AGENDA ITEM 6B
April 1, 2014
Action

MEMORANDUM

March 28, 2014

TO: Government Operations and Fiscal Policy Committee

FROM: Josh Hamlin, Legislative Attorney

SUBJECT: **Action:** Bill 13-14, Contracts and Procurement – Formal Solicitation – Local Preference

Government Operations and Fiscal Policy Committee recommendation (3-0): enact the Bill with amendments.

Bill 13-14, Contracts and Procurement – Formal Solicitation – Local Preference, sponsored by Councilmembers Navarro, Berliner, Riemer, Elrich, Floreen, Branson and Andrews, was introduced on February 4, 2014. A public hearing was held on February 25 and a Government Operations and Fiscal Policy Committee worksession was held on March 6, 2014.

Bill 13-14 would define "County-based bidder or offeror" and would require that a County-based bidder or offeror be given preference in the event of a tie bid or ranking in contracts awarded by formal solicitation. County procurement regulations currently provide a tie-breaking procedure which gives first preference to a bidder or offeror "who has its principal place of business in Montgomery County." This bill would codify that preference, as well as require a preference be given to a County-based offeror, in the event of identical price proposals, when a contract award is made on price alone. This bill would also require that a formal solicitation include an explanation of the procedure for resolving a tie bid or ranking.

There were no speakers at the February 25 public hearing, and no written public testimony was received. A memorandum from the County Executive, expressing support for the bill, was received on February 25 (©8). The fiscal and economic impact statements were received on March 24, 2014, and indicate no fiscal or economic impact (©12)

GO Committee Worksession

David Dise, DGS Director, Pam Jones, DGS, and Grace Denno, DGS, represented the Executive Branch. The Committee approved (3-0) amendments that would:

(1) define "County-based bidder or offeror" as "a person that has its principal place of business in Montgomery County, as further defined by Executive regulation adopted under Section 11B-8;" and

(2) change the modifier of "price proposal" from "identical" to "equally ranked," when applying the tiebreaker to when a contract award is made on price alone.

The Committee recommended (3-0) enactment of the Bill with these amendments.

Issues

Should the definition of "County-based bidder or offeror" mirror the existing language in the Procurement Regulation? Bill 13-14 includes the following definition of "County-based bidder or offeror:"

> *County-based bidder or offeror* means a person that:
>
> 1) has operated through an office, distribution point, or facility in the County for at least 6 months immediately prior to submitting a bid in response to a formal solicitation issued by the County; and
>
> (2) owns tangible personal property subject to taxation by the County.

In contrast, Procurement Regulation 11B.00.01.04 grants first preference in the resolution of a tie bid or offer to a bidder or offeror "who has its principal place of business in Montgomery County." "Principal place of business" is not a defined term in the Code or Regulations.

In drafting Bill 13-14, staff sought to provide a specific definition for the bidders and offerors eligible for the preference. However, the bill's definition could be interpreted to be broader than may be desirable, and the Committee may wish to amend the bill to mirror the existing Procurement Regulation. Such an amendment would provide that a "County-based bidder or offeror means a person that has its principal place of business in Montgomery County," and may or may not expressly define what is meant by "principal place of business."

The meaning of the term "principal place of business" was recently addressed by the U.S. Supreme Court in *Hertz Corp. v. Friend*, 130 S. Ct. 1181 (2010). *Hertz* involved a complaint in state court under California's wage and hour law, and the Supreme Court considered the Hertz Corporation's state of citizenship for the purpose of deciding whether federal courts possessed diversity-of-citizenship jurisdiction.[1] In *Hertz*, the Court unanimously endorsed the "nerve center" approach for determining the state in which a corporation has its principal place of business. The Court concluded "that the phrase 'principal place of business' refers to the place where the corporation's high level officers direct, control, and coordinate the corporation's activities," adding that "the 'nerve center' will typically be found at a corporation's headquarters." The "nerve center" test could be applied to the County law in the absence of a specific definition of "principal place of business."

