



Committee: Directly to Council
Committee Review: N/A
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To receive testimony/final action - vote expected
Keywords: #MoCoEmergencyDonations

AGENDA ITEM #18
April 21, 2020
Public Hearing/Action

SUBJECT

Expedited Bill 23-20, Contracts – Management and Disposal of Goods – Emergency Procedures
Lead Sponsor: Council President Katz at the request of the County Executive

EXPECTED ATTENDEES

Marc Hansen, County Attorney
Earl Stoddard, Director, Office of Emergency Management & Homeland Security

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing followed by Action – Council vote expected

DESCRIPTION/ISSUE

Expedited Bill 23-20 would authorize the Director of the Department of Emergency Management and Homeland Security to dispose of goods donated to the County during a state of emergency without competition if the Director determines that the goods would be useful to others during the emergency. The goods must be disposed of consistent with emergency procedures and prioritization guidelines established by the public official declaring the emergency or the Executive.

SUMMARY OF KEY DISCUSSION POINTS

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MEMORANDUM

April 16, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Expedited Bill 23-20, Contracts – Management and Disposal of Goods –
Emergency Procedures

PURPOSE: Public Hearing/Action – Council vote required

Expected attendees:

Marc Hansen, County Attorney
Earl Stoddard, Director, Office of Emergency Management & Homeland Security

Expedited Bill 23-20, Contracts – Management and Disposal of Goods – Emergency Procedures, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on April 14, 2020. Action is tentatively scheduled after this hearing.¹

Bill 23-20 would authorize the Director of the Department of Emergency Management and Homeland Security to dispose of goods donated to the County during a state of emergency without competition if the Director determines that the goods would be useful to others during the emergency. The goods must be disposed of consistent with emergency procedures and prioritization guidelines established by the public official declaring the emergency or the Executive.

The County has recently received donations of masks and other personal protective equipment that can be used by health care workers and other essential workers. Bill 23-20 would permit the Director to distribute these donated goods consistent with the emergency procedures and prioritization guidelines established by the Governor during the Covid-19 pandemic. The Bill would take effect on the day it becomes law and apply to goods received by the County on or after the Governor's March 5, 2020 declaration of emergency.

The OMB fiscal impact statement indicates that the Bill would have no fiscal impact on the County's resources. See ©6-7. The County would be acting as a pass-through for donated items. We did not receive an economic impact statement when this staff report went to print. To the extent the Bill would permit these donations to be used quickly during the Covid-19 public health emergency, the Bill may have a positive impact on the County's economy.

¹ #MoCoEmergencyDonations

This packet contains:

Expedited Bill 23-20

Legislative Request Report

County Executive Memorandum

Fiscal Impact statement

Circle #

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Expedited Bill No. 23-20
Concerning: Contracts –
Management and Disposal of Goods –
Emergency Procedures
Revised: 4/13/2020 Draft No. 2
Introduced: April 14, 2020
Expires: October 14, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. , Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) authorize the disposal of certain goods received in response to a declared emergency without competition;
- (2) require the disposal of goods in a declared emergency in accordance with emergency procedures and prioritization guidelines established by the public official declaring the emergency; and
- (3) generally amending the management and disposal of goods by the County.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Section 11B-44

Boldface	<i>Heading or a 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 1. Section 11B-44 is amended as follows:**

2 **11B-44. Management and disposal of goods.**

- 3 (a) The Director must ensure the management of goods during their entire
4 life cycle.
- 5 (b) Except as provided in subsection (f), the [The] Director must dispose
6 of surplus goods. In disposing the surplus goods, the Director may sell
7 the goods by any competitive method which the Director determines is
8 likely to bring the highest return to the County. These methods may
9 include sealed bids, public auction, or trade in or exchange of goods.
10 The Director may sell surplus goods by private sale if the Director
11 determines that open competition is not likely to bring the highest return
12 to the County.
- 13 (c) After public notice, the Chief Administrative Officer may give, loan, or
14 sell below fair market value, surplus goods to another public entity if
15 the Chief Administrative Officer determines the disposition would
16 benefit the residents of Montgomery County. Public notice may be
17 given through the Montgomery County Register.
- 18 (d) If surplus goods have no resale or scrap value, the Director may dispose
19 of the goods in any responsible manner.
- 20 (e) Notwithstanding any other provision of County law, any gun that is
21 surplus must be destroyed.
- 22 (f) During a period when the County is under a state of emergency order
23 issued by the Federal, State, or County governments, the Director of the
24 Office of Emergency Management and Homeland Security or the

25 Director's designee may dispose of goods donated to the County for
26 use in the emergency without using a competitive method if:

27 (1) the Director determines that the goods would be useful to others
28 during the emergency; and

29 (2) the goods are disposed of consistent with emergency procedures
30 and prioritization guidelines established either by the public
31 official declaring the state of emergency or by the Executive.

