

GO COMMITTEE #3
March 10, 2016

MEMORANDUM

March 8, 2016

TO: Government Operations and Fiscal Policy Committee
FROM: Linda Price,  Legislative Analyst
SUBJECT: Update - Procurement issues

The Government Operations and Fiscal Policy Committee will receive an updated on a number of procurement issues from the Office of Procurement.

I. PRISM Software

The PRISM system will enable contract compliance for contractors. PRISM will improve Procurement's ability to track and monitor prime and subcontractor compliance requirements by moving away from the current manual paper-based tracking and monitoring system. The Office will also be able to automatically schedule production of reports documenting prime contractors payments to subs, or pull reports as needed.

Enhancements to provide subcontractors with additional information is another benefit of the system. Subcontractors will now have the ability to see when prime contractors are paid by the County. They will also have a more transparent way to know that they are listed on the subcontractor performance plan and see the percentage of work that they will receive under the contract.

The Office of Procurement reports that other large public contractors that use the PRISM system include the Washington Suburban Sanitary Commission, Prince George's County, the Housing Authority of Baltimore City, and the University of Maryland Medical System within Maryland. Other public entities such as North Texas Tollway Authority and City of Atlanta also use the PRISM application.

The County has completed a pilot of the system and plans to implement the compliance management module for prime and subcontractor payment tracking and monitoring functions no later than July. Procurement is still working with the Department of Technology services to automatically

transfer information from the ERP system. **The Committee may wish to know if there are any other modules or functionalities of the system that may become available for future use to improve contract monitoring and administration.**

II. Bill 48-14-Purchases from Minority Owned Businesses-Procedures-Request for Proposals

The Council enacted Bill 48-14 on April 14, 2015 as a measure to remedy the significant underutilization of some MFD groups in County procurement. The Bill went into effect on July 22, 2015 and was fully implemented on October 1, 2015. Bill 48-14 permits an evaluation factor in a request for proposals to increase the participation of minority owned firms in certain procurement contracts. The Procurement Director will be authorized to establish an evaluation factor of no more than 10% in a request for proposals that would award additional points for a proposal from:

- (1) a contractor for whom a goal has been set under the MFD program; and
- (2) a contractor for whom a goal has not been set who proposes to exceed the minority owned business procurement subcontracting goal established for the contract.

Procurement has now processed three solicitations using the parameters set in the Bill. Procurement provided the following update on the outcomes of the three solicitations:

The first solicitation had eight offerors, and all received full points; the second solicitation had three offerors. Two offerors did not receive any points and one offeror received full points; and the third solicitation had 1 offeror, received full points. From the resulting MFD plans we received, this Bill has helped us to get the MFD plan up front. And when vendors submit the plans, they tend to receive full points by exceeding the goal.

Procurement prepared information to better explain the process to vendors and using departments prior to implementing Bill 48-14. The September 10, 2015 memo (see © 1-4) to using departments includes the information on the training sessions that were provided to County staff on the new measures, as well as the criteria used by Procurement to award points to bidders. Procurement staff have also been attending all RFP pre-submission conference to answer any questions on Bill 48-14.

The Committee may wish to learn of any feedback received from bidders and County staff on the new measure. Additionally, the fiscal impact of Bill 48-14 was estimated to be 2 hours per proposal, which was to be absorbed the MFD Program Specialist (1FTE). **The Committee may wish to inquire if review of the three RFPs have resulted in additional staff time than the original estimate.**

III. Outreach Initiatives

In FY15, Procurement hired an Outreach Manager to manage the website, create newsletters, expand the social media presence and organize networking events, including procurement fairs, Meet the Primes events, and training workshops. The Outreach Manager is also helping with branding, including the recent creation of a logo for the Office. The Manager has redesigned the MFD annual report. Procurement has also begun to host more vendor training and contract administrator workshops. The Office is also now attending more events hosted by the Chambers and minority

business organizations. They have undergone updates to their internet and intranet websites, including automating many paper-based processes, such as the LSBRP exemption request. Outreach efforts summarized in the FY15 Annual Report are attached at © 5-6.

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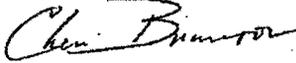


OFFICE OF PROCUREMENT

Isiah Leggett
County Executive

Cherri Branson
Director

September 10, 2015

TO: All Department Directors, Department Contract Administration Staff
FROM: Cherri Branson, Director, Office of Procurement 
SUBJECT: Implementation of Bill 48-14: MFD Evaluation Criteria Award Points For RFP

BACKGROUND

Montgomery County Code, §§ 11B-57 through 11B-64, as amended by Bill 48-14, requires that minority-owned businesses (MFD) be encouraged to participate in a procurement where a MFD percentage goal has been set under §11B-60 (a). This law requires the establishment of a system which awards additional points to eligible firms during the evaluation phase of the procurement.