Should the Committee wish to include a definition of "principal place of business," staff recommends that the definition embody the "nerve center" test, but not be restricted to a business' headquarters. Such a restrictive definition could exclude certain small businesses which conduct most or all of their operations in the County, but whose executive and administrative functions are conducted outside of the County. A draft amendment including such a definition, and amending Bill 13-14 to mirror the language of Procurement Regulation

[1] Hertz claimed that since its corporate headquarters were located in Park Ridge, New Jersey, it was a New Jersey citizen, and sought removal of the case to federal court. The federal diversity jurisdiction statute provides that "a corporation shall be deemed to be a citizen of any State and foreign state by which it has been incorporated and of the State or foreign state where it has its *principal place of business*. . . " 28 U. S. C. §1332(c)(1) (emphasis supplied).

11B.00.01.04, is at ©9. **Committee recommendation (3-0):** Amend the bill to define "County-based bidder or offeror" as "a person that has its principal place of business in Montgomery County, as further defined by Executive regulation adopted under Section 11B-8."

Can the County enact a more general preference for County-based businesses? Numerous state and local jurisdictions have enacted laws giving preference in government procurement, beyond that proposed in Bill 13-14, to "local businesses."[2] These preferences usually involve contract award or purchasing preferences, and are often in the form of point preferences (when proposals are ranked using a points system) or percentage preferences (when awards are made on the basis of price).

Local preference laws, as they treat local residents differently from nonlocal residents, are analyzed under a number of federal and state constitutional provisions. Such laws typically implicate the federal Commerce, Privileges and Immunities, Equal Protection, and Due Process Clauses, as well as any state constitutional analogues to these provisions. It may be possible to craft a local preference law that does not run afoul of some of the federal constitutional provisions,[3] but Maryland courts have not directly addressed the validity of local preference laws. Since Maryland courts have generally looked with disfavor on discriminatory local laws,[4] it is uncertain whether such a law would survive a challenge under Article 24 of the Maryland Declaration of Rights, Maryland's analog to the 14th amendment.

Any discussion of a broader local preference should also include consideration of the fact that most states, including Maryland (©10), Virginia, and Pennsylvania, have enacted retaliatory laws that penalize bidders from jurisdictions which have local preference laws. A County local preference law may help a County business obtain work with the County, but may disadvantage that business in seeking work with Virginia and Pennsylvania, as well as many other states. Also, federal grant rules generally prohibit the use of local preferences on federally funded projects,[5] which may also limit the applicability of any County preference.

[2] Definitions of "local businesses" differ among the various jurisdictions with local preference laws; indeed the use of the term "local business" to describe businesses subject to preference is not universal. For the purposes of this memorandum, the term "local business" means a business entitled to a location-based preference in procurement by the legislating jurisdiction.

[3] The U.S. Court of Appeals for the Fourth Circuit, within which Maryland sits, applied federal Commerce, Equal Protection, and Due Process Clause analyses in upholding a South Carolina local preference law in *Smith, Setzer and Sons v. South Carolina Procurement Review Panel*, 20 F.3d 1311 (4th Cir. 1994), but did not reach the question of whether the law violated the Privileges and Immunities Clause. The *Smith, Setzer* Court held that the plaintiff/appellant lacked standing to bring such a challenge.

[4] *See Verzi v. Baltimore County*, 333 Md. 411 (1994) (holding that Baltimore County's "location requirement" for towing operators, i.e., a requirement that a licensed tow operator have a place of business within the County before that operator may be called by police to tow vehicles, violated Article 24 of the Maryland Declaration of Rights).

[5] The "Grants Management Common Rule" generally applicable to federal grants, provides that "grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract."

This packet contains:

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Bill No. 13-14
Concerning: Contracts and Procurement – Formal Solicitation – Local Preference
Revised: March 6, 2014 Draft No. 4
Introduced: February 4, 2014
Expires: August 4, 2015
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. _____, Laws of Mont. Co. _________

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	*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:

Sec. 11B-1. Definitions.

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

[(a)] * * *

[(b)] * * *

[(c)] * * *

[(d)] * * *

[(e)] * * *

[(f)] * * *

[(g)] * * *

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

(1) has operated through an office, distribution point, or facility in the County for at least 6 months immediately prior to submitting a bid in response to a formal solicitation issued by the County; and

(2) owns tangible personal property subject to taxation by the County]].

