review it. A small business does not have time or money for that. What does work, is direct purchase by authorized purchasers in the various departments/divisions. It a much faster and economical way to go and builds good relationships with the vendor and the County department.
- Online information
- Only one contract, that's good.
- PO and Payment process
- Procurement seems to be fairly fast and the MC people are very knowledgeable. They also seem to have a lot of projects.
- Program scheduling and contractor training. Damage control and flexibility with scheduling changes etc.
- Prompt payment
- Prompt response
- Seems to be working.
- The 800 number staff were very proficient, the ACH Direct deposit could use some help in Time management.
- The County has a good process and we have always had a good working relationship with the procurement group. Communication is very good. Email for upcoming solicitations and events is very effective. The block above would only allow a number. We submit numerous proposals to the County. Some we win and some we don't. The number varies based on the type of procurement or service being requested.
- The County school system's procurement process is fast and effective for the school system and they typically steer all of the work to the same, very limited number of consultants.
- The email announcements and alerts
- The email delivery is really convenient.
- The front end with solicitation process
- The initial registration is easy. However, all required information should be requested at the initial registration.
- The listed phone numbers sometimes do not work and when they do they are routed to someone else who sometimes have no clue what you are asking about
- The meet and greet meetings are working.
- The negotiations process was cordial and the staff well informed.
- The online availability of the contract and updates work great. Response back from the contracting agents is also very good. People are nice when you meet them one-on-one. I'm not happy about how it works.
- The opportunity to do the work that fits with my expertise.
- The overall process was fairly seamless but timely. Solicitation process is intensive but for good reason. The decision-making process seemed a bit slow but the communication level was very high. Any question asked was addressed within a timely manner.
- The people who do the scheduling.
- The personnel responded very quickly to our questions about the solicitation we were considering.



- The procurement was well worded. The vendor Q&A was well conducted and the answers to the questions were sent out in a prompt time frame.
- The solicitation process did bring a good team of service providers together.
- The standardized process is terrific. I appreciate the review panels, transparency with the County, and County staff has been tremendously helpful throughout the process.
- The way still obtain competitive bids.
- There is an honest intent to bring small businesses into the mix. Those involved in procurement seem eager to help.
- This is a rather open ended question. My best response is that the County procurement process is working well enough that our business with the County is completed in a reasonably efficient manner.
- This survey mostly doesn't apply to me. I have been hired as an individual to do specific liaison work with small business. My contract was with the Regional Director and did not go through the usual contract solicitation process due to the low amount of payment.
- Timely communication with vendors.
- Very good communication about the request for bid and good pre-bid meeting and response to the pre-bid.
- We believe that in theory that this should create more of a level service base and should create more qualified options for the schools.
- We do--eventually--get paid!
- We have always been very impressed with our experiences with procurement.
- We have always had good experiences with the procurement department of the County. The key to our business is cash flow. If there is too much time between presenting an approved invoice and receiving payment for that invoice that can be a problem. At this time it is working very well, generally within 30 days.
- We have been receiving contracts after enforcement has to use for minority contracts.
- We have excellent experience with the procurement process at Montgomery County in general, with the exception of procurement with the schools.
- We have never sought your business.
- We were contacted by procurement and ask if we would allow them to piggy back an existing contract with another local County agency.
- Website is very good.
- When everything is in place, contracts, POs, etc., the process is pretty smooth.

4. What is not working with the County procurement process?

- After we were notified of an award, the County would not actually sign the contract until the week before the contract was to start. This was a large contract with what was supposed to be a 60 day transition period. Awarding it a few days before contract start made no sense and was in total conflict with a 60 day transition period.
- Although the master contract was fairly awarded, Task order basis evaluation and award of bids are not transparent. Many contracts are renewed with the incumbent without competition and even if it is competed, it is geared towards the incumbent. Not enough communication.
- As a commissioning provider, our scope is placed under different contractors. When we ask who is holding our scope, the authority representing Montgomery County does not know.
- Better out reach for small business for contract that the County gives to certain General Contractors
- Communication for orders.
- Couldn't say
- Depending on what part of the contract is for, some sections expect the work to get started long before a contract or PO can be cut. This means the work cannot be billed until after the PO is cut which is usually after July 1st. This makes it hard for a small company that has to order large amounts of expensive material and pay their workers for a month or two prior to receiving the PO. No payments

can be made until after the PO is cut sometimes two to three months after the work has been started and it sometimes not until the work has been completed. That is a very large burden for a small company.

- Everything has worked for us. With most of our clients we ask for a 50% deposit upfront for services. The County does not allow this. With extended projects such as the last one we performed it's hard for a small business like mine to not have some influx of capital to get a project underway.
- Everything works fine with our contract.
- For one of our contracts in particular the County pre-establishes certain rates we can charge. This then requires us to increase rates in other areas where we wouldn't have otherwise in order to compensate for these pre-determined rates. The County should seek industry feedback in the form of a request for information (RFI) before doing this. It would make the procurement process easier and save the County money. In addition, the County does not seem to focus on or help Local Small Business Reserve Program members and as an LSBRP and minority business, I do not feel the County actively seeks to reserve the requisite number (by percentage) of contracts for LSBRP or minority-owned businesses.
- For our contract the solicitation did not have enough information to allow for adequate planning of budget and personnel needed to provide the service. There was no one with the knowledge and authority in the County to answer questions on these subjects. After the program was implemented and more information was available to make the program effective there was no adequate mechanism to amend the budget or the practice so that the program could be administered more effectively. The contract preparation and approval process was extremely slow. After approval of our solicitation promises to share the terms of the contract were delayed several weeks, and when it was there were multiple problem areas. The final contract was made available until 6 weeks after the program started and it was not clear what the terms were until two months after the program started. Authorization to proceed came 4 weeks after the program needed to start and six weeks after it would have been optimal to start. Purchase Orders and instructions on how to invoice were provided 3 weeks after the first monthly invoice due date, and even then the instructions were so vague and cumbersome it took 6 weeks to figure out how to prepare an invoice that the contract manager would accept. These delays cause severe cash flow problems, which force organizations, such as ours to borrow funds or suspend services until County financing catches up to pay for the service. The contract managers had no flexibility in handling invoices. In one case the contract manager held up an invoice for a day and required a 20 minute discussion over a 34 cent discrepancy in an invoice. Contract managers are unable to understand routine nonprofit transactions, such as the allocation of a transaction to multiple funders. It takes four to five hours to prepare an invoice for the County and less than one hour for our other funders whom we invoice. In addition the County Contractors and their supervisors have been unresponsive to questions and needed clarifications. Their requirements and judgments appear to be capricious and without merit or value. Their communication skills are not adequate to the task. This may be because they are overburdened and have no time to manage or communicate about our contract or process our invoices.
- From the time of application to the time of award, budgets often change. Flexibility in establishing line items or moving costs to a new line item would work better since it is prior to the signing of the final contract. Particularly for nonprofits, that are sometimes awarded other monies within the vetting time period. As long as the total amount is adhered to in the budget, unless there are specific line items required under the contract, changing line items should be allowed.
- Getting availability for instructors to give classes when they are ask for.
- How do we get more exposure? Who are the players?
- I am not receiving request for bids.
- I do not have enough experience to find any fault.
- I don't believe that the County has the right people in the right positions. I know every company wants the counties business....but I get the feeling that the bid process is just repeated based on "this is how we do it" rather than what will truly save the County money and time. We bid and were awarded a contract about 2 years ago for Anti-Freeze in 1 gallon containers and 55 gallon drums. To date the County has not purchased anything from us on the contract. We were told that the County facilities only use bulk Anti-Freeze. Why was the bid put out for contract for gallons and drums? Also the

County needs to realize that a lot of things change over a few years in the automotive parts category. Bids are awarded for several years and renewed without much consideration about what could be best for the County. You can't compare an aftermarket part to an OEM part based on price alone. What does the County want....the best price only or a better quality part that is designed for a particular vehicle for a great price? Do not bid an entire class of parts (Ford or GM OEM) at one mark up from cost or discount off list. Margins from the OEM change by product line (filters, brakes, electrical, emissions, engine, etc.) allowing a dealer to tailor a bid for the County at the very best pricing. Would like to explain in detail if possible.