IMPLEMENTATION

The Office of Procurement, in conjunction with the Office of County Attorney has developed the attached procedure to implement the requirements of Bill 48-14. The attached document will be included in those solicitations that are subject to the MFD requirement with instructions to the QSC on the appropriate process to be employed for RFPs that are issued after Oct 1st 2015. Please share the document with your contract administration staff.

Additionally, the Office of Procurement will conduct training sessions on the MFD Evaluation Criteria procedure for Using Department staff on September 21, 25 and 28. Please urge your department's contract administration staff to attend one of these training sessions. They can register through the OHR portal.

We believe that these procedures will improve the County's MFD procurement participation rates and support the County Executive and County Council's efforts to increase access to contracting opportunities. If you have any questions concerning these program enhancements, please feel free to have your staff contact Grace Denno, Chief, DBRC, at x79959.

Attachments:

1. Bill 48-14
2. MFD Evaluation Criteria Award Points For RFP Solicitations.



Evaluation Criteria- Additional MFD Points in RFPs

I. Overview

Montgomery County Code, §§ 11B-57 through 11B-64, as amended by Bill 48-14, requires that a minority-owned business (MFD) be encouraged to participate in a procurement where a MFD percentage goal has been set under §11B-60 (a).

Consistent with this law, the Office of Procurement has included an evaluation factor that awards additional points (up to ten percent (10%) of the total available points assigned to the Request For Proposals), to an offeror that: (1) has a County-recognized MFD certification; or (2) has no County-recognized MFD certification, but through subcontracting with MFD certified firms, exceeds the set, aggregate fiscal year (FY) percentage goal related to the applicable purchasing category (i.e. professional services; nonprofessional services; goods; or construction) (referenced herein as “set percentage purchasing category goal” or “participation goal”).

Additional points will be awarded in the following manner:

(a) to an offeror that has a County-recognized MFD certification- Additional points, up to a total of 10% of the evaluation points, may be awarded for both (i) its MFD status, and (ii) its MFD subcontractor participation, as shown in its MFD Performance Plan, in proportion to the applicable set percentage purchasing category goal, regardless of whether the participation exceeds the set percentage goal for MFD participation; or,

(b) to an offeror that has no County-recognized MFD certification- Additional points, equal to 10% of the evaluation points, may be awarded if the MFD Performance Plan submitted by Offeror with its proposal shows that its MFD subcontractor participation **exceeds** the set percentage purchasing category goal.

Consistent with, and subject to, the methodology noted in (a) and (b) above, an Offeror may receive additional MFD points only if it has a County-recognized MFD certification or submits an MFD Performance Plan with its proposal that supports the additional MFD points. For a list of County-recognized MFD certifications, please see: www.montgomerycountymd.gov/mfd.

II. Calculation Criteria

The calculation for additional evaluation points awarded under the above-stated criteria for this solicitation is as follows:

1. Additional points must not exceed 10% of the total evaluation points.
2. For a listing of current FY set percentage purchasing category goals, please refer to www.montgomerycountymd.gov/mfd.

III. Eligible Categories

- A. If the Offeror has a County-recognized MFD certification, it will receive additional points that equal 5% (.05) of the total evaluation points, as well as additional points based on its MFD subcontracting participation percentage compared to the set percentage purchasing category goal (regardless of whether the Offeror's MFD participation exceeds the set percentage purchasing category goal), in proportion to the total evaluation points. In this circumstance, additional points are calculated as follow:
- 1) Add points equal to 5% of the evaluation points (for having a County-recognized MFD certification).
 - 2) Add further additional points based on the MFD subcontracting percentage submitted by the Offeror, divided by the set percentage purchasing category goal, the result of which is then divided by 10, to determine the percentage of the total evaluation points to award.
 - 3) Total additional points is the sum of items 1) and 2) above, up to a maximum of 10% of the total evaluation points.
- B. If the Offeror has no County-recognized MFD certification, it will receive no points for its own MFD participation. However, if that Offeror's MFD subcontracting participation percentage exceeds the set percentage purchasing category goal, it will receive additional points equal to 10% (.10) of the total evaluation points. The Offeror will not receive additional points if its MFD subcontracting percentage does not exceed the set percentage purchasing category goal.

IV. Examples

The following scenarios may provide helpful illustrations of the process. For each scenario, assume the solicitation is for professional services. In the professional services category, the goal for MFD participation is 15%. Additionally, assume that the total possible evaluation points are 100, so that the 10% maximum for additional MFD points corresponds to no more than 10 total possible points.

