



Montgomery  
County Council

**Committee:** GO

**Committee Review:** Completed

**Staff:** Robert H. Drummer, Senior Legislative Attorney

**Purpose:** Final action – vote expected

**Keywords:** #MoCoMinorityOwnedBizPurchases

Other search terms: Minority owned purchases, Minority owned businesses, County purchases

AGENDA ITEM #10

October 1, 2019

**Action**

## SUBJECT

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

Lead Sponsor: Council President Navarro at the request of the County Executive

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

Ash Shetty, Director of Procurement, Grace Denno, Procurement, and Senior Legislative Attorney Robert Drummer participated in the discussion. The Committee discussed the need to extend the program and the urgent need to fund a new disparity study. The Committee asked Mr. Shetty to talk to the Executive about sending over a supplemental appropriation for the disparity study. The Committee recommended (3-0) approval of the Bill as introduced.

## DESCRIPTION/ISSUE

Expedited Bill 15-19 would extend the time for the Executive to submit a report to the Council on the Minority Owned business purchasing program until July 1, 2021 and extend the sunset date for the program until December 31, 2021.

## SUMMARY OF KEY DISCUSSION POINTS

The Bill is necessary to continue the Minority Owned Business Program for County contracts.

### This report contains:

Staff Report – if applicable

Expedited Bill 15-19

Legislative Request Report

Executive's Transmission Memorandum

Fiscal and Economic Impact Statement

Ash Shetty testimony

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## MEMORANDUM

September 26, 2019

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

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

PURPOSE: Action – Roll call vote required

**Government Operations and Fiscal Policy Committee recommendation (3-0):**  
approve the Bill as introduced.

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 and a Government Operations and Fiscal Policy Committee worksession was held on September 16.<sup>1</sup>

### 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.

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<sup>1</sup>#MoCoMinorityOwnedBizPurchases

Other search terms: Minority owned purchases, Minority owned businesses, County purchases

## 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).

## GO Committee Worksession

Ash Shetty, Director of Procurement, Grace Denno, Procurement, and Senior Legislative Attorney Robert Drummer participated in the discussion. The Committee discussed the need to extend the program and the urgent need to fund a new disparity study. The Committee asked Mr. Shetty to talk to the Executive about sending over a supplemental appropriation for the disparity study. The Committee recommended (3-0) approval of the Bill as introduced.

## 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. **Committee recommendation (3-0):** 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

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

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**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

<b>Boldface</b>	<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:*

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Nancy Navarro, President, County Council

Date

*Approved:*

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Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

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Mary Anne Paradise, Acting Clerk of the Council

Date

## 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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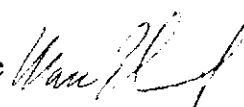
OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

MEMORANDUM

Marc Elrich  
County Executive

April 5, 2019

TO: Nancy Navarro, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

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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