- I have a couple of issues. First, there should be some sort of competitive allowance made for companies that are based in Montgomery County against companies from out of County or out of State. I would suggest a 2 to 5% advantage for being a County based company. I would also conduct supply bids more frequently. The last printing supply bid was carried over for something like 5 years. Bidding more frequently would probably create better pricing for the County.
- I have not been notified of a bid, is it possible to email potential companies about upcoming proposals?
- I have not had a direct contract with MC. I have been a sub to prime contractors. What is difficult from that perspective is receiving a defined scope of work. Many items are referred to the gazillion page Design Guidelines which are vague in many areas. This leads to scope creep by Montgomery County as they believe it is covered in the guidelines even if it was not in my uber-defined scope to my client.
- I have not received any solicitations and it is difficult to contact MCPS IT staff to set up meetings to at least introduce our companies offerings.
- I have yet to receive a solicitation that actually matches our skillsets. I am still in the dark if I even qualify for anything offered (we are in Falls Church, VA).
- I haven't seen a RFQ or RFB in a couple of years.
- I think the County process is one of the better ones in the DC Metro area.
- In our case a new RFP for School Portrait services was created and many of the criteria used do not fit the industry. In addition, it seems that mistakes were made in the creation and handling of the RFP and several companies have been misled.
- It is way too slow!
- It takes a long time to secure a contract - It takes long to process a purchase order - It takes long for the department to review proposals and refer them to the department - In my case it seemed there is not good enough organization. I was asked to resubmit minority certification documentation several times by the same person, who didn't seem to recall where this info was stored.
- It took until February to get approval for a contract that was scheduled to start on July. There are way too many layers to effectively deliver services. The process is focused on legal review, not efficient and effective delivery of services.
- Lack of clear information about what is being requested
- Length of time to establish a contract is too long, particularly for organizations that have existing contracts. My organization has had a contract to provide meals to homebound individuals for several years (5?). The contract needs to be renewed by the end of June, 2015. In July of 2014, my contract officer began emailing me to say I needed to begin the renewal process immediately to ensure continuity of the contract and funding. At the time, I thought eleven months was a ridiculous amount of time to renew an existing contract with few if any substantive changes, but of course my contract officer was correct. My contract expires in three weeks and a new one is not yet in place (although I am assured it is very close). I have also encountered problems getting more money added to a purchase order. So, for example, last year I submitted an invoice for \$2,614.92 to the County for services I provided in September, but was only paid \$388.08. I was told it would have been too difficult to add more money to the purchase order at that point in the fiscal year and I should have paid closer attention to how much money was left in my purchase order. I thought I had been, but I have multiple purchase orders because funding for my program comes from multiple funding sources. So, my small nonprofit had to write off the \$2,226.84 difference. This is a significant number for an organization with only a \$100,000 annual budget.

- Length of time to issue funds to a PO and extensive and inflexible contract
- May appear to exclude small, MBE, WBE, Disabled businesses because of procurement processes such as lack of competition in procurement under 10k; inadequate solicitation periods that give the perception that contracts are targeted for certain businesses; lack of goals on contracts.
- Montgomery County business set asides do not always work. One contract that was set aside ended up with 1 bidder as no other companies had Montgomery County offices. Competition was eliminated.
- Most of the LSBRP opportunities are for building, lawn maintenance or parking garage services. Also there is not Veteran preference program which the Federal Government and State Education requires. Montgomery County host a veteran contracting training course but fails to set aside contracting % set asides to be offered to veteran owned business first.
- Most RFP'S are structure in such a way that only very few can submit a bid
- No experience as nothing has come up that we specialize in.
- No issues
- No job came forth.
- Not a lot of requests for our line of work, which is archaeology and historic preservation consulting.
- Not enough jobs
- Not enough procurements in the Elevator/escalator specialty. The vertical transportation packages is bundled in with large GC work that reduces our chances of obtaining the contracts. Large GC companies are not forced to utilize MBE companies to meet the overall goal of the participation guidelines across the board on all work performed.
- Nothing on the County's end. I just need to start looking into and placing bids on the solicitations that my company can be of service.
- Nothing to bid on in my area.
- Once registered there should be no need to go through "approval" from each agency.
- Opportunities and the RFP response process
- overwhelming amount of work and requirements for contractors, not all elements of the bid I applied for were applicable to the work I do, yet I had to meet all of these requirements
- Payment for services. This process is not consistent and creates financial hardship for many contractors who need to pay staff members.
- Payroll is very slow at times- I've waited over 2 months for invoices to be paid twice.
- Processes are not transparent. Solicitation requirements are cumbersome and forms are difficult to use. Interview processes used in solicitation of child care services at both CUPF and DHHS lack substance and are "beauty contests" versus being an opportunity to vet core competencies and services. Interview teams often lack expertise in the area being procured. One member of an interview team once fell asleep during our presentation. Time to contract after award is unreasonably long (took 3.5 months in one instance). Errors existed in the legal document that needed to be fixed once I finally received it. Implementation, contract monitoring and issues follow up are slow and bureaucratic. Contract monitoring staff seem incapable of timely response to questions.
- Project management and production phase management.
- Small business application requirements and certifications were so consuming as to not make it worth it to apply.
- Some awards are too discretionary.
- Some of the links were hard to navigate.
- Sometimes information's are not update. I am waiting forever a payment, more than 60 days of delay....it's crazy!!!
- Taking the lowest bidder for A/E and/or contracting work is not always in the best interest of the County - unfortunately, those with the lower bid usually have either excluded scope or are likely to provide a lesser quality product. It would be nice to weigh both technical experience and fee in solicitations.
- The "one size fits all" methodology of ticking check marks on a cover document for the boilerplate of the contract seems at first blush to be highly efficient. What happens, though, is that the individual agency writing the main text of the bid will insert language that modifies the boilerplate. An example

is there the boilerplate states that the County payment terms (for example) are net 30, but then the end user inserts language to their text that states that invoices can be held until certain milestones are met. A significant issue is the fact that there seems to be no distinction made between designing a simple video playback control desk and designing an entire building. E and O insurance in the amount of more than a million dollars is required.

