

Bill No. 49-14
Concerning: Contracts and Procurement
- Formal Solicitation - Reciprocal
Local Preference
Revised: October 13, 2014 Draft No. 2
Introduced: October 21, 2014
Enacted: April 14, 2015
Executive: _____
Effective: January 1, 2016
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Rice and Councilmember Elrich

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

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:

Sec. 1. Sections 11B-1 and 11B-9 are amended as follows:

11B-1. Definitions.

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

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

* * *

Preference means a policy that favors one bidder over another and includes:

- (1) a percentage preference;
- (2) an employee residency requirement; or
- (3) any other law, policy, or practice that favors a resident over a nonresident.

* * *

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.

* * *

(i) Reciprocal preference for County-based bidder.

- (1) In making an award under this Section, the Director must give a preference to a responsible and responsive County-based bidder if:
 - (A) a non County-based bidder is the lowest responsible and responsive bidder;

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

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

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

(3) A preference must not be given under this subsection if it would result in an award to a County-based bidder when:

(A) a non County-based bidder has submitted a lower responsible and responsive bid than any County-based bidder before the application of any reciprocal preference; and

(B) the non-County-based bidder has its principal place of business in a state or political subdivision that does not give a preference to its resident

Sec. 2. **Effective Date.** This Act takes effect on January 1, 2016.

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46 *Approved:*

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Georg Leventhal

4/16/15

George Leventhal, President, County Council

Date

48 *Approved:*

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Isiah Leggett, County Executive

Date

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

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Linda M. Lauer, Clerk of the Council

Date