- **Scenario 1:** The Offeror has a County-recognized MFD certification, and submitted an MFD subcontracting plan with 16% (.16) participation (which exceeds the set 15% (.15) MFD participation goal).
Result: 10 additional points are awarded.
Calculations: 5 [= .05 x 100] additional points for the Offeror having a County-recognized MFD certification, and 10 points for exceeding the set participation goal: [5 + 10 =] 15 points. Accordingly, the Offeror would receive the maximum allowable 10 additional points.
- **Scenario 2:** The Offeror has a County-recognized MFD certification, and submitted an MFD subcontracting plan with 6% (.06) participation (which is less than the 15% (.15) set participation goal).
Result: 9 additional points are awarded.
Calculations: 5 [= .05 x 100] additional points for the Offeror having a County-recognized MFD certification. Because its MFD subcontracting percentage partially meets the set participation goal, the Offeror receives [(0.06 ÷ .15) = .40 ÷ 10 = .040 x 100 evaluation points=] 4 additional points. The Offeror receives a combined [5 +4=] 9 additional points.

- Scenario 3:** The Offeror has a County-recognized MFD certification, and submitted no MFD subcontracting plan.
Result: 5 additional points are awarded.
Calculations: 5 [= .05 x 100] additional points for the Offeror having a County-recognized MFD certification, and 0 points for MFD subcontracting.
- Scenario 4:** The Offeror has no County-recognized MFD certification, and submitted an MFD plan with 20% (.20) MFD subcontracting participation (which exceeds the 15% (.15) set participation goal).
Result: 10 additional points are awarded.
Calculations: Although the Offeror has no County-recognized MFD certification, it receives 10 additional points because its MFD subcontracting exceeds the 15% set percentage purchasing category goal.
- Scenario 5:** The Offeror has no County-recognized MFD certification, and submitted an MFD plan with 13% (.13) minority subcontracting participation (which is less than the 15% (.15) set percentage purchasing category goal).
Result: 0 additional points are awarded.
Calculations: Offeror has no County-recognized MFD certification, and its proposal does not exceed the 15% (.15) set percentage participation goal. It receives 0 additional points.
- Scenario 6:** The Offeror has no County-recognized MFD certification, and either submitted: (i) no MFD plan, or (ii) an MFD plan with a percentage of MFD participation that does not exceed the set percentage purchasing category goal.
Result: 0 additional points are awarded. (See “Calculations” in Scenario 5 above).

Scenario (with MFD goal of 15% and total of 100 points)	Prime - MFD	Prime - Not-MFD
Submits MFD plan with 16% participation	5 points for Prime being MFD 10 points for exceeding MFD goal	10 points for exceeding MFD goal
	Total: 10 points (Ceiling)	Total: 10 points
Submits MFD plan with 6% participation	5 points for Prime being MFD 4 points for partial MFD participation	0 points for NOT exceeding MFD participation goal
	Total: 9 points	Total: 0 points
Submits NO MFD plan, or an MFD plan with 0% to 15% participation	5 points for Prime being MFD	0 points for NOT exceeding MFD participation goal
	Total: 5 points	Total: 0 points

V. Waiver Provisions

Prior to Contract Award, the Director, Office of Procurement, or his/her designee, may determine whether an offeror has demonstrated good faith efforts to meet the subcontracting requirements under County law. The Director, upon a finding that the Offeror demonstrated good faith efforts to comply with the subcontracting requirements, has the authority to waive, in whole or in part, the MFD requirement in order to permit the Offeror to remain eligible for a Contract Award.

MFD Subcontracting Program

When a contract falls within the requirements of the MFD subcontracting plan, a contractor must subcontract a minimum percentage of the contract price to certified MFD owned businesses that are eligible to participate in the subcontracting program. Each contractor must submit a Subcontractor Performance Plan prior to undertaking performance under the contract, or at such earlier time as required by the Director.

An MFD Subcontractor Performance Plan must:

- (a) identify each MFD subcontractor;
- (b) identify the amount the contractor has agreed to pay each MFD subcontractor;
- (c) provide a copy of the language used in each MFD subcontract

County approval of the Subcontractor Performance Plan does not establish a contractual relationship between the County and the MFD subcontractor. In submitting the subcontracting performance plan to the county, the contractor agrees to notify the County regarding any proposed change to the subcontracting performance plan. Failure to submit documentation showing compliance with the Subcontracting Performance Plan is grounds for imposing liquidated damages unless failure to comply with the Plan is the result of an arbitration decision in favor of the contractor or a waiver granted by the Director. Liquidated damages under this provision should equal the difference between all amounts the contractor has agreed under its plan to pay MFD subcontractors and all amounts actually paid MFD subcontractors considering any relevant waiver or arbitrator's decision. Additionally, failure to show compliance with a Subcontractor Performance Plan must result in finding the contractor non-responsible for purposes of future procurements with the County during the next 3 years.