- The County is still not getting the best deal possible when dealing with dealers for major manufacturers. If you allowed us to piggyback off of existing state contracts from the manufacturer's we sell for, you would save money and still get the items your people in the field really want.
- The County needs to have a more official procurement site so interested vendors can download the open bids. We had to contact someone directly to get a copy of the word document solicitation. Additionally, the County should issue more official solicitations with a proper procurement process of asking questions, issuing answers in addendum, etc. We have been through better processes for much smaller cities and towns nationwide.
- The County Rental Assistance checks come with tenant and landlord name on check. Often, the bank questions this process requesting that the tenants name be on my checking account. Obviously, this would be a problem. I am forced to often try multiple times to deposit these checks.
- The County school system typically steers all of the work to the same, very limited number of consultants. With the school system's open end procurement process, they seldom if ever inform the solicitation applicants if they have or have not been added to the list of possible contract recipients. We submitted for an open end with the school system 6 weeks ago and have yet to hear anything. We submitted for the same open end with the school system last year, the year before, and the year before and never heard a word from the school system regarding whether or not we made the approved list of consulting firms. We've been on this list for more than 15 years and have received very, very few projects or even opportunities for projects from the school system.
- The County should study as to how many new vendors have been given a chance to provide services or products. The whole process is geared towards the same company winning the bid over and over again.
- The entire procurement process not being transparent and taking too long to receive an award. This may end up losing qualified bidders.
- The experience tell us that is extremely hard to get a contract. The amount of info, requirements, and excessive wording about liquidated damages makes us to think twice before to submit a bid. Very simple, we need to raise the price and we didn't get any contract. Procurement makes hard that a small business could get a contract, and we tried to get a job for a middle size job, they always picked the big companies. In this scenario we don't have a chance to compete with "the big boys", and procurement doesn't make any effort to open the game. Most of the time we desist to submit a bid once we saw the holder's list
- The forms you have to fill out are unintelligible and rules are not small business friendly. Prime contractors are not required to find small businesses and as a consequence Virginia is a much friendlier state for business than Maryland.
- The length of time it take to get a signed contract and not being able to begin work before having the contract signed.
- The lengthy time period between submittal of a bid and notification of win/loss is significant and makes it difficult to manage internal staffing levels.
- The process is long and the form exceptionally tedious. It is intended for large companies not for a solo professional like myself. So much of the contract required information is totally useless and unnecessary. It is not self-explanatory either, I needed to contact staff in the department in which I would work to find out how to complete the form.
- The process is of getting an contract is somewhat hard for a small business as most do not keep lawyers on staff to read the complicated applications and bids
- The process is very slow. Also, The CATS contracts were far too restrictive for small businesses. For example, the contractor had to qualify for ALL functional areas in order to bid. This required a team.

In one of the contracts, the prime had to qualify for all areas, thus precluding all but large companies from participating.

- The procurement process is too elaborate for most small businesses. The procedures duplicate those used for much larger vendors with all of the associated "government red tape". These take too much time and effort for many small businesses to address. The need to include a minority, female disadvantaged (MFD) business component is restrictive for small companies who don't meet these criteria. The jobs are often too small to consider a teaming arrangement. Contracts often to not include any guaranteed business. You may win as the preferred vendor, but no work ensues.
- The procurement process with the schools at Montgomery County is rather cumbersome and relies on previous experience with the same schools. This, by default makes it very exclusionary and bias.
- The requirement for a full Performance and Payment bond and withholding of retainage on a project is difficult on contractors. The net profit on construction projects averages less than 5% of the gross contract amount. Many times a lot less than 5%. Bond costs are between 1 and 2% of that amount. If retainage is withheld (between 5 and 10%) that means that the costs of the job and doing business are not covered until after the project completion. This greatly constricts cash flow and makes the project more difficult to complete. One or the other is enough to protect the County's interests. Both at the same time are double jeopardy for the contractor.
- The review and approval period takes too long.
- The review panels seem to need more training on expectations of them. The new online process is easy, and I think will improve even more once the initial kinks are worked out.
- The LSBRP does not contain much work that is pertinent to the services that we provide. We are a four person small business and it is difficult to compete with "small businesses" that are ten times our size.
- The timeline for announcement and submission are sometimes very short The process is confusing to new vendors
- There are reoccurring delays that result in reduced funding. Also no matter what the size of the contract, bidders are required to comply with policies and procedures that don't seem relevant. Our contract was for less than \$200,000 but we were required to act as if millions of dollar were at stake. As a citizen I want accountability but proportionality is important.
- There is too much focus on compliance with solicitation process, and too little focus on value.
- This is one of our exceptional contracts - everything works.
- Too much paperwork. Small companies want to write a quote and send it in. RFP's take a lot time to review. It may be better to get quotes, then interview each person with questions and that way they can be as detailed as you want. Also, proves what they are going to do, that they understand it and someone else isn't sitting over there should answering everything.
- Unclear requirements and the length of contracts.
- Unfortunately, I have not won a contract yet. The worst one was the Montgomery County Environmental Protection contract, but it took about 6 months for them to decide not to go with my firm. I still believe that the County should set up a BPA (blanket purchase agreement) with people in my field (marketing, creative services) to be on a short list to get work. The procurement for various projects is extremely time consuming and they measure the wrong things in regards to performance and delivery of a service. Honestly, someone who has done work for over 25 years is inherently efficient and can provide great value. One contract that was let out last year was for graphic services. The RFP was about 75 pages for what amounted to be a \$25/hr. job only part time. It must have taken many County workers many hours of work, who collectively may be paid in excess of \$200/hr. to find someone to do about \$25,000 worth of work. I know there are opportunities to do work with the contracting people for projects under \$10,000, but finding someone to welcome this kind of work is difficult when. Paying your tickets and taxes take no time, but finding work in the County is nearly impossible. You want to find and work with County talent, but you make us have to jump through hoops to just to fill out paperwork. I know don't want to waste taxpayers funds, but wasting everybody's time is equally maddening. Now you have softball questions about the "bid decisions."



How can we answer the "Perception of fairness in the process 1-5? My perception or yours? I think it's totally unfair.

- Upfront notifications... I'm very proactive with solicitation searches but I do not recall ever being notified of an upcoming solicitation. I receive the weekly or biweekly emails from LSBRP and Economic Development but not solicitation notifications.
- We are hoping to be invited to participate to bid.
- We have never sought business with a government agency.
- While the procurement rep is useful as noted above, I would suggest improvements and standardization for the pre-award workflow (tailored, or course, the size and complexity of the procurement). Converting all pre-award and award documents to machine-readable PDF files, using digital certificate based signatures, using a standard solicitation form that is tailored by check boxes, and moving the documents through a County-internal collaborative workflow system are examples of improvements and standardization. In a recent procurement I responded to, the informal solicitation was a cut-and-paste mix of documents, forms to be submitted by the offeror were being revised on the fly, contracts asked for the another copy of the same forms submitted with the proposal, and the independent legal review of insurance requirements merely repeated what was already stated in the solicitation.
- Would like more feedback on why not chosen for certain contracts and/or why the selected contractor was selected.
- You should encourage subcontractors to attend the pre-bids. Maybe make that mandatory. We are on projects where we would be doing a much better job if we could have been involved as a subcontractor for the pre-bid. I am having serious issues with the retainage for some Montgomery County DEP jobs that we are working on. I have spoken by email and phone conversations with DEP and Alvin Boss, because I am an MFD vendor for MC. I would like to speak with someone else in reference to these issues. I am going to contact my County Council representative as well. It is a serious financial burden for my small business the way the County (and State) are holding retainage with landscape work.

