


MEMORANDUM

September 11, 2019

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Expedited Bill 15-19, Contracts and Procurement – Minority Owned Businesses - Sunset Date - Amendments

PURPOSE: Worksession – Committee to make recommendation on Bill

Expedited Bill 15-19, Contracts and Procurement – Minority Owned Businesses - Sunset Date - Amendments, sponsored by Lead Sponsor Council President Navarro at the request of the County Executive, was introduced on June 18, 2019. A public hearing was held on July 9 at which the lone speaker Ash Shetty testified on behalf of the County Executive.¹

Background

Chapter 11B, Article XIV of the County’s Procurement Law authorizes a program to remedy the effects of discrimination against certain Minority Owned Businesses that is scheduled to sunset on December 31, 2019. County Code §11B-61(b) states:

By July 1, 2019, the County Executive must submit a report to the County Council evaluating the need to extend the minority owned business purchasing program.

The County Executive submitted a Disparity Study to the Council on July 1, 2014 prepared by Griffin and Strong that supported the continuation of the program and the Council extended the sunset date until December 31, 2019 based on this Disparity Study. The law requires the Executive to submit a report by July 1, 2019 evaluating the need to extend this program. The Executive did not submit a report by July 1 because no updated disparity study has been done since 2014.

Public Hearing

Procurement Director Ash Shetty was the only speaker at the public hearing. Mr. Shetty, speaking on behalf of the Executive, supported the Bill (©8).

¹#MoCoMinorityOwnedBizPurchases
Other search terms: Minority owned purchases, Minority owned businesses, County purchases

Discussion

There is no funding for a disparity study in the FY20 County government approved operating budget. The Executive is unable to evaluate the need to continue the program without an updated disparity study based on more recent contracting data. An updated disparity study is estimated to cost \$600,000 and would require significant time for solicitation and completion of the study.

The Executive submitted Bill 15-19 to the Council to extend the time for the report until July 1, 2021 and the sunset date of the program until December 31, 2021. Bill 15-19 would extend the program for 2 years until the Executive can evaluate the need to continue it. The Executive could submit a supplemental appropriation to the Council to fund an updated disparity study in FY20. **Council staff recommendation:** approve the Bill as introduced.

This packet contains:

Expedited Bill 15-19
Legislative Request Report
Executive's Transmission Memorandum
Fiscal and Economic Impact Statement
Ash Shetty testimony

Circle #

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Expedited Bill No. 15-19
Concerning: Contracts and Procurement
- Minority Owned Businesses -
Sunset Date - Amendments
Revised: May 30, 2019 Draft No. 1
Introduced: June 18, 2019
Expires: December 18, 2020
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: December 31, 2021
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) extend the sunset date for the County's minority owned business purchasing program;
and
- (2) generally amend the County's minority owned business purchasing program.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Sections 11B-61 and 11B-64

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-61 and 11B-64 are amended as follows:

Sec. 11B-61. Reports.

* * *

(b) By July 1, [2019] 2021, the County Executive must submit a report to the County Council evaluating the need to extend the minority owned business purchasing program.

Sec. 11B-64. Sunset Date.

This Article is not effective after December 31, [2019] 2021.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Approved:

Nancy Navarro, President, County Council Date

Approved:

Marc Elrich, County Executive Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq. Date
Clerk of the Council

LEGISLATIVE REQUEST REPORT

Expedited Bill 15-19

Contracts and Procurement – Minority Owned Businesses - Sunset Date – Amendments

DESCRIPTION: Bill 15-19 would extend the sunset date for the County's minority owned business purchasing program until December 31, 2021.

PROBLEM: The County's minority owned business purchasing program is set to expire on December 31, 2019 unless the Council extends the sunset date.

GOALS AND OBJECTIVES: The goal is to extend the program.

