

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2023 Legislative Session

Bill 2023-06

**REVISIONS TO PURCHASING PROCEDURES AND THE MINORITY AND
WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM**

Introduced by Charles County Commissioners

For the purpose of Amending the purchasing procedures contained in Chapter 203, Purchasing Procedures, Code of Charles County, Maryland, to revise general provisions and those concerning the Minority Business Enterprise Program.

Date introduced: 06 / 27 / 2023

Public Hearing: 07 / 25 / 2023 Virtual and In-Person @ 6:00 p.m.

Commissioners Action: 09 / 19 / 2023

Commissioner Votes: RBC: Y, GB: Y, TC: Y, AS: Y, RP: Y

Pass/Fail: Pass

Effective Date: Article 1: 07 / 01 / 2024 Article 2: 04 / 01 / 2025

Remarks: _____

NOTE: CAPITALS indicate matter added to existing text.
[Brackets] indicate matter deleted from existing law.

1 **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

2
3 **2023 Legislative Session**

4
5 Bill No. 2023- 06

6 Chapter. No. 203

7 Introduced by Board of County Commissioners

8 Date of Introduction June 27, 2023

9
10 **BILL**

11 **REVISIONS TO PURCHASING PROCEDURES AND THE MINORITY AND WOMEN-**
12 **OWNED BUSINESS ENTERPRISE PROGRAM**

13
14 AN ACT concerning:

15 **REVISIONS TO THE PURCHASING PROCEDURES AND MINORITY AND WOMEN-**
16 **OWNED BUSINESS ENTERPRISE PROGRAM FOR CHARLES COUNTY**
17 **GOVERNMENT**

18
19 FOR the purpose of

20 Amending the purchasing procedures contained in Chapter 203, Purchasing Procedures, Code of
21 Charles County, Maryland, to revise general provisions and those concerning the
22 Minority Business Enterprise Program.

23
24 BY Amending:

25 Chapter 203 – PURCHASING PROCEDURES

26 Article I, General Provision and Procedures

27 §203-1, Purchasing and procurement policies generally.

28 *Code of Charles County, Maryland*

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BY Amending:
Chapter 203 – PURCHASING PROCEDURES
Article I, General Provision and Procedures
§203-2, Competitive bidding.
Code of Charles County, Maryland

BY Amending:
Chapter 203 – PURCHASING PROCEDURES
Article I, General Provision and Procedures
§203-4, Law enforcement supplies and equipment.
Code of Charles County, Maryland

BY Amending:
Chapter 203 – PURCHASING PROCEDURES
Article II, Minority Business Policy and Procedures
§203-5, Definitions.
Code of Charles County, Maryland

BY Amending:
Chapter 203 – PURCHASING PROCEDURES
Article II, Minority Business Policy and Procedures
§203-6, Qualifications.
Code of Charles County, Maryland

BY Amending:
Chapter 203 – PURCHASING PROCEDURES
Article II, Minority Business Policy and Procedures
§203-7, Minority Business Program.
Code of Charles County, Maryland

Asterisks *** mean intervening code language remaining unchanged
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1.Article I
General Provisions and Procedures

Adopted 6-1-1999 by Ord. No. 99-54

1.§ 203-1 Purchasing and procurement policies generally.

A. Purchasing and procurement.

(1) Purchasing and procurement authority designated. The Chief of Purchasing shall be responsible for purchasing or contracting for all supplies and contractual services required by using **DEPARTMENTS**, except those specifically exempted in writing by the County Commissioners. *Amended 5-22-2013 by Bill No. 2013-07*

(2) Unlawful purchases or procurements. It shall be unlawful for any officer or employee to purchase, contract or order any equipment, supplies or services except as authorized by the Chief of Purchasing or through the procedures defined herein, and the County shall not be responsible for payment for any such unauthorized purchase or procurement.