**If "No" was selected as a current County contractor**

5. Have you participated in any County procurement solicitations? \*

	#Responses	%Responses
Yes	63	80%
No	24	30%

6. Select the reasons that you feel have prevented you from participating in any County solicitations. (Check All That Apply)

	#Responses
Process too complicated	9
No opportunities in service area	17
Lack of information	9
Bond/insurance requirements	1
Other	5

Other-responses

- We were tasked to remove bicycles from the waste stream but w/o a contract over 7 years, then abruptly told it was no longer possible w/o a contract, and no contract process offered. The short notice opened a hole in our budget.
- Never had a reason to do so.
- None in what I can provide.
- Extremely short notice and response requirements.

- Difficulty in locating/understanding open solicitations, difficulty in obtaining assistance to understand, difficulty in getting someone to return my calls to answer questions, and e-mail responses did not address my questions.

7. Do you think your bid was handled fairly?

	#Responses	%Responses
Yes	16	8%
No	7	4%
Unanswered	64	34%

8. How do you think the process was unfair? See following table.

9. How could the process be improved? See following table.

*Responses to questions 8 & 9 have been matched by respondent.*

How was process unfair	How could process be improved
For new businesses that are interested in bidding on contracts, the ability to get information on how to submit a bid, understand the bid process, etc. is difficult, so it discourages businesses from pursuing bids. Initially I thought it was just me, but other resources in the state that are established to assist small business grow, also commented that "...don't place too much focus on obtaining contracts from the County, the process can at times be complicated, long, and it is difficult to get a response to questions.	Make open bids easier to locate, provide resources to assist in answering questions, provide alerts to interested businesses, return phone calls to answer questions, when responding to e-mails-realize that because a business owner may not be familiar with the "County jargon" they may be additional questions after reading a response and provide an opportunity for the individual to speak in person and then return the phone calls.
Have not decided to respond to any solicitation announcements received due to the overwhelming investment required to produce a response, particularly for small business. The process is not fully open, transparent and/or responsive to submitters.	Keep in mind who the respondents are. Small businesses do not have the capital and/or resources to invest in the type of elaborate responses you expect. The larger businesses then have the advantage.
I cannot answer this question from a bidder's perspective as I have not bid. As a member of the business community I have heard from other business owners bids were not considered for local Montgomery County vendors, such as furniture, insurance, construction etc.	There should be an effort to attract and retain local quality vendors and have a complete vendor list of local Montgomery County business for each category at least 5 vendors who are actively seeking to do business with the County.
Our company has never been notified of bids since we became subscribers. This is the first email I have received in almost 2 years.	
Over seven years, we were tasked to remove bicycles from the waste stream but w/o a contract. Each year we budgeted the modest income. Then, in February of this year, without prior notice, we were told it was no longer possible w/o a contract (County Executive instruction, Solid Waste Division interpretation), but no feasible bid/contract/proposal process was offered (we were told we could apply for a grant...for FY 2017!!) The short notice opened a \$6,500 hole in our 2015 budget.	If the County cared about continuing services to the community and about the survival of its non-profit partners, it would give advance notice and not change ground rules abruptly and take refuge in legal or bureaucratic rules/regulations. We understand the County Executive's directive to have contracts/formal agreements, but surely some transition to a competitive bid or proposal process could be arranged. My reaction to the Solid Waste Division's interpretation can't be put on paper.
We have never solicited to provide services to the County. Patients have been brought in by animal control for at least 20 years.	

10. On a scale of 1-5 (with 1 being the lowest and 5 being the highest) how relevant to the bid decision are the following:

	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<b>Average</b>
Complexity of solicitation	<i>18</i>	<i>12</i>	<i>55</i>	<i>40</i>	<i>55</i>	3.61
Length of time to respond to the solicitation	<i>18</i>	<i>15</i>	<i>64</i>	<i>37</i>	<i>46</i>	3.43
Insurance requirements	<i>36</i>	<i>30</i>	<i>65</i>	<i>18</i>	<i>29</i>	2.85
Time to obtain a signed contract	<i>29</i>	<i>14</i>	<i>63</i>	<i>28</i>	<i>36</i>	3.16
Reporting/Compliance requirements	<i>23</i>	<i>23</i>	<i>65</i>	<i>34</i>	<i>33</i>	3.17
Perception of fairness in process	<i>26</i>	<i>16</i>	<i>38</i>	<i>36</i>	<i>66</i>	3.57
The time spent on effort is worthwhile	<i>35</i>	<i>11</i>	<i>34</i>	<i>39</i>	<i>57</i>	3.41

11. Do you feel that resources are available to help you participate in the County bid process?

	<b>#Responses</b>	<b>%Responses</b>
Yes	<i>119</i>	63%
No	<i>85</i>	45%

## DEMOGRAPHIC QUESTIONS

12. How many employees are in your company?\*

	<b>#Responses</b>
Zero	<i>6</i>
One - Five	<i>101</i>
Six - Ten	<i>24</i>
Eleven - Fifty	<i>48</i>
Fifty-One - One Hundred	<i>9</i>
Hundred +	<i>16</i>

13. What are your approximate annual sales? \*

	<b>#Responses</b>
\$499,999 or less	<i>106</i>
\$500,000 to \$999,999	<i>15</i>
\$1 million to \$4,999,999	<i>45</i>
Greater than \$5 million	<i>38</i>

14. What is your company type (consulting, construction, sales, etc.)? \*

	<b>#Responses</b>
Consulting	<i>60</i>
Construction	<i>16</i>
Goods/Sales	<i>24</i>
Services	<i>104</i>

15. Is your company located within Montgomery County? \*

	#Responses	%Responses
Yes	133	70%
No	71	37%

16. Do you have a contract with any of the following jurisdictions? \*

	#Responses
None	101
State of Maryland	54
Federal Government	49
Other	32
Prince Georges County	31
District of Columbia	29
Baltimore County	18
Howard County	18
Frederick County	17
Fairfax County	17
Arlington County	15
State of Virginia	12
Loudoun County	6
Baltimore City	6
WMATA	3
WSSC	3

**Other:** Prince William County; St. Mary's County, private; DC Water; Calvert County non-profits; City of Alexandria; City of Falls Church; Washington County; Harford County; Prince William County; Baltimore County Schools; Carroll County; Anne Arundel County