[(h)] * * *

[(i)] * * *

[(j)] * * *

[(k)] * * *

[(l)] * * *

[(m)] * * *

[(n)] * * *

[(o)] * * *

[(p)] * * *

[(q)] * * *

[(r)] * * *

[(s)] * * *

[(t)] * * *

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

[(u)] * * *

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

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

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

* * *

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

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

* * *

(d) *Evaluation and method of award.*

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

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

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

* * *

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

* * *

LEGISLATIVE REQUEST REPORT

Bill 13-14
Contracts and Procurement – Formal Solicitation – Local Preference

DESCRIPTION:	Bill 13-14 would define "County-based bidder or offeror" and would require that a County-based bidder or offeror be given preference in the event of a tie bid or ranking in contracts awarded by formal solicitation. The bill would also require that formal solicitations include an explanation of the procedure for resolving a tie bid or ranking.
PROBLEM:	The County wishes to support County-based businesses that are seeking to do business with the County.
GOALS AND OBJECTIVES:	To establish a preference for a County-based bidder in the event of a tie bid or ranking in certain contracts awarded by formal solicitation.
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:	Not applicable
PENALTIES:	Not applicable.

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11B.00.01.04 Source Selection Methods and Contract Types

4.1 Description of Source Selection Methods

4.1.1 Formal Solicitations — Invitation for Bid (IFB)

4.1.1.1 General

An IFB is a formal solicitation by which competitive sealed bids are invited through a public notice procedure which results in an award to the lowest responsible, responsive offeror.

* * * *

4.1.1.4 Procedure

(a) IFBs are issued and public notice given under the direction of the Director.

(b) Responses to the IFB are received by the Director, as specified in the solicitation, time-stamped, and publicly opened.

(c) Bids are tabulated and forwarded to the Using Department for evaluation when deemed appropriate by the Director or when specifically requested by the Using Department Head.

(d) The Director may require the Using Department or other person to evaluate the bids in accordance with the method of award criteria, and for responsiveness and responsibility, and forward recommendations to the Director. These recommendations must include an evaluation regarding the reasonableness of the proposed award prices. If retained by the Director, the Director evaluates the bids in accordance with the method of award criteria, and for responsiveness and responsibility.

(e) In the case of tie bids, the Director resolves a tie by application of the following criteria in the order stated:

(1) Making a proposed award of the contract to the bidder who has its principal place of business in Montgomery County;

(2) Making a proposed award of the contract to the bidder who is a certified MFD business prior to submitting a bid;

(3) Drawing of lots with representatives of the firms involved invited to be present.

* * * *

4.1.2 Formal Solicitation — Best Value Procurement — Request for Proposals (RFP)

4.1.2.1 General

An RFP is a formal solicitation for competitive sealed proposals. Proposals are not publicly opened. An RFP is a procurement process in which quality and price are balanced to obtain the best value for the County. Final costs and scope of work are subject to negotiation after the proposals are received and before the contract is awarded unless otherwise stated in the RFP.

* * * *

4.1.2.4 Procedure

(a) RFPs are issued and public notice given under the direction of the Director.

(b) Without public opening, the Director forwards timely received proposals to the Using Department for evaluation.

(c) The Using Department establishes the QSC members, with the written approval of the Director. Each member of the QSC must be an employee of a public entity, unless specific authorization is obtained from the CAO for another to serve on the QSC. Unless otherwise provided in these regulations, the committee must be composed of an odd number of members and must have at least three members.

(d) The Director may add members to the QSC when appropriate to enhance the ability of the QSC to fairly and objectively evaluate the proposals. When the Director adds members to the QSC, the composition of the QSC does not need to remain an odd number.

(e) The QSC evaluates all proposals received from the Director, in accordance with the evaluation criteria, and reviews offerors for responsibility.

* * * *

(f) In the case of a tie in the numerical QSC scored, the Director resolves the tie by application of the following criteria in the order stated:

(1) the offeror who has its principal place of business in Montgomery County;

(2) the offeror who is a certified MFD business prior to submitting a proposal;

(3) Drawing of lots with representatives of the firms involved invited to be present.

