



Montgomery
County Council

Committee: Government Operations & Fiscal Policy
Committee Review: At a future date
Staff: Christine M.H. Wellons, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #LocalSmallBusinessReserve

AGENDA ITEM #12
January 14, 2020
Public Hearing

SUBJECT

Bill 39-19, Contracts and Procurement – Local Small Business Reserve Program (LSBRP) – Amendments
Lead Sponsor: Councilmember Jawando
Co-Sponsors: Councilmembers Rice, Navarro, Riemer, Albornoz, Glass, Council Vice-President Hucker
and Council President Katz

EXPECTED ATTENDEES

Office of Procurement
Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Receive public testimony.

DESCRIPTION/ISSUE

Bill 39-19 would amend the Small Business Reserve Program to:

- (1) permit the participation of non-profit organizations in the program;
- (2) increase the minimum percentage of contracts that must be awarded to small businesses;
- (3) establish a goal to award certain direct purchases to local small businesses; and
- (4) alter reporting requirements.

SUMMARY OF KEY DISCUSSION POINTS

- N/A; Receive public testimony.

This report contains:

Staff Report	Pages 1-2
Bill 39-19	©1
Legislative Request Report	©4

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MEMORANDUM

January 9, 2020

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Bill 39-19, Contracts and Procurement – Local Small Business Reserve Program (LSBRP) – Amendments¹

PURPOSE: Public Hearing – no Council votes required

Council Bill 39-19, Contracts and Procurement – Local Small Business Reserve Program (LSBRP) – Amendments, sponsored by Lead Sponsor Councilmember Jawando and Co-Sponsors Councilmembers Rice, Navarro, Riemer, Albornoz, Glass, Council Vice-President Huckler and Council President Katz, was introduced on December 3, 2019. A Government, Operations and Fiscal Policy Committee worksession is tentatively scheduled for February 6, 2020 at 10:00 a.m.

Bill 39-19 would amend the Small Business Reserve Program to:

- (1) permit the participation of non-profit organizations in the program;
- (2) increase the minimum percentage of contracts that must be awarded to small businesses;
- (3) establish a goal to award certain direct purchases to local small businesses; and
- (4) alter reporting requirements.

BACKGROUND

The Small Business Reserve Program, enacted by the Council in 2006, requires County agencies to award 20 percent of eligible procurements to certified local small businesses. The Office of Procurement certifies the businesses and administers the program. Under current law, the businesses must be for-profit entities.

An Office of Legislative Oversight (OLO) report dated July 30, 2019 (OLO Report 2019-9) made several recommendations regarding the Small Business Reserve Program, including a recommendation to:

¹ #LocalSmallBusinessReserve

[G]reater assist and increase the number of participating local, small businesses. Possible examples include:

Increase Opportunities for Local, Small Businesses by...prioritizing awards under \$10,000.... (See OLO Report 2019-19, Recommendation #1 at p. ii.).

The OLO report also summarized small business preference programs in other jurisdictions and noted that Prince George's County's program allows for the certification and participation of non-profit entities headquartered in the county. See OLO Report 2019-19 at p. 30.

BILL DESCRIPTION

Bill 39-19 would make several amendments to the County's Small Business Reserve Program under Chapter 11B of the County Code. First, the bill would alter the definition of a "local small business" to include any *for-profit* business or *non-profit* entity that:

- (1) has its principal place of business or operations in the County;
- (2) in the case of a for-profit business, is independently owned and operated;
- (3) is not a subsidiary of another business or entity; and
- (4) meets criteria, size limits, and gross sales amounts established by method 2 regulations.

Second, Bill 39-19 would increase from 20 to 25 percent the amount of procurements an agency must award to local small businesses.

Lastly, the bill would require an agency to establish a goal to award 50 percent of its "direct purchases" (*i.e.*, certain purchases of \$10,000 or less) to local small businesses, and to report to the Office of Procurement regarding those direct purchases.

This packet contains:	<u>Circle #</u>
Bill 39-19	1
Legislative Request Report	4

Bill No. 39-19
Concerning: Contracts and Procurement
- Local Small Business Reserve
Program (LSBRP) - Amendments
Revised: 11/25/2019 Draft No. 6
Introduced: December 3, 2019
Expires: June 3, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando
Co-Sponsors: Councilmembers Rice, Navarro, Riemer, Alborno, Glass, Council Vice-President
Hucker and Council President Katz

AN ACT to:

- (1) define a direct purchase;
- (2) alter the definition of a local small business to permit the participation of non-profit organizations;
- (3) increase the minimum percentage of contracts that must be awarded to small businesses;
- (4) establish a goal to award certain direct purchases to local small businesses;
- (5) alter reporting requirements; and
- (6) generally amend the Local Small Business Reserve Program.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Sections 11B-65, 11B-66, and 11B-69

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:

1 **Sec. 1. Sections 11B-65, 11B-66, and 11B-69 are amended as follows:**

2 **11B-65. Definitions.**

3 In this Article the following words have the meanings indicated.

4 (a) Direct purchase means a non-competitive procurement of construction,
5 goods, or services with a total value of no more than:

6 (1) \$10,000; or

7 (2) a higher dollar amount adopted under method 2 regulations.

8 [(a)] (b) *Local Small Business* means a for-profit business[,] or non-profit
9 entity, other than a broker, that:

10 (1) has its principal place of business or non-profit operations in the
11 County;

12 (2) in the case of a for-profit business, is independently owned and
13 operated;

14 (3) is not a subsidiary of another business or entity; and

15 (4) meets criteria, size limits, and gross sales amounts established by
16 method 2 regulations.

17 [(b)] (c) *Local Small Business Reserve* means any procurement that is
18 limited to responses from local small businesses.

19 * * *

20 **11B-66. Local Small Business Reserve Program.**

21 * * *

22 (b) Minimum Requirements.

23 (1) A using department's procurement procedures must award a
24 minimum of [20] 25 percent of the using department's combined
25 dollar value of contracts issued for goods, services, or construction
26 to local small businesses, subject to method 2 regulations.

27 (2) A using department must have a goal to award at least 50 percent
28 of the combined dollar value of its direct purchases to local small
29 businesses.

30 * * *

31 **11B-69. Reports.**

32 (a) By October 30 each year, each using department must submit to the
33 Director a report on the number, type, and dollar amount of contracts,
34 including direct purchases, issued under this Article.

35 (b) By November 30 each year, the Director must report to the Council on
36 the Local Small Business Reserve Program. This report must include the
37 number, type, and dollar amount of contracts, including direct purchases,
38 awarded under this Article during the preceding fiscal year, the number,
39 type, and dollar amount of each waiver, information about how these
40 numbers have changed from the preceding fiscal year, and the extent of
41 outreach efforts.

LEGISLATIVE REQUEST REPORT

Bill 39-19

Contracts and Procurement – Local Small Business Reserve Program (LSBRP) – Amendments

DESCRIPTION: Contracts and Procurement – Local Small Business Reserve Program (LSBRP) – Amendments

PROBLEM: Increase opportunities for local small businesses in the County.

GOALS AND OBJECTIVES: Bill 39-19 would permit the participation of non-profit organizations in the program; increase the minimum percentage of contracts that must be awarded to small businesses; establish a goal to award certain direct purchases to local small businesses; and alter reporting requirements.

COORDINATION: Office of Procurement

FISCAL IMPACT: OMB

ECONOMIC IMPACT: Department of Finance

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Christine M.H. Wellons, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A