17. Are you a Minority, Female or Disabled-Owned (MFD) Business? \*

	#Responses	%Responses
Yes	110	58%
No	94	49%

18. Have you registered in the MFD program? \*

	#Responses	%Responses
Yes	79	72%
No	31	28%

19. Are you registered in the Local Small Business Reserve Program? \*

	#Responses	%Responses
Yes	121	64%
No	83	44%

**20. What has been your overall experience with the Montgomery County procurement process?**

- A fair bidding process. Open to opinions prior to bid opening. The County sticks to the specifications so someone who takes exceptions is not given an unfair advantage.
- A note regarding business with other jurisdictions. We do work for Carroll County, Howard County a few Frederick County. We have a presence in Eldersburg, MD which opens us up to doing business with Carroll and Howard specifically. Not as many bid requests as we would like to see. We receive requests from people we had already been doing business with, nothing new has surfaced since we applied for the MFD & SBR programs. Those who have worked with us have given us many kudos for the great customer service, turnaround time and quality. We have a lot to offer and would like to do more work with the County. Our main focus is in the tagline of our logo, "design, marketing & print" but we also offer promotional products, wide format capability and all of this in-house.
- A solid experience. Payment is usually with 45 days. Purchase Order instructions are clear. I think it is a good process.
- Acceptable.
- Actually, we have had little to do with it given the circumstances alluded to above. It's not timely, as we are essentially faced with no income from the time payment for services was halted at the end of 2014, and the earliest a grant could be approved and disbursed (July 2016). We are very disappointed and frustrated, and have stepped back from other community services in Montgomery County including the Rockville Youth Bike Project, which relied in part on bikes from the Shady Grove Facility.
- Awful...the counties in Virginia really blow this system away.
- Bid was written in convoluted language
- Can't register a nonprofit w/ the LSBR - ... unless we form an LLC separate from the nonprofit - then we might qualify as a MFD business. Procurement process --- confusing; especially the lifetime amount a contractor can earn with the County without a competitive RFP.
- I was a Montgomery County business for many years (founded in 1991) and registered in the LSBR program. I relocated to New York in September 2013. I am planning on returning to Montgomery County in late 2016. Sales figure listed is average for my final few years as a Montgomery County business. From 1998-2008, annual sales averaged \$100,000. My experience has been that even on relatively low budget procurements for which my one-person business could qualify (either working alone or assembling a team), the proposal process was unnecessarily complex and burdensome. I realize that Montgomery County is committed to principles of good government, transparency and fairness. But most of the forms and certifications required for completing a proposal for a procurement of any dollar value -- or the compliance and reporting requirements during performance on a contract -- have little to do with assuring fairness and nothing to do with one's actual qualifications to do the work. A much more reasonable approach to the forms and certifications would be to have contractors go through that process ONE TIME or perhaps once per year as part of registering to be a prospective contractor. Then all certifications could be included by reference on a single page or single statement in any submitted proposal. New contractors not yet in the system would submit those forms with their first proposal, after which they, too, would be able to include them by reference in future proposals. As to fairness of Montgomery County procurement, three contracts that I pursued come to mind. Two were for different programs of the Department of Transportation in the 1990s. I assembled a team of marketing professionals to compete as a virtual agency. We made the final three for in-person presentations both times, only to lose to the same incumbent ad agency both times. Not too many years ago, I competed as a solo provider for a contract to be a writer for the County Executive. That contract went to a person who had only a few weeks earlier become a freelance public relations consultant and writer after a career as a communications officer (as a County employee) in various County departments or agencies. I'm not saying that the successful bidders in any of these cases weren't qualified and deserving. I am saying that whether an in-place contact is being recompeted simply because regulations require it or the County goes through the required procurement mechanism even when a uniquely qualified candidate is available for direct negotiation and hiring, the resulting process

can be an exercise in futility for all of the other competitors. All the rules, forms and certifications in the world don't assure a fair process. Just for comparison: I once received a contract to write and edit an entire section of the U.S. Department of Agriculture Graduate School Course Catalog. I was notified by fax of the opportunity. The proposal process consisted of editing one course description, quoting a price per course description and faxing those to the contracting officer. I did a project for another Federal agency for which the procurement process required only a simple letter proposal addressing their stated requirements, my qualifications and cost. There are other ways for government to obtain services.

- Depending on which part of the County the contract is for, the process can be arduous for a small company.
- Difficult to find work in my area (environmental consulting).
- Difficulty in understanding what the County buyers really need, low price and difficulty for new businesses to get contract. Most times solicitations are written with specific requirements that a company would have to be doing the job already in order to meet the qualification/requirement.
- Disappointment to the point that we rarely consider bidding on any Montgomery County procurement. Most disappointing is that the Small, Disadvantaged office in Montgomery County headed by Alvin Boss is basically useless. All they do is refer any questions to the respective departments. They talk a great game but don't deliver. We have participated in the MFD process for over three years and despite a record of success elsewhere, the MFD process doesn't produce. It's a waste of time. For example, if you call MFD and ask for an update in lieu of call procurement, MFD never knows the answer or cares whether they help. They show up dutifully at pre-bid conference and parrot nonsense. They don't advocate for MFDs, they don't host meetings (when was the last time MFD held a conference where Montgomery County agencies were present?), they don't facilitate introductions to the respective agencies, they don't provide advice etc... They provide hot air and deliver even less but they don't have to care. They already have jobs so they could care less whether one MFD ever was awarded a contract. They don't have any power either to compel County agencies to comply either. MFD is useless. Even their website is dysfunctional. I don't know one serious business person who would ever consider going to MFD unless they were lost and wandered into that office for directions.
- Discouraging and frustrating! Too much bureaucratic red tape. Requires too much time with highly uncertain prospects of success (winning the project). There's also a perception that the process is distorted by preferences given to certain social groups.
- Dissatisfaction. In our sales area, two local companies have the state franchises (from the manufacturers) for the bulk of the product specified on the bids. There is no way to compete with this monopoly. At one point, years ago, when we underbid one of these franchise holders on certain items, we were informed by the manufacturer that they would not sell them to us to resell to Montgomery County. Also, when we have tried to call on representatives of the procurement department responsible for our sales area in order to introduce them to new models from other manufacturers, they have not responded to our requests for meetings.
- Don't have any information about it, but would like to know.
- Excellent. Kudos to all involved!
- Excellent. Very easy to work with the County Recreation Department as an instructor.
- Fair
- Favorable
- For the recent procurement, the process went faster than I had expected, especially contract formation and PO approval after negotiations. A little rough in spots, but balanced and fair--which is what I value the most.



- Frustrating - At this time, I don't actively seek to see if there are open solicitations for which our firm could apply, the process is complicated, when I call no one in the County seems to know answers to my questions and the contacts for the LSBRP don't return my calls...
- Frustrating! There has got to be a better, more efficient, way to do business.
- Frustrating. Wasted effort trying to get on a contract.
- Good except for my above concerns with the retainage on DEP projects. As mentioned, I plan to go to my representatives both in the County and the state. If there is someone you would like me to talk with before I do this, I would be happy to talk with them. The landscape companies are not being treated fairly and the County and the state are putting a serious financial burden on us. This needs to change.
- Good, just have to keep trying.
- Haven't had an opportunity to bid on anything.
- Haven't seen that many requests to bid or quote
- Horrible.
- I am not aware of being registered as a Local Small Biz Reserve program nor the MFD program.
- I am not certain of the process that would make my company successful with Montgomery County Procurement.
- I am registered but not validated in the LSBRP because the validation process was too confusing and time consuming so I am registered but have not fully finished the process. I do not see any LSBRP request in our field of expertise.
- I am technically not a female owned business as we are 50% percent women owned.
- I do not yet have any experience with them other than reviewing the LSBRP opportunities that they have emailed to me over the last six years and noticing that 95% of them do not match our firm's offerings.
- I don't have any experience.
- I feel that the Montgomery County procurement process is completely unorganized and unfair. Many promises were made to us that were later rescinded. We are a struggling Montgomery County based business who has all of the requirements to do business with MCPS but have hit many brick walls in the process.
- I had a business for 20 Years 1990--2010--I closed it in May 2010. I was certified by the MCG DOT in 2006, but then was notified that I had to get recertified by another agency. My company had 3 employees--it was a flower and gift shop; not a mega-million dollar enterprise. There should be levels of solicitation/procurement process dependent on the type of business that one has. I neither had the time nor the resources to fill out 20-page forms only to be rejected time and again--so I stopped. I attended the seminars, and workshops hosted by MGC--but only got one contract.
- I have not yet tried.
- I have taught dance for them for the past 20 years.
- I only responded to one solicitation but it was a positive experience.
- I was not happy with the process and the excessive amount of documentation requested
- I'm Unable to get any business for my small company.
- It has been awhile since we have submitted, since solicitations seem more limited in the past few years. our experience is probably a bit out of date, but generally has been pretty good in the past.
- It has been difficult to track announcements for consulting and the amount of consulting opportunities have been very small the past several years. It is hard to know the needs of the various departments for organizational consulting and training and how to improve submissions to insure greater success of getting a contract.

