

Bill No. 13-14
Concerning: Contracts and Procurement
- Formal Solicitation - Local
Preference
Revised: March 6, 2014 Draft No. 4
Introduced: February 4, 2014
Enacted: April 1, 2014
Executive: April 10, 2014
Effective: July 10, 2014
Sunset Date: None
Ch. 5, Laws of Mont. Co. 2014

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Navarro, Berliner, Riemer, Elrich, Floreen, Branson and Andrews

AN ACT to:

- (1) establish a preference for a County-based bidder in certain contracts awarded by formal solicitation;
- (2) define a County-based bidder or offeror; and
- (3) generally amend the law governing the award of contracts by formal solicitation.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Sections 11B-1, 11B-9, and 11B-10

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

1 **Sec. 11B-1. Definitions.**

2 Unless the context indicates otherwise, the following terms have the following
3 meanings:

- 4 [(a)] * * *
- 5 [(b)] * * *
- 6 [(c)] * * *
- 7 [(d)] * * *
- 8 [(e)] * * *
- 9 [(f)] * * *
- 10 [(g)] * * *

11 County-based bidder or offeror means a person that has its principal
12 place of business in Montgomery County, as further defined by
13 Executive regulation adopted under Section 11B-8[[:

- 14 (1) has operated through an office, distribution point, or facility in
15 the County for at least 6 months immediately prior to
16 submitting a bid in response to a formal solicitation issued by
17 the County; and
- 18 (2) owns tangible personal property subject to taxation by the
19 County]].

- 20 [(h)] * * *
- 21 [(i)] * * *
- 22 [(j)] * * *
- 23 [(k)] * * *
- 24 [(l)] * * *
- 25 [(m)] * * *
- 26 [(n)] * * *
- 27 [(o)] * * *

28 [(p)] * * *

29 [(q)] * * *

30 [(r)] * * *

31 [(s)] * * *

32 [(t)] * * *

33 Tie bid means a low bid submitted by a responsible and responsive
34 bidder that is identical in price to a bid from another responsible and
35 responsive bidder under a formal solicitation.

36 [(u)] * * *

37 **Sec. 11B-9. Formal solicitation - competitive sealed bidding.**

38 (a) *Conditions for use.* Contracts must be awarded by competitive sealed
39 bidding except as otherwise authorized in this Chapter or regulations.
40 Competitive sealed bidding is initiated by issuing an invitation for bids.

41 (b) *Invitation for bids.* An invitation for bids must include specifications,
42 evaluation criteria including the procedure for resolving tie bids, and all
43 contractual provisions applicable to the procurement.

44 * * *

45 (i) Tie Bids. If the Director makes an award, the Director must award a
46 contract to the County-based bidder when there is a tie bid between a
47 County-based bidder and a non County-based bidder.

48 **11B-10. Formal solicitation - competitive sealed proposals.**

49 * * *

50 (d) *Evaluation and method of award.*

51 (1) A request for proposals must contain evaluation factors and an
52 explanation of how the rank of an offeror will be determined,
53 including the procedure for resolving ties in ranking. Evaluation
54 factors must include factors related to the technical quality of the

55 proposal or the ability of the offeror, or both. Evaluation factors
 56 may include price. The evaluation process may involve one or
 57 more steps.

58 (2) If the Director determines that a sufficiently detailed scope of
 59 services has been developed to allow for selection of a contractor
 60 on the basis of price, the evaluation process may provide for the
 61 selection of a proposed contractor by requiring all offerors who
 62 meet pre-established levels of competency as reflected in scores
 63 awarded by the qualification and selection committee to compete
 64 for the contract award on the basis of price alone. Price
 65 submissions must be submitted in a sealed offer. If required in
 66 the Request for Proposal, the price proposal must be binding on
 67 the offeror. The price proposal may be submitted at any point
 68 during the evaluation process as stated in the Request for
 69 Proposals. If the Director decides to award a contract on price
 70 alone, the Director must award a contract to the County-based
 71 offeror when a qualified County-based offeror and a qualified
 72 non County-based offeror have submitted [[identical]] equally
 73 ranked price proposals.

74 * * *

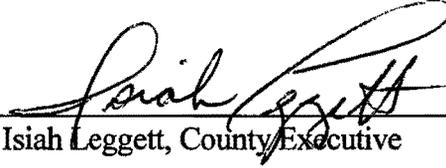
75 (f) *Approval of contract awards.* The Director must approve the proposed
 76 ranking of offerors. If a County-based offeror and a non County-based
 77 offeror each receive an identical ranking score, the Director must
 78 consider the County-based offeror to be the higher ranked offeror.

79 * * *

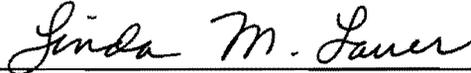
80 *Approved:*

81  4/1/2014
Craig L. Rice, President, County Council Date

82 *Approved:*

83  April 10, 2014
Isiah Leggett, County Executive Date

84 *This is a correct copy of Council action.*

85  April 11, 2014
Linda M. Lauer, Clerk of the Council Date