B. ~~Competitive bidding~~**FORMAL PROCUREMENT**. Unless otherwise provided by law or by these policies, all purchases or procurements with an aggregate value exceeding \$25,000 **\$50,000.00** shall be made by **FORMAL PROCUREMENT** ~~advertised bid~~. All solicitations ~~for bids~~ **FOR FORMAL PROCUREMENT** shall be advertised and posted pursuant to **STATE AND/OR FEDERAL** law. Full opportunity to **PARTICIPATE** ~~bid~~ shall be granted to all qualified responsive and responsible **VENDORS** ~~bidders~~. **FORMAL PROCUREMENTS SHALL BE PUBLICLY ADVERTISED AS SPECIFIED IN COUNTY PURCHASING GUIDELINES.**

C. **DEBARRED/SUSPENDED**. Vendors may be **DEBARRED OR SUSPENDED FROM PARTICIPATING IN COUNTY PROCUREMENT** [~~removed from the bidders' list~~] by the Chief of Purchasing for any of the following reasons: *Amended 2-28-2012 by Bill No. 2012-05; 5-22-2013 by Bill No. 2013-07*

(1) **REFUSAL OR FAILURE TO TIMELY EXECUTE A CONTRACT AWARDED AS A RESULT OF A FORMAL PROCUREMENT AND/OR FULLY COMPLY WITH ALL REQUIREMENTS OF A FORMAL PROCUREMENT SOLICITATION:**
[~~Failure to reply to three successive bid invitations. A "no bid" sh all be considered a reply.~~]

(2) **A CONTRACTOR, WHO HAS EXECUTED A CONTRACT WITH THE COUNTY, MAY BE CONSIDERED TO HAVE DEFAULTED IN THE PERFORMANCE OF THE CONTRACT, BY: FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE CONTRACT, SUB-STANDARD PERFORMANCE, FAILING TO**

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1 **COMPLETE THE CONTRACT, AND/OR BY OTHER SIGNIFICANT ERRORS**
2 **AND OMISSIONS** [~~Repeated delinquency in making deliveries or default.~~]

- 3 (3) If they have been suspended or debarred by any County, state or federal procurement
4 authority. *Amended 5-22-2013 by Bill No. 2013-07*

5 **(4) FOR OTHER REASONS AS SPECIFIED IN COUNTY PURCHASING**
6 **GUIDELINES.**

7 D. Joint or cooperative purchases and procurements. The Chief of Purchasing may engage in
8 programs involving joint or cooperative purchases and procurements with other public
9 jurisdictions, including independent agencies operating under state law, the State of
10 Maryland, other counties and municipalities and volunteer fire departments and rescue
11 squads of these jurisdictions. The Chief of Purchasing may utilize formal bid contracts
12 established by these jurisdictions when beneficial to the County. This may be accomplished
13 without specific Board approval for individual transactions.

14 E. Unit cost contracts. Unit cost contracts may be issued covering indeterminate requirements
15 of specific commodities and services where the unit cost for the commodities or services is
16 determined through competitive bidding procedures and agreed upon at the beginning of the
17 contract period. The exact quantity to be purchased may be unknown. All unit cost contracts
18 shall include instructions as to release format, item limitations, dollar limitations per
19 purchase, if applicable, pricing provisions and billing instructions. The Chief of Purchasing
20 shall **MAKE AVAILABLE** [~~distribute~~] to all using agencies information detailing the
21 provisions and pricing of unit cost contracts. *Amended 5-22-2013 by Bill No. 2013-07*

22 F. Emergency and sole source procurement. [~~If the purchase or contract is over \$25,000, the~~
23 ~~President of the Board of County Commissioners shall approve it after review by the~~
24 ~~County Administrator~~]. **EMERGENCY OR SOLE SOURCE PROCUREMENT MAY**
25 **BE USED IN THE FOLLOWING INSTANCES:** ~~There are instances when an~~
26 ~~emergency or sole source procurement is necessary. The following is a list of examples:~~
27 *Amended 5-22-2013 by Bill No. 2013-07*

28 (1) Emergency purchase is necessary. An emergency shall be deemed to exist when:

29 (a) There is a danger of death or injury if uncorrected.

30 (b) There is risk of destruction or serious damage to County property.

31 (c) A breakdown of machinery or other incident threatens or terminates essential services to the
32 public.