- It has been good considering the entity.
- It has been okay.
- It is about average for a state or local government procurement organization.
- It is long and frustrating. Months can go by without any word of the selection of a contractor before the other candidates are notified, because no information is shared with them until there is a fully executed contract with the selected candidate. That means that the other contractors are confused, trying to figure out if the County has selected someone or is just dragging their feet in the selection process. There needs to be more openness in communication.
- It is way too complicated, way too much attention to minutiae, and often seems intended to protect the incumbent. Example - the traffic watch aircraft solicitations impose conditions that unreasonably (and stupidly, in my opinion as an expert in the field) restrict options, freeze out competition, and cost the County a LOT of money. Reporting/audit requirements are ridiculous too. I can provide the service, pay me and get it over with. All that living wage nonsense over one or two contract pilots and/or a leased aircraft is overkill and just not worth it.
- It seems biased toward contractors who have experience with the County. Catch 22: you can't get a contract with the County unless you've had one previously.
- It was initially great. Very supportive and we were very hopeful in our response to an RFP for Consulting and Technical Services, but after spending a lot of company resources to respond we never received notification that awards were made, ever. We had to go online to see that awards had been made. Seems at least a note should be sent to those that responded.
- It's useless. It's an appalling waste of money. Zero support, too much attitude. Makes me cringe that I pay for this nonsense tomfoolery as a taxpayer.
- It's very complicated for a first timer to navigate and gain an understanding of the process.
- I've only had an opportunity to apply for one relevant posting. I followed up regarding financial reporting per the request and did not receive any feedback. I also did not receive any feedback following the bid closure. Because I was contacted directly to apply for the opportunity I was optimistic that the communication between the County resources listed would be a little more forthcoming. Was disappointed when a question regarding one of the biggest aspects of the bid was duly disregarded. I'm hesitant to apply again because I don't know if that was the barrier to the initial proposal.
- Limited exposure with the County process, but I have more exposure to the MCPS procurement process
- Marginal
- Montgomery County chose a company in 2013 to perform services that according to the winning company's web site did not even provide the services. Should future solicitations be issued by Montgomery County, that fall within the company's core scope of offered services, we would have to take in to consideration the County is not serious about selecting the most qualified candidate. We understand there are other companies which provide similar services. However, when a company who is awarded the contract has no experience in the services requested by the County, should we even waste our time preparing a response.
- Montgomery County was overall easy to deal with. I feel it would be much better to make all agencies inclusive. HOC became difficult thru no fault of my own. Overall the folks tried to be helpful but I never felt we were welcomed in Montgomery County.
- Most of the procurement solicitations I've seen fall within the work that we normally do for small to mid-size business, the biggest difference is that with them we don't have to worry about completing a 30+ page application process or obtaining what we feel are unnecessary requirements for our industry, such as high insurance coverage when we work with computers all day (not in construction). Moreover we would have to hire another person just to be able to spend the time required to complete these

applications. Also, even if we fill them out there is not even a mid to high possibility of the contract being awarded. These are the main reasons why we did try but decided not to focus our efforts on govt. contracts but instead on B2B sales. This is a process where we have more control and flexibility (even with specific requirements) and moreover we move through a scalable sales process in order to invest our time with contracts that we know have a higher chance than closing over the others. I really hope you get to adjust the way you work with local businesses, consider the problems mentioned and also consider having a stage by stage application process where all interested companies can complete a simple application (stage 1), few will be chosen to prove their criteria/requirements (stage 2), final 2 companies will be chosen and asked to complete any final requirements before starting (stage 3).

Thanks

- Most, if not all, of the Engineering Contracts are written in away that smaller to mid-size companies don't qualify to meet all of the requirements of the RFP. We currently do work for the County, as sub-consultants, and we look forward to compete as Prime contracts in the future - we just need your continuing support. Thanks.
- Mostly favorable.
- My experience has been exceptionally wonderful. The contract is a bit cumbersome and inflexible, but the people who work under this contract are magnificent. The payment process (once worked out with Finance) has been timely and accurate. It would be beneficial to review the length and complexity of the document itself since the actual delivery of the service is straightforward and well-coordinated through Kim Ball's office.
- Need for changes to be more transparent and time sensitive. Experience with the process has not been good.
- Never participated in the process.
- Never succeeded to win any bid.
- No experience as nothing has come up that we specialize in.
- No formal experience and that seems fine.
- No one has told me about it and it's impossible to get in.
- No Problem I just would like a printing contract. My Nathaniel Holland I would like to introduce you my small business company called Superior Designs. Superior Designs, a Baltimore-based company as well as certified as a Minority Business Enterprise featuring promotional products, business products, and invitations and accessories products. Today, I am writing you about doing some of your printing services or selling you promotional for your company. For more information, you can visit my website [www.superior-designs.biz](http://www.superior-designs.biz) or reach me at (888) 227-9883.
- None so far.
- Normally, excellent. The attempt to have process of checks with my name only have gone nowhere.
- Not geared to help us.
- Not good at all.
- Not good we were named as the MBE on a project with Johnson Controls on an EMS contract, the work was done and we did not get a contract but was asked to complete paper work stating we were part of the contract. Its a joke and a waste of time.
- Not good. Do not receive solicitations, even though am registered in the database.
- Not good. Spending the amount of time responding to RFPs is extremely time consuming. When organizations have teams of people do the proposals can get an A rating for doing the proposal, but that is not a good measure of performance of work.
- Not much experience with Montgomery County but similar to other municipalities in the Baltimore Washington area.

- Not positive.
- not positive. Contracts due for re-bid due to end of contract period are extended without explanation. Products under contract are replaced with a different product without rebid while the originally specified item is still available.
- Not satisfied.
- Not truly organized which gives the impression that small businesses are really not sought out. The RFP published ore made in such a way that most small businesses CANNOT meet the requirements and have to either partner, or subcontract with large businesses.
- Not very good. The process moves very slowly.
- Not very successful.
- Not worth it.
- Not worth the effort.
- Not worth the trouble. It's wired before it's released.
- Obnoxious staff members who do not return phone calls, unintelligible solicitations, corrupt practices and and a general failing in understanding small business. Not one person on your entire effort has ever had to make a payroll or seek out new business.
- Ok, I am very excited about the future of working with Montgomery County as an WMBE / SBE / MFD certified organization.
- Once the contracts have been issued and the work has been undertaken things have been good, but the length of time it takes to move proposals/contracts through the process take much too long.
- Our organization worked with a team of the service providers and we all had major problems with the procurement process. The County procurement process seriously undermines the ability to provide services as mandated by law and public policy. The procurement process makes it difficult and in some cases impossible for contracted service providers to provide public services in an effective and timely manner. Unless major reforms are implemented our organization will never seek another County contract. Montgomery County tax payers deserve a far better system. I suggest not using cost reimbursement contracts for small nonprofit organizations that provide service. They should get advance payment and fixed fees, so they can have the flexibility to adjust and improve services in coordination with the County agency overseeing the service.
- Our overall experience has been very beneficial. We transitioned from being an MFD when the founder of our company died and have had no negative impacts. Our working relationships with the County's personnel remain strong and mutually constructive.
- Our overall experience is that it's not worth the effort. Also a note about the Minority Owned qualification... We are a Woman Owned Small Business (Self Certified as stated by the US Small Business Administration) But the County does not recognize that, because we are not MD State DOT Certified Small Business, which is an elaborate process equal to the equivalent of a rectal exam.
- Outstanding
- Overall fine, but wish there were more smaller (\$200K or less) contracts for small businesses.
- Overall good.
- Overall, the experience has been positive. I recognize that the County is restricted by State procurement law and I think the County does an excellent job, given those constraints. It would be nice to see the County utilize more in-County bidders through LSBRP and MFD businesses.
- Particularly in the area of procurement for child care services and training and technical assistance contracts, the processes are inconsistent across agencies, lack transparency and administered poorly.
- Past experience quite unfavorable; therefore we rarely (if ever even consider County opportunities). Response times from County representatives often untimely;hindering opportunity to successfully bid.

