Bill No. 29-14
Concerning: Contracts and Procurement – Wage Requirements – Reporting
Revised: April 14, 2015 Draft No. 6
Introduced: May 6, 2014
Enacted: April 14, 2015
Executive: April 22, 2015
Effective: July 22, 2015
Sunset Date: None
Ch. 19, Laws of Mont. Co. 2015

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN ACT to:

(1) require certain County contractors to report summary data, including data by gender and race, paid to their employees who work on County contracts;
(2) prohibit certain County contractors from retaliating against certain employees that disclose salary information to another person or employee; and
(3) generally amend County wage requirements law for contractors.

By amending
Montgomery County Code
Chapter 11B, Contracts and Procurement
Article VI, Contract Administration
Section 11B-33A – Wage Requirements

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

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

1 **Sec. 1. Section 11B-33A is amended as follows:**

2 **11B-33A. Wage requirements.**

3 * * *

4 (g) *Wage reporting.*

5 (1) The Director must insert into each contract subject to this Section
6 a provision that requires [[the contractor]] a covered employer to
7 submit to the Director a report (on a schedule determined by the
8 Director) showing a summary of the wages paid to its employees,
9 who performed direct, measurable work under the contract, by
10 gender and race.

11 (2) *Prohibition against retaliation.* Except as provided in paragraph
12 (3), a [[contractor]] covered employer must not discharge or in
13 any other manner discriminate or retaliate against an employee,
14 who performed direct, measurable work under the contract,
15 because the employee:

16 (A) has inquired about, discussed, or disclosed the wages of
17 the employee or another employee;

18 (B) asserts any right under this subsection; or

19 (C) files any complaint for violation of this subsection.

20 (3) The prohibition against retaliation under paragraph (2) does not
21 apply to an employee who has access to wage information of
22 other employees or applicants as part of the employee's essential
23 job functions and discloses the wages of other employees or
24 applicants to individuals who do not otherwise have access to the
25 information, unless the disclosure is in response to:

26 (A) a formal complaint or charge;

27 (B) in furtherance of an investigation, proceeding, hearing, or
28 action, including an investigation conducted by [[the
29 contractor]] a covered employer; or
30 (C) is consistent with the contractor's legal duty to furnish
31 information.
32 (4) The Director may refer a report to the Office of Human Rights
33 for investigation of a possible violation of Chapter 27, Human
34 Rights and Civil Liberties.
35 (5) On or before December 31, 2019, the Director must submit to the
36 County Executive and the County Council a report on the
37 evaluation of the wage data submitted by contractors and
38 subcontractors under paragragh (1). This report must include:
39 (A) the number of reports reviewed;
40 (B) the number of reports referred to the Office of Human
41 Rights for investigation;
42 (C) the number of probable cause findings by the Office of
43 Human Rights resulting from these reports;
44 (D) a list of sanctions imposed upon a contractor for a
45 violation of subsection (g); and
46 (E) any other information the Director finds relevant to
47 evaluate the effect of this reporting requirement on wage
48 equity.
49 (h) *Conflicting requirements.* If any federal, state, or County law or
50 regulation requires payment of a higher wage, that law or regulation

51 controls. If any applicable collective bargaining agreement requires
52 payment of a higher wage, that agreement controls.
53 [(h)] (i) *Enforcement*
54 * * *
55 (5) Each contract may specify that liquidated damages for any
56 noncompliance with this Section includes the amount of any
57 unpaid wages, with interest, and that the contractor is jointly and
58 severally liable for any noncompliance by a subcontractor. In
59 addition, each contract must specify:
60 (A) that liquidated damages may be imposed on the contractor
61 in the event that a [[contractor]] a covered employer
62 violates the wage reporting requirement in subsection (g);
63 and
64 (B) that an aggrieved employee, as a third-party beneficiary,
65 may by civil action enforce the payment of wages due
66 under this Section and recover any unpaid wages with
67 interest, a reasonable attorney's fee, and damages for any
68 retaliation for asserting any right under this Section.
69 [(i)] (j) *Report*
70 * * *
71 **Sec. 2. Transition.** This Act applies to a contract awarded after October 1,
72 [[2014]] 2015, but does not apply to an amendment or extension of a contract
73 originally awarded before October 1, [[2014]] 2015.
74
75 *Approved:*

76 George Leventhal 4/16/15

George Leventhal, President, County Council — Date

77 *Approved:*

78 April 22, 2015

Isiah Leggett, County Executive — Date

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

80 Linda M. Lauer 4/22/15

Linda M. Lauer, Clerk of the Council — Date