* * * *

B13-14

JH
CC
SBF
LL

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

February 20, 2014

RECEIVED
MONTGOMERY COUNTY
2014 FEB 25 AM 8:44

TO: Craig Rice, Council President

FROM: Isiah Leggett, County Executive

SUBJECT: Bill 13-14, Contract and Procurement - Formal Solicitations
Local Preference Bill

I am writing in support of Bill 13-14, Contract and Procurement – Formal Solicitations – Local Preference Bill (Bill) introduced on February 4, 2014 by Councilmembers Navarro, Berliner and Riemer. The Councilmembers' initiative and the Council's efforts support my longstanding recognition of Montgomery County's strong and diverse local business community. This legislative action will help further strengthen the local economy by seeding back to local businesses apportion of the tax revenues they pay to the County.

You may be interested to know that in the previous fiscal year 28%, or $233,701,295, of contracts awarded by Montgomery County were with local businesses serving as the prime contractor or subcontractor. Further, the current Procurement Regulations already provide opportunities for County-based businesses to receive contract awards in the event of tie bids.

As currently drafted, this legislation may require further defining of terms as well as review by the County Attorney. However, I applaud Councilmembers' vision and recognition of the need for supporting local business community and strengthening the local economy. I am committed to working with the Council during the coming weeks on the best way to achieve this.

Staff Amendment – definition of County-based bidder or offeror

Amend lines 11 to 23 as follows:

County-based bidder or offeror means a person that has its principal place of business in Montgomery County[[:

(1) has operated through an office, distribution point, or facility in the County for at least 6 months immediately prior to submitting a bid in response to a formal solicitation issued by the County; and

(2) owns tangible personal property subject to taxation by the County]].

[(h)] * * *

[(i)] * * *

[(j)] * * *

[(k)] * * *

[(l)] * * *

Principal place of business means:

(1) The headquarters or primary executive or administrative office of the business; or

(2) An established office, plant, store or warehouse where the majority of the business' operations and transactions are conducted and located.

Principal place of business does not include a post office box, message center, mail drop, or similar business service or activity with no substantial work function.

LexisNexis®

*** Statutes current through the 2013 General Assembly Regular Session ***
*** Annotations through November 20, 2013 ***

STATE FINANCE AND PROCUREMENT
DIVISION II. GENERAL PROCUREMENT LAW
TITLE 14. PREFERENCES
SUBTITLE 4. MISCELLANEOUS PURCHASING PREFERENCES

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. STATE FINANCE AND PROCUREMENT Code Ann. § 14-401 (2013)

§ 14-401. Reciprocal preference for resident bidders

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Preference" includes:

(i) a percentage preference;

(ii) an employee residency requirement; or

(iii) any other provision that favors a resident over a nonresident.

(3) "Resident bidder" means a bidder whose principal office is located in the State.

(4) "Resident offeror" means an offeror whose principal office is located in the State.

(5) "Services" means services, architectural services, construction related services, engineering services, or energy performance contract services, all as defined in § 11-101 of this article.

(b) Conditions for preference. -- When a unit uses competitive sealed bidding to award a procurement contract, the unit may give a preference to the resident bidder who submits the lowest responsive bid from a resident bidder if:

(1) the resident bidder is a responsible bidder;

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(2) a responsible bidder whose principal office or operation is in another state submits the lowest responsive bid;

(3) the state in which the nonresident bidder's principal office is located or the state in which the nonresident bidder has its principal operation through which it would provide supplies or services gives a preference to its residents; and

(4) a preference does not conflict with a federal law or grant affecting the procurement contract.

(c) Conditions for preference -- Proposals. -- When a unit uses competitive sealed proposals to award a procurement contract, the unit may give a preference to resident offerors if:

(1) a responsible offeror whose principal office or operation is in another state submits a proposal;

(2) the state in which the nonresident offeror's principal office is located or the state in which the nonresident offeror has its principal operation through which it would provide the subject of the contract gives a preference to its residents; and

(3) the preference does not conflict with a federal law or grant affecting the procurement contract.

(d) Copy of statute, resolution, etc.; form of preference. --

(1) At the request of the unit, a nonresident bidder or nonresident offeror submitting a proposal for a State project shall provide a copy of the current statute, resolution, policy, procedure, or executive order that pertains to the treatment of nonresident bidders or nonresident offerors by:

(i) the state in which the nonresident bidder's or nonresident offeror's principal office is located; and

(ii) the state in which the nonresident bidder or nonresident offeror has its principal operation through which it would provide supplies or services.