Process not at all customer service focused. Even the smallest of opportunities seem to have an undue amount of complexity within the RFP; making it undesirable for a small business to bid - - > cost / benefit simply not there.

- Payments are received in a timely manner.
- Poor
- Poor and uninspiring. I perceive little incentive to try to do business with the County.
- Positive
- Positive once we received the first contract but quite discouraging before.
- Pretty good so far.
- Prior work performed had no contract assigned, sole source provider
- Procurement process is best around.
- Procurement team seems to be either unorganized, under qualified, or under staffed.
- Satisfactory. The problem is that the jobs need to be diversified. That doesn't happen today.
- Sincerely appreciate the efforts of the County to assist small business owners. My experience to date has been extremely positive.
- Slow pay and no pay. I have had people order materials and they have sat for 6 months in my shop because the County turned off the persons credit card. I have had an instance where I never got paid. fortunately for me the job was only worth a couple of hundred dollars so it did not hurt that bad. However I have come to the conclusion that the hassle of getting paid is not worth the effort.
- Slow, cumbersome and some agencies are too strict with report requirements. Sometimes the same reporting is required of all nonprofits, and the format does not fit because of services provided.
- Small procurements keyed to the vendors they have in mind already. These vendors already have all of the info about the program specs
- So far, so good.
- Staff are polite but their hands are often tied by policies and procedures.
- STI has dealt with MC through one contract (EMOC) That contract has been a nightmare. The County Project Manager didn't understand construction, didn't understand contracts and started this project without permits and directed the prime contractor to begin phases of work which started all of the subcontractors. We have never been associated with a project with such government over-reach in 16 years of working with local Government.
- Suggestions: The site could be updated to make it more user friendly/interactive. There are many contract reports that state they are availability when in actuality, they are not. This is a bit disconcerting. The overall experience has been fair to good. System could use updating/improving.
- Tedious however since I obtained a contract, the staff in procurement/contract mgmt. Who send emails regarding needed license updates or insurance copies are efficient.
- That staffs are great to work with and focus on helping small business grow. My concerns are for set-a-side contract, company's that are not local base uses Virtual office to meet the local reserve set a side contracts and thus, making it even harder for local small business to be competitive.
- The County continues to maintain a reputation of not being small business friendly. Departments interfacing with businesses in the procurement process all too often treat business owner as if they are a burden or annoyance, instead of as a customer. Phone calls and emails to procurement staff receive delayed response, if any response is received at all. The worker's compensation insurance requirement is strongly upheld even when a business has no employees - an additional expense that small business could use to help run their business. The Local Small Business Reserve Program has the best of intentions, but is not efficiently monitored or maintained. In addition, personnel maintaining the

LSBRP data do not seem to have a clear understanding of how businesses acquire MBE, WBE, or SBE certification and the length of time it may take to acquire these certifications. There's lots of room for improvement.

- The description of the work and all the bid information is way too long and complicated.
- The employees are pleasant to deal with.
- The experience has been frustrating at many times. The process is too slow and procurement employees seem lost in the process. Though I don't have business contracts with other jurisdictions, I have helped NGOs secure funding with different federal agencies and it is complex to apply for funding and/or establish business with the government (federal or local) but it's worthwhile. The insurance requirement is an issue for many small business owners but I understand that Montgomery County government needs to be able to deal with businesses that can afford this type of insurance. The promotion of bids/solicitation has improved but it is still very poor and so a small pool of interested business gets a hold of these solicitations, most are not minority nor minority certified.
- The Montgomery County process has been very difficult for us as a small business without a large budget for legal services. The procurement office has been helpful but even though they agree that mistakes have been made we haven't been able to make any changes. The resulting events of the entire situation has been a loss in business and the need to downsize our employee staff.
- The officials involved in procurement and the MFD program in the County work hard to make it a meaningful program. They need help from their political bosses.....put hard MFD/DBE goals on all or most of your RFQ's/RFP's and stop granting waivers. Tighten up compliance. Make it clear to GC's you want to see a plan at the same time as they submit a bid and if the GC wins they must use the companies they listed. They have to meet the goals up front or risk their bid being thrown out. Monitor payments of the GC's to the MFD participant as well as the overall relationship.
- The process has been positive.
- The process is much too slow. It took 4 months from the time the contract was awarded to signed contract. This pushed the work plan as accepted from 6 months into 3 months to coincide with the fiscal year. Once the contract was accepted, funds were further reduced making deliverables much harder to fulfill.
- The process is too onerous. The amount of time and skill needed to complete a bid for the County is completely unrealistic for a small business. If the County is truly interested in hiring County-based small businesses, they need to make the application process MUCH more accessible and simple!!! Although we are an MBE, and on the Local Small Business Reserve, we have essentially lost hope in ever receiving work from the County. And, I know for a fact, the County hires similar services from out of state.
- The procurement seemed clear and straight forward. The evaluation criteria helped us to understand what was important to the County.
- The procurement system is terrible. Overly complicated, convoluted rules, slow processes, duplication of effort, false "accountability", failure to deal with waste and fraud in a meaningful way. The procurement process should be based on the foundation of being good stewards of the County tax dollars AS WELL AS providing the best possible services to the citizens at the best possible value. The Office of Procurement needs to perform BOTH of those tasks. It is equally important for the Office of Procurement to guard the taxpayer's funds as it is to facilitate and guide the process to a successful result. They should be guiding, promoting, and encouraging all of the participants in the process (vendors as well as County agencies) to guide it to the best possible solution. It is my perception that they act almost solely as gatekeepers without also being coordinators. They place roadblocks rather than build pathways. That they are obstructionists rather than facilitators. If you are serious about making change to the system, it will require a substantial cultural change. Leadership and a commitment to making the process support the business of the County government, which is providing services to the citizens. The Office of Procurement is a service provider with two customer



bases - the vendors/contractors and the County agencies. They need to be committee to serving both groups to get the job done. Right now, I think that focus is lacking.

