

**MEMORANDUM**

November 26, 2014

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 49-14, Contracts and Procurement - Formal Solicitation - Reciprocal Local Preference

Bill 49-14, Contracts and Procurement - Formal Solicitation - Reciprocal Local Preference, sponsored by Council President Rice, was introduced on October 21, 2014. A Government Operations and Fiscal Policy Committee worksession will be scheduled at a later date.

Bill 49-14 would establish a reciprocal preference for a County-based bidder in certain contracts awarded by competitive sealed bidding. Specifically, the Bill would require the Director of the Department of General Services to grant a preference to a responsible and responsive County-based bidder if the lowest responsible and responsive bidder is from another jurisdiction that grants a preference to its resident bidders. The reciprocal preference would be identical to the preference granted by the other jurisdiction to its resident bidders.

**Background**

Earlier this year, the Council enacted Bill 13-14, which defined "County-based bidder or offeror," and codified a preference for a County-based bidder or offeror in the event of a tie bid or ranking in a contract awarded by formal solicitation. This Bill addresses the situation where a County-based bidder is seeking a County contract awarded by competitive sealed bidding, and competing against bidders from other jurisdictions that offer specific preferences to their resident bidders. The Bill would require that a County-based bidder be given the same preference that such bidders receive in their home jurisdiction. For example, if the low bidder is from a jurisdiction that grants a 10 percent preference to its own resident bidders, the Director would add 10 percent to that bidder's price for the purpose of evaluating the bid against a County-based bidder.

This packet contains:

Bill 49-14

Legislative Request Report

Circle #

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Bill No. 49-14  
Concerning: Contracts and Procurement  
- Formal Solicitation - Reciprocal  
Local Preference  
Revised: October 13, 2014 Draft No. 1  
Introduced: October 21, 2014  
Expires: April 21, 2016  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President Rice

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**AN ACT** to:

- (1) establish a reciprocal preference for a County-based bidder in certain contracts awarded by competitive sealed bidding;
- (2) define preference; 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 and 11B-9

<b>Boldface</b>	<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:*



26 (B) the non County-based bidder has its principal place of  
27 business in a state or political subdivision that gives a  
28 preference to its residents; and

29 (C) a preference does not conflict with a federal law or a grant  
30 affecting the purchase or contract.

31 (2) A preference given under this subsection must be identical to the  
32 preference that the other state or political subdivision gives to its  
33 residents.

34 *Approved:*

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Craig L. Rice, President, County Council

Date

36 *Approved:*

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Isiah Leggett, County Executive

Date

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

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 49-14

*Contracts and Procurement - Formal Solicitation - Reciprocal Local Preference*

**DESCRIPTION:** Bill 49-14 would define “preference” and would require that Director give a preference to a responsible and responsive County-based bidder if the lowest responsible and responsive bidder is from another jurisdiction that grants a preference to its resident bidders. The preference would be identical to the preference granted by the other jurisdiction to its resident bidders.

**PROBLEM:** The County wishes to support County-based businesses that are seeking to do business with the County.

**GOALS AND OBJECTIVES:** To establish a reciprocal preference for a County-based bidder in the event that the lowest responsible and responsive bidder is from a jurisdiction that grants a preference to its resident bidders.

**COORDINATION:** Office of Procurement

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Josh Hamlin, 240-777-7892

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** Not applicable.