(2) A unit may give a preference under this section that is identical to any of the following preferences, or any combination of them:

(i) the preference that the state in which the nonresident bidder's or nonresident offeror's principal office is located gives to its residents; or

(ii) the preference that the state in which the nonresident bidder or nonresident offeror has its principal operation through which it would provide supplies or services gives to its residents.

HISTORY: SF § 11-145; 1988, ch. 48, § 2; 1992, ch. 99; 1999, ch. 501; 2004, ch. 197; 2010, ch. 72.

NOTES: EFFECT OF AMENDMENTS. --Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, added "gives to its residents" in (d)(2)(ii).

LexisNexis 50 State Surveys, Legislation & Regulations

In-State Procurement Preferences & Offshoring Constraints

UNIVERSITY OF BALTIMORE LAW REVIEW. --For article, "Fair Treatment for Contractors Doing Business with the State of Maryland," see *15 U. Balt. L. Rev. 215 (1986).*
For article, "Principles of Maryland Procurement Law," see *29 U. Balt. L. Rev. 1 (2001).*

ROCKVILLE, MARYLAND

MEMORANDUM

March 18, 2014

TO: Craig Rice, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Council Bill 13-14, Contracts and Procurement-Formal Solicitation-Local Preference
& Bill 14-14, Contracts and Procurement-Wage Requirements-Health Insurance Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Joseph F. Beach, Director, Department of Finance
Michael Coveyou, Department of Finance
David Platt, Department of Finance
Robert Hagedoorn, Department of Finance
David Dise, Director, Department of General Services
Erika Lopez-Finn, Office of Management and Budget
Mary Beck, Office of Management and Budget
Alex Espinosa, Office of Management and Budget
Felicia Zhang, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Council Bill 13-14 & Contracts and Procurement –
Formal Solicitation – Local Preference

1. Legislative Summary.

   The legislation establishes a preference for a County-based bidder in certain contracts awarded from formal solicitation and defines "county- based bidder or offeror".

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.

   This legislation does not affect revenues and expenditures.

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

   Expenditures and revenue estimates are not affected for the next 6 fiscal years.

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

   The legislation does not affect retiree pension or group insurance costs.

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

   The legislation does not authorize future spending.

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

   When a tie breaking situation happens, a staff from OBRC needs to review the eligibility of the bidder according to the definition of the "local business". This effort is estimated minimal and current staff resources will absorb it.

   There is no additional effort from the Procurement side.

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

   See answer to item 6

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

   No additional appropriation is needed.

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

   No other variable affects revenue and cost.

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

    No revenue or expenditure.

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

    This legislation states that a preference will be given to local businesses when awarding a contract. This choice does not affect expenditures or revenues.

12. Other fiscal impacts or comments.

    None.

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

    Grace Denno, Manager, Office of Business Relations and Compliance

    Pam Jones, Chief, Office of Procurement

    Erika Lopez-Finn, Office of Management and Budget

J Hughes

Jennifer A. Hughes, Director
Office of Management and Budget

3/24/14
Date

Economic Impact Statement
Bill 13-14, Contracts and Procurement – Formal Solicitation – Local Preference

Background:

This legislation would establish a preference for a County-based bidder in certain contracts awarded by formal solicitation, define a County-based bidder or offeror, and generally amend the law governing the award of contracts by formal solicitation.

Bill 13-14 (Bill) would require that a County-based bidder or offeror be given preference in the event of a tie bid or ranking in contracts awarded by formal solicitation. The current tie-breaker provision is in Procurement.

1. **The sources of information, assumptions, and methodologies used.**

Office of Procurement, Department of General Services

2. **A description of any variable that could affect the economic impact estimates.**

The number of tie-breaking solicitations based on price.

3. **The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

Since the Office of Procurement is already considering local businesses in the case of a tie bid or ranking, there is no change and therefore there is no economic impact.

4. **If a Bill is likely to have no economic impact, why is that the case?**

The Bill will have no economic impact

5. **The following contributed to and concurred with this analysis**: David Platt and Rob Hagedoorn, Finance; and Pam Jones of the Office of Procurement in the Department of General Services.

Joseph F. Beach
Joseph F. Beach, Director
Department of Finance

3/4/14
Date