COORDINATION: County Attorney; Office of Procurement

FISCAL IMPACT: OMB

ECONOMIC IMPACT: Finance

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Class A Violation

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

Marc Elrich
County Executive

April 5, 2019

TO: Nancy Navarro, President
Montgomery County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

RE: Bill XX-19 Contracts and Procurement - Minority-Owned Businesses -
Sunset Date - Amendments

I am attaching for the Council's consideration a bill that would extend sunset date for the County's minority-owned business purchasing program. This bill would also extend the deadline for submission of a disparity study to the Council. Thank you for your prompt consideration of this legislation. I look forward to working with the Council as it considers this proposal.

cc: Andrew Kleine, Chief Administrative Officer
Dale Tibbitts, Special Assistant to County Executive
Marc P. Hansen, County Attorney
Richard Madaleno, Director, Office of Management and Budget
Alex Espinosa, Director, Office of Finance
Ash Shetty, Director, Office of Procurement
Jerome Fletcher, Assistant Chief Administrative Officer

Fiscal Impact Statement
Bill XX-19 - Contracts and Procurement – Minority-Owned-Businesses

1. Legislative Summary

Expedited Bill 45-16 extended the sunset date for the County's minority owned business purchasing program until December 31, 2019. Bill XX-19 would extend the deadline that the County Executive must submit a disparity study to the Council by another two years, July 1, 2021.

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 Bill does not impact revenues or expenditures.

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

This Bill does not impact revenues or expenditures.

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

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

The bill simply changes the deadline for submitting a disparity study.

13. Other fiscal impacts or comments.

Not applicable.

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

Avinash G. Shetty, Office of Procurement

Marc Hansen, Office of the County Attorney

Jane Mukira, Office of Management and Budget

Richard S. Madaleno

**Richard S. Madaleno, Director
Office of Management and Budget**

4/8/19

Date

Economic Impact Statement
Bill #-19, Contracts and Procurement – Minority-Owned Businesses – Sunset Date
- Amendments

Background:

This legislation would extend the sunset date for the County's minority owned business purchasing program until December 31, 2021. The Bill would also extend the deadline that the County Executive must submit to the County Council a disparity study to July 1, 2021.

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

There are no sources of information, assumptions, and methodologies used in the preparation of the economic impact statement. This bill has no economic impact.

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

Not applicable. This bill has no economic impact.

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

Not applicable. This bill has no economic impact

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

Bill #-19 extends the sunset date for the County's minority owner business purchasing program and has no economic impact.

5. The following contributed to or concurred with this analysis: David Platt and Dennis Hetman, Finance;



Michael Coveyou, Acting Director
Department of Finance



Date



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OFFICE OF PROCUREMENT

Marc Elrich
County Executive

Avinash G. Shetty
Director

**Testimony on behalf of County Executive Marc Elrich
Expedited Bill 15-19, Contracts and Procurement – Minority-owned Business
Sunset Date - Amendments**

July 9, 2019

Good afternoon, Council President Navarro and Members of the Council.

I am Ash Shetty, Director of the Office of Procurement.

I am here to testify on behalf of County Executive Marc Elrich in support of **Expedited Bill 15-19, Contracts and Procurement - Minority Owned Businesses - Sunset Date – Amendments**. This bill will extend the sunset provision of the County's MFD program from current sunset date of December 31, 2019 to December 31, 2021.

In 2014, County Executive Leggett transmitted a Disparity Study prepared by the firm of Griffin & Strong, to the County Council. The study revealed under-utilization rates for businesses owned by minorities and women or businesses that employed disabled individuals. The Office of Procurement has set annual MFD goals based on the 2014 Disparity Studies' finding.

Since the last extension of the MFD sunset date, the Office of Procurement has undertaken several actions designed to address issues raised in the 2014 Disparity Study. Even before the MFD Task Force and the Procurement Task Force reports released recommended areas of improvement in September 2015, we had already begun to take action. For instance, in the implementation of Bill 48-14 (MFD Evaluation Criteria Award Points For RFP Solicitations), we have seen increases of MFD participation at the proposal submission phase rather than having to wait till the contract awarding phase; we have re-vamped the MFD waiver policies and criteria; we have conducted many outreach events; and most importantly, we have seen a steady increase of total MFD participation in the last 3 years (20.89% in FY16, 23.24% in FY17 and 23.5% in FY18).

County Executive Elrich has made a clear commitment to expanding County contracting opportunities for MFD, small and local businesses. And I look forward to working with you in the coming year to achieve that goal.

In the upcoming year, I hope that we are able to develop legislative initiatives that permit this county to be a model of procurement reform that encourages economic development and provides meaningful participation for MFD businesses. But the first step of that journey is passage of Expedited Bill 15-19. I urge you to pass this bill.

Thank you for allowing me to testify today. I would be happy to answer any questions you may have.

Office of Procurement

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