- The Procurement website is outdated and not very user-friendly.
- The project management process with the projects in production there is a general lack of common sense, and teamwork from County's project team to work towards solutions. They focus on creating obstacles to balance their workload. They do not care about getting their paper work done for project close out to get the contractor paid in a timely fashion. When we get a lot of work we work the extra hours to get the paperwork done to keep payments moving and close a project out. If you push them they create road blocks, weak excuses, and intimidation that they can delay things further if we push them. We generally do not pursue County projects because they do not value good performing contractors. Start using a best value procurement process and you will see a lot of these headaches diminish.
- The solicitation we responded to was one of the most rudimentary documents we have ever seen. Aside from it being an incredibly simplistic form to fill out (distributed in Microsoft Word with no protected features), it wasn't even formatted correctly. Nor did it clearly indicate the scope of work. We expected a more thorough document laying out the expected requirements of a competent vendor. We responded, but the document made us think that whatever local, incumbent vendor the County already had worked with would be awarded since it wasn't a real solicitation and therefore not a fair competitive process.
- The solicitations we've been interested in have not been specific enough in order to properly cost the bid. When we ask questions the responses are too vague. This places high risk on the effort. When we can't get enough detailed information as to what the County wants/needs, then the risk to our company is substantial and not worth bidding.
- The Using Department(s) and Procurement Department have no accountability to offerors. Offerors are required to fulfill all Montgomery County procurement requirements in a timely manner, but Montgomery County has no requirements for notifying offerors of the status of a proposal; no timeline requirements in in processing proposals. Montgomery County's procurement process lacks transparency and a disregard of the scarce resources small businesses/minority-owned businesses expend in their efforts to comply with Montgomery County's proposal submission requirements. In this environment, both the MFD and LSBRP program objectives are minimized, if the Using Department(s) and Procurement Department's management and staff do not buy-in to the overall objectives; and there are no policies or procedures in place to ensure compliance --- opportunities are missed by all.
- There are some important issues to be reviewed: so called SMWOB do not get a fair process; lots of time being spent attending meeting, but no results or changes seen; and the amount or number of contracts set aside is way too low.
- There has not been any as I have not seen any requirements to bid.
- There is no guidance for novice LSBRP members on what the Montgomery County is looking for to better compete... If the attempt is to stop the big boys club mentality then the LSBRP program is failing in our opinion or as far as we are concerned... Thank you for the survey and all the efforts you are putting for our benefit, which we understand you are not obligated to do... Thank you again...
- They seem to favor local business to the exclusion of other MD businesses
- Though we're two years old, our company is just getting started with the process. I think the County has resources available; we just need to get clearer on how to access them and get on the contracting lists.
- To Whom it may concern: The MBE set-aside program needs to be legislated, implemented and monitored to maximize full participation for small disadvantaged minority firms, including sub-contract participation in the reserve program.
- Too complicated and burdensome for small business projects.

- Too few opportunities and no communication if an opening may be a fit. Like a job website, you should set up a notification if an assignment is listed that meets someone's skill set.
- Too much trouble with the paper work and certifications.
- Too slow in receiving proper responses, and some are not issuing proper details about the work to be performed and anticipated length / hrs required or proper requirements.
- Unfortunately we have a very negative view of the Montgomery County A/E consulting firm procurement process. Poor communication from the school system, seldom are project opportunities afforded and the majority of the projects go to the same very limited number of consulting firms.
- Unnecessarily complex. Some rules seem to be bureaucratic, with procurement and risk management eschewing common sense and holding the process hostage - seemingly because they can.
- USC Canterbury was a long time contract holder with Montgomery County. USC Canterbury was not chosen for the new contract, however USC Canterbury hopes to be added to the existing contract given our long standing relationship with many offices in the County. We continue to work with offices were needed.
- Very frustrating, it's almost impossible to find anything I can bid on without going through a Large General Contractor. I have the experience, past performance and the capabilities to handle any pressure washing contract the County could put out for a bid, but the County isn't giving any opportunities to pressure washing contractors. I would be happy to discuss this with anyone that would like more details, and I would be interested in helping to solve this problem if it's possible.
- Very good folks to work with. The process is the process and every jurisdiction is going to have their own rules, we understand that.
- Very good overall. I'm pleased to work with Montgomery County
- Very little, RFP's are too large and cumbersome for a small business to navigate.
- Very well written RFP's.
- Waiting to hear back about our first RFP proposal to Montgomery County. No update on the solicitation since submission.
- We are a newer business, open about 1.5 years and are located in Germantown. We find it very difficult to get information from and for County resources. The Gaithersburg/Germantown Chamber of Commerce is too focused on Gaithersburg and does not provide assistance to small businesses in Germantown. County. We would like to see that changed. I ask the Montgomery County Council to provide more assistance and support to small businesses in Germantown.
- We are a professional construction cost estimating firm founded in 1920. We have never been sued for an estimate that was too high or too low. Our standard contract says, Liability: Our report is an estimate and not a proposal for construction. Our liability is limited to our revising our estimate. Over a three-year contract with the County, our E&O (errors and omissions) insurance premium increased every year, despite no claims. Bottom line, it was a total loss—our premiums amounted to 40% of our fees. Some things to consider: - How far off must an estimate be before it's actionable? - what would the consequences be of an estimate that's higher or lower than the actual contractor's bid? One must bear in mind that bidding may take place months or years after an estimate is prepared. - How would one determine why an estimate is off the low bid? Is it because of rising labor costs? Rising material costs? The number of responsive bidders? The bidding climate? Price escalation? An error in a quantity or pricing by the estimator? - Our firm has been in business since 1920 and we've never had to have E&O insurance until required by the County. E&O insurance is essential for Architectural and Engineering firms and completion bonds for General Contractors because errors are easily definable. The A&E's insurance simply pays to correct the A&E's error and the bonding company pays for another GC to complete the project if the original GC can't. We think that this requirement is included because risk management and legal departments say, "All consultants must have E&O insurance," not realizing the nature of cost estimating. This is why, as long as the County has this requirement we won't bid on

County work. We would appreciate your forwarding this to pertinent parties who will consider eliminating this requirement from future cost estimating RFPs.

- We are an HOC landlord. If that qualifies as a County supplier. It is an awful process. The lease is unfair to the landlord and to other non-HOC tenants. Rent increases are difficult at best. We have lost thousands of dollars of legitimate rent increases because of HOC staff issues. In short. The tenants are done. HOC is awful.
  - We enjoy working and supporting Montgomery County.
  - We have always been very happy with our experiences.
  - We have been told number of projects are in the Montgomery County with the large bogged, but still we couldn't get any of them because either the bogged is not approved, or the project is not ready for consultant to work on it, as a small business SBR we did not have any chance to have any of them.
  - We were invited to bid for BWI Marshall Airport parking, however, the requirement was unreasonable, so we chose not to continue with the bid process. Having said that, we are very pleased with Montgomery County's efficient permit process.
  - When the response came back for one of my proposals that the people reviewing the proposals found my company not to be qualified, I gave up and I have never submitted another proposal. The project in question was something I have done successfully many times. There obviously were other factors in the decision, and I was never going to know what those factors were. And it was equally obvious that those factors had nothing to do with my company's qualifications. I understand that people like to do business with people they know. That is acceptable to me. But do not ask me to go through a lengthy, cumbersome process when that is considered the best outcome. I know that the process fulfills their requirements so that they can say they did what they were supposed to do. But it neither serves me well nor does it serve the County well when the process appears to be a subterfuge.
  - Wish the LSBRP and MFD programs were more rigidly administered. If needed, more staff should be provided to these offices.
-