32 **Sec. 2. Expedited Effective Date.**

33 The Council declares that this legislation is necessary for the immediate
34 protection of the public interest. This Act takes effect on the date on which it
35 becomes law and applies to any goods received by the County on or after March 5,
36 2020.

LEGISLATIVE REQUEST REPORT

Expedited Bill 23-20

Contracts – Management and Disposal of Goods – Emergency Procedures

DESCRIPTION: This bill authorizes the Department of Emergency Management and Homeland Security to dispose of goods received in response to a declared emergency in accordance with emergency procedures and prioritization guidelines and without the need of a competitive process.

PROBLEM: The procurement law’s general requirement that the County dispose of surplus goods in a competitive fashion is not suitable for goods donated to the County for quick disposition during an emergency, such as the current coronavirus pandemic.

GOALS AND OBJECTIVES: Authorizes the Department of Emergency Management and Homeland Security to dispose of goods received in response to a declared emergency in accordance with emergency procedures and prioritization guidelines and without the need of a competitive process.

COORDINATION: Department of Emergency Management and Homeland Security

FISCAL IMPACT: Office of Management and Budget.

ECONOMIC IMPACT: Office of Legislative Oversight.

EVALUATION:

EXPERIENCE ELSEWHERE: Unknown

SOURCES OF INFORMATION: Netta Squires
Department of Emergency Management and Homeland Security

APPLICATION WITHIN MUNICIPALITIES:

PENALTIES: N/A




OFFICE OF THE COUNTY EXECUTIVE
Rockville, Maryland 20850

Marc Elrich
County Executive

MEMORANDUM

April 13, 2020

TO: Sidney Katz, President, Montgomery County Council

FROM: Marc Elrich, County Executive 

RE: **Proposed Bill: Disposition of Goods Donated in Emergency**

I write to request that the Council take immediate action to approve the enclosed expedited bill, which would authorize the Department of Emergency Management and Homeland Security to dispose of goods received in response to a declared emergency in accordance with emergency procedures and prioritization guidelines and without the need of a competitive process.

The procurement law's general requirement that the County dispose of surplus goods in a competitive fashion is not suitable for goods donated to the County for quick disposition during an emergency, such as the current coronavirus pandemic. The County has already received a number of these goods (e.g., masks). The law does permit the County to sell these goods below fair market value to another "public entity," but many potential recipients of these goods, such as hospitals and nursing homes, do not meet the definition of a "public entity."

cc: Marc Hansen, County Attorney
Earl P. Stoddard, Dir., Department of Emergency Management & Homeland Security
Dale Tibbitts, Special Ass't to the CE

Fiscal Impact Statement
Council Bill XX-20, Disposition of Goods Donated in Emergency

1. Legislative Summary

This Bill authorizes the Director of Emergency Management and Homeland Security (OEMHS) to dispose of goods donated to the County during a state of emergency without competition, if the Director determines that the goods would be useful to others during an emergency.

The Bill would not change existing emergency procedures and guidelines established by the public official declaring the emergency.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

There are no administrative and programmatic expenditures or revenues associated with implementing the proposed changes to the law.

Goods may be donated to the County for use during an emergency. This amendment would allow the County to pass donated goods to nonpublic entities such as hospitals, nursing homes, and private health providers more expediently during an emergency. Because these are donated goods for the purpose of addressing an emergency, the County does not intend to sell or obtain a profit from a third party.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

There are no revenue or expenditure items associated with this Bill.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The Bill does not authorize future spending.

6. An estimate of the staff time needed to implement the bill.

Staff time needed to implement this Bill is not material.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

8. An estimate of costs when an additional appropriation is needed.

Additional appropriation is not needed to implement Bill XX-20.

9. A description of any variable that could affect revenue and cost estimates.

Not applicable.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

11. If a bill is likely to have no fiscal impact, why that is the case.

The County is acting as a pass through for donated goods. This Bill does not create an opportunity to generate new revenue, and there are no additional administrative costs associated with the County's role.

12. Other fiscal impacts or comments.

Not applicable.

13. The following contributed to and concurred with this analysis:

Jennifer Bryant, Office of Management and Budget

Karen Hawkins, Department of Finance

Ed Lattner, Office of County Attorney

Netta Squires, Office of Emergency Management and Homeland Security



Richard S. Madaleno, Director
Office of Management and Budget

4/14/20

Date