- 1 (2) Supplies or services are proprietary in nature.
- 2 (3) When competition is precluded because of secret manufacturing processes or patent and/or
3 copyrights and control of basic raw materials which are only available from a single sole
4 source and no equivalent processes, products, services or materials can reasonably be
5 obtained.
- 6 (4) When competition has been unsuccessfully attempted. In such case, the Chief of Purchasing
7 shall document the firms and individuals contacted and the date of such contact.
- 8 (5) In cases where no bids are received, or only a single bid is received,-in response to formal
9 advertising.
- 10 (6) In circumstances when it is impracticable and/or in the best interest of the County.
- 11 F. Competitive pricing. Whenever practicable, it shall be the policy of the Purchasing
12 **DIVISION** [~~Office~~] to secure adequate competition to assure that the purchase or
13 procurement is made at the lowest possible cost consistent with the quality and delivery
14 requirements of the using agency and the provisions of this section. Competitive pricing
15 shall be obtained and at least three quotes documented in all transactions estimated to result
16 in expenditures of \$5,000.00 **TO \$50,000.00** ~~to \$24,999~~. If three quotes cannot be obtained,
17 information shall be documented in the file to that effect. **VERBAL** [] quotes or written
18 quotes may be utilized. *Amended 2-28-2012 by Bill No. 2012-05; 5-22-2013 by Bill No.*
19 *2013-07*
- 20 G. Small procurement[] **CARDS**. Small procurement cards may be issued covering
21 indeterminate requirements of commodities and services. This system is to provide an
22 expeditious means of obtaining incidental items as needed. Small procurement cards are
23 limited to ~~\$1,000~~ **\$2,500.00** per purchase. All small procurement cards shall include
24 instructions to the vendor as to release format, item limitations **IF APPLICABLE**, dollar
25 limitations, billing instructions and identification of persons expressly authorized to conduct
26 such orders. Employees authorized to purchase under the small procurement card
27 procedures are provided with identification cards, which are issued by and may be rescinded
28 by the Chief of Purchasing. Small procurement cards must be turned in to Purchasing upon
29 the termination of employment of the cardholder **OR EMPLOYEE BECOMES**
30 **INELIGIBLE FOR CARD**. *Amended 5-22-2013 by Bill No. 2013-07*
- 31 H. Requisitions. The purchase requisition or online request shall be used in all cases as an
32 instrument for requesting contractual services or commodities. Requisitions shall be
33 approved by the appropriate **AUTHORIZED DEPARTMENT PERSONNEL** ~~supervisor~~
34 prior to submitting to Purchasing. Requisitions with incomplete **OR INACCURATE**
35 information shall be rejected by Purchasing.

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- 1 I. Purchase orders. Purchase orders shall not be prepared without a substantiating, approved
2 requisition from the using department. All purchases greater than ~~\$1,000~~ **\$2,500.00**, unless
3 excepted, [~~but less than \$25,000~~] shall be prepared on a purchase order form, except for
4 long-term supply contracts and small dollar purchases, which may be accomplished via
5 other methods described herein. In the instance of long-term supply contracts or **FORMAL**
6 ~~advertised~~ procurement, **THE VENDOR SHALL BE NOTIFIED OF COUNTY**
7 **INTENT TO AWARD** ~~a contract award notice will be mailed to the vendor.~~ *Amended 5-*
8 *22-2013 by Bill No. 2013-07*
- 9 J. Verification of funds prior to purchase required. Except for emergency purchases, no
10 purchase exceeding ~~\$1,000~~ **\$2,500.00** shall be made until the availability of funds for the
11 designated purpose is verified **AND PURCHASE ORDER ISSUED.** *Amended 5-22-2013*
12 *by Bill No. 2013-07*
- 13 K. Negotiations with vendors. No officer or employee of the County shall negotiate directly or
14 indirectly with any vendor except with the approval of the Chief of Purchasing. Contact
15 with employees in using departments by suppliers' representatives should be through or
16 with the knowledge of the Chief of Purchasing. **THE CHIEