



Committee: GO
Committee Review: At a future date
Staff: Christine Wellons, Chief Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #1A
October 29, 2024
Introduction

SUBJECT

Bill 25-24, Contracts and Procurement – Prohibition Against Human Trafficking - Enforcement

Lead Sponsor: Councilmember Luedtke

Co-Sponsors: Council President Friedson and Council Vice President Stewart

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

Bill 25-24 would:

- (1) require procurement bids and proposals to include certifications of compliance with human trafficking laws;
- (2) prohibit County contractors and subcontractors from violating human trafficking laws;
- (3) require County contractors and subcontractors to make certain disclosures regarding human trafficking charges, claims, or violations;
- (4) authorize debarment and other remedies for noncompliance with the law; and generally amend the County law regarding procurement and human trafficking.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

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MEMORANDUM

October 24, 2024

TO: County Council

FROM: Christine Wellons, Chief Legislative Attorney

SUBJECT: Bill 25-24, Contracts and Procurement – Prohibition Against Human Trafficking - Enforcement

PURPOSE: Introduction – no Council votes required

Bill 25-24, Contracts and Procurement – Prohibition Against Human Trafficking - Enforcement, is scheduled for introduction on October 29, 2024. Its Lead Sponsor is Councilmember Luedtke and is co-sponsored by Council President Friedson and Council Vice President Stewart. A public hearing is tentatively scheduled for December 3, 2024. The bill will be considered by the Government Operations and Fiscal Policy Committee.

Bill 25-24 would:

- (1) require procurement bids and proposals to include certifications of compliance with human trafficking laws;
- (2) prohibit County contractors and subcontractors from violating human trafficking laws;
- (3) require County contractors and subcontractors to make certain disclosures regarding human trafficking charges, claims, or violations;
- (4) authorize debarment and other remedies for noncompliance with the law; and
- (5) generally amend the County law regarding procurement and human trafficking.

BACKGROUND

Chapter 11B of the County Code implements Sections 313 and 314 of the Charter, which provide for a centralized system of procurement of goods, services and construction under the professional supervision of the Chief Administrative Officer subject to the direction of the County Executive.

As explained by the Lead Sponsor, the purpose of Bill 25-24 is to amend Chapter 11B to prohibit the County from working with contractors or subcontractors found to have violated state

or federal human trafficking laws and establish meaningful penalties for active contractors found in violation of these laws, including debarment, suspension, contract termination, and/or breach of contract damages.

BILL SPECIFICS

Bill 25-24 would add a new section to Chapter 11B {Contracts and Procurement} requiring each bid or proposal submitted to the County to certify that the bidder or offeror has not been found, by an administrative or judicial body, to have violated a federal or state law against human trafficking.

The subsequent contract would explicitly require the contractor and any subcontractor: (1) to comply with all federal and state laws against human trafficking; (2) if the contractor or subcontractor is charged with a criminal offense, or subject to a civil claim, involving human trafficking, to notify the Director of Procurement in writing within three days after receiving notification of the charge or claim; and (3) if the contractor or subcontractor is found by an administrative or judicial body to have violated a law against human trafficking, or to have liability related to human trafficking, to notify the Director in writing within three days after receiving notification of the finding.

In terms of enforcement, the bill would require the Director, within three days after receiving a notification of a charge, claim, or finding by a judicial or administrative body, to transmit a copy of the notification to the Executive and the Council. If the Director finds that a contractor or subcontractor has failed to comply with the requirements of the Section, the Director would be required to pursue remedies under the terms of the contract and Chapter 11B, which may include termination of the contract and debarment.

This packet contains:

Bill 25-24

Lead Sponsor's Letter to Colleagues

Circle #

1

5

Bill No. 25-24
Concerning: Contracts and Procurement
- Prohibition Against Human
Trafficking - Enforcement
Revised: 10/23/2024 Draft No. 2
Introduced: October 29, 2024
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Luedtke
Co-sponsors: Council President Friedson and Council Vice President Stewart

AN ACT to:

- (1) require procurement bids and proposals to include certifications of compliance with human trafficking laws;
- (2) prohibit County contractors and subcontractors from violating human trafficking laws;
- (3) require County contractors and subcontractors to make certain disclosures regarding human trafficking charges, claims, or violations;
- (4) authorize debarment and other remedies for noncompliance with the law; and
- (5) generally amend the County law regarding procurement and human trafficking.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Sections 11B-33D and 11B-37

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-33D and 11B-37 are amended as follows:

11B-33D. [Reserved] Prohibition Against Human Trafficking.

(a) Definitions. For purposes of this Section, the following terms have the meanings indicated.

Contract means a contract between the County and a bidder or offeror in response to an invitation to bid or request for proposals.

Human trafficking has the meanings stated under state and federal law.

Human trafficking includes the offenses stated under:

(1) Sections 3-1102 {Sex trafficking} and 3-1202 {Labor trafficking} of the Criminal Law Article of the Maryland Code, as amended; and

(2) Chapter 77 {Peonage, Slavery, and Trafficking in Persons} of Part I of Title 18 of the United States Code, as amended.

(b) Bidding and proposal requirement. Each bid or proposal submitted to the County under this Chapter must certify that the bidder or offeror has not been found, by an administrative or judicial body, to have violated a federal or state law against human trafficking.

(c) Contractual requirements. A contract must require the contractor and any subcontractor:

(1) to comply with all federal and state laws against human trafficking;

(2) if the contractor or subcontractor is charged with a criminal offense, or subject to a civil claim, involving human trafficking, to notify the Director in writing within 3 days after receiving notification of the charge or claim; and

(3) if the contractor or subcontractor is found by an administrative or judicial body to have violated a law against human trafficking,

28 or to have liability related to human trafficking, to notify the
29 Director in writing within 3 days after receiving notification of
30 the finding.

31 (d) Enforcement.

32 (1) Within 3 days after receiving a notification under subsection (c),
33 the Director must transmit a copy of the notification to the
34 Executive and the Council.

35 (2) If the Director finds that a contractor or subcontractor failed to
36 comply with the requirements of this Section, the Director must
37 pursue remedies under the terms of the contract and this Chapter,
38 which may include termination of the contract and debarment.

39 **11B-37. Debarment or suspension.**

40 * * *

41 (c) Causes for debarment or suspension. The causes for debarment or
42 suspension may include:

43 (1) conviction for commission of a criminal offense incident to
44 obtaining or attempting to obtain a public or private contract or
45 subcontract, or in the performance of the contract or subcontract;

46 (2) conviction of embezzlement, theft, forgery, bribery, falsification
47 or destruction of records, receiving stolen property, kickbacks or
48 any other offense indicating a lack of business integrity;

49 (3) conviction under state or federal antitrust statutes arising out of
50 the submission of bids or proposals;

51 (4) violation of County contract provisions of a character which is
52 regarded by the Director to be so serious as to justify debarment
53 action. These provisions may include:

54 (A) deliberate failure without good cause to perform under the
 55 specifications or within the time limit provided in the
 56 contract; or

57 (B) a record of failure to perform or of unsatisfactory
 58 performance under the provisions of one or more
 59 contracts; however, failure to perform or unsatisfactory
 60 performance caused by acts beyond the control of the
 61 contractor are not a basis for debarment;

62 (5) violation of the wage requirements in Section 11B-33A;

63 (6) any other serious cause the Director determines to be so
 64 compelling as to affect the competency or integrity of a potential
 65 contractor, including debarment by another public entity; [or]

66 (7) violation of Section 11B-33D;

67 (8) conviction, plea of nolo contendere, or sentencing for a criminal
 68 offense involving human trafficking, including offenses under:

69 (A) Sections 3-1102 {Sex trafficking} and 3-1202 {Labor
 70 trafficking} of the Criminal Law Article of the Maryland
 71 Code, as amended; and

72 (B) Chapter 77 {Peonage, Slavery, and Trafficking in Persons}
 73 of Part I of Title 18 of the United States Code, as amended.

74 (9) violation of Subtitle 4 {Wages and Hours} of Title 3 of the Labor
 75 and Employment Article of the Maryland Code, as amended; or

76 ~~[(7)]~~ (10) violation of the ethical standards set forth in this Chapter
 77 or Chapter 19A.

78 * * *

79 (f) *Appeal to court.* The debarred or suspended person may appeal the
 80 decision to debar or suspend to the Circuit Court under the Maryland

81 Rules governing administrative appeals. The debarred or suspended
82 person and the County may appeal the decision of the Circuit Court to
83 the [Court of Special Appeals] Appellate Court of Maryland.




MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

DAWN LUEDTKE
COUNCILMEMBER
DISTRICT 7

MEMORANDUM

October 22, 2024

TO: Councilmembers

FROM: Councilmember Dawn Luedtke 

SUBJECT: Bill 25-24, Contracts and Procurement – Prohibition Against Human Trafficking - Enforcement

Dear Colleagues,

On October 29, I will introduce Bill 25-24, Contracts and Procurement – Prohibition Against Human Trafficking - Enforcement. This bill would prohibit the County from working with contractors or subcontractors found to have violated state or federal human trafficking laws and establish meaningful penalties for active contractors found in violation of these laws, including debarment, suspension, contract termination, and/or breach of contract damages.

Human trafficking in its many forms continues to impact our region. Forced labor and child labor are forms of human trafficking that we can take action to prevent and draw attention to through the County’s procurement process. The language of Bill 25-24 is adapted from a July U.S. Government Accountability Office report detailing the risks of human trafficking and role of government contractors in preventing it¹. The Bill mirrors a recently approved Prince George’s County law.²

I developed this legislation in consultation with the Montgomery County Human Trafficking Prevention Committee, on which I sit as the Council’s representative. I have also received positive feedback from Office of Procurement Director Ash Shetty about his team’s ability to enforce the measure.

This legislation gives us an opportunity to be a leader among state and local governments. Bill

¹ <https://www.gao.gov/assets/gao-24-106973.pdf>

²

<https://www.princegeorgescountymd.gov/departments-offices/news-events/news/prince-georges-county-becomes-first-county-us-pass-groundbreaking-legislation-aimed-combating-human>

Bill 25-24 underscores our County's commitment to preventing human trafficking in all its forms and in all areas that we can directly control. It also can serve as an important reminder and example of the dangers of labor trafficking when it comes to labor activity outside of the County Government's control.

Thank you for your attention and please do not hesitate to reach out if you have any questions.

Cc: Caven West, Executive Director
Christine Wellons, Chief Legislative Attorney
Tara Clemons-Johnson, Legislative Analyst