Waivers

The Director may waive in whole or in part an MFD subcontracting requirement imposed under Section 7.3.3 if the Director finds that:

- (a) it is unusually difficult or impossible for the contractor to meet a subcontracting requirement;
- (b) reasonable grounds exist to waive a subcontracting requirement;
- (c) the contract is awarded under an emergency procurement; or
- (d) the contractor belongs to a class of nonprofit entities for which the Director has determined that it would be impractical to require participation in the MFD Subcontracting Program.

The MFD subcontracting goal is set by October 1 of each year based upon the most recent report that the County Executive

submits under Section 11B-61(b) of the County Code to determine the availability of MFD owned businesses in the relevant geographic market area to perform work under County contracts. The Goals are posted on the County's MFD website: www.montgomerycountymd.gov/MFD

Outreach Efforts

A. In 2015, the position of outreach program manager was added to the DBRC. This additional position is designed to enhance outreach efforts to the MFD business community and LSBRP business community by providing a dedicated resource responsible for developing and implementing networking events, developing partnerships with other departments/organizations to expand outreach capacity, and increase vendor awareness through in-person contacts and various social media platforms.

B. Targeted Outreach events: These events are designed to assist MFD and LSBRP vendors in obtaining County contracting opportunities hosted by the Office of Procurement, DBRC and the Procurement Division in FY15 include:

- Sep 24, 2014 – OBRC Presentation at DED
- Oct 15, 2014 – Meet the Primes (Minority vendors met with multiple prime contractors for County construction projects)
- Feb 25, 2015 – Local, Small and Minority Vendor Meet and Greet on two major projects: Multi Agency Services Park Depots (MASP) and Solar Installation on County Facilities.
- Mar 31, 2015 – Joint event with African American Chamber of Commerce (AACC) – MFD certification workshop
- June 29, 2015 – MFD Outreach and Networking Event with Hensel Phelps

C. Networking Events: These events help provide access to the local and minority vendors. Through panel discussions, seminars and match making sessions, vendors have an opportunity to gain detailed and individualized information regarding procurement processes and requirements, learn about particular procurement opportunities and obtain business development information. In FY15, the Office of Procurement, DBRC and the Division of Procurement participated as panelists or key speakers in the following events:

- July 9, 2014 – Ruppert Landscape Networking Event
- July 10, 2014 – Comprehensive Economic Strategy Pre-submission Conference
- July 17, 2014 – ProBiz event
- July 30, 2014 – Minority Business Economic Council
- Aug 14, 2014 – American Express OPEN for Government Contracts: Summit for Success
- Aug 28, 2014 – Women Power Conference

- Sep 2, 2014 – 2014 Maryland Hispanic business conference
- Sep 8, 2014 – FIS for Local Business Subcontracting Program
- Sep 18, 2014 – Maryland Marquee Hispanic Gala
- Oct 7, 2014 – GSA Construction and Building Services Procurement Program
- Oct 15, 2014 – Baltimore County Meet the Primes Meet & Greet
- Nov 19, 2014 – Baltimore Washington Chamber of Commerce 23rd Annual Government Procurement Fair
- Dec 12, 2014 – Small Business & Economic Development Summit III
- Dec 15, 2014 – African American Chamber of Commerce(AACC) – MDOT Certificate Seminar
- Jan 29, 2015 – Green Purchasing Vendors' Fair
- Feb 26, 2015 – 2015 Minority Business Economic Council Black History Month Business Reception
- Mar 10, 2015 – Business Innovation Network lunch and learn at Wheaton
- Mar 18, 2015 – Breakfast talk for the Team Network
- Mar 21, 2015 – Minority Small Business Construction Conference
- Mar 24, 2015 – Hispanic Chamber of Commerce 6th Annual Business Expo
- Mar 31, 2015 – African American Chamber of Commerce(AACC) – MDOT Certificate Seminar
- May 8, 2015 – Maryland Washington Minority Companies Association Business Showcase Expo
- May 15, 2015 – Montgomery County Chamber, GovCon-Net Procurement Conference
- May 19, 2015 – Bethesda Green Incubator reverse trade show
- May 21, 2015 – State GOMA "Ready, Set, GROW!" event in Montgomery County
- June 4, 2015 – Asian Pacific American Chamber of Commerce (APACC) seminar on MFD and LSBRP
- June 25, 2015 – Korean Businesses Networking Event with Maryland Korea Development Center

Awards

Division of Business Relations and Compliance received the "Most supportive County Administrator of the Year" award from the Maryland Washington Minority Companies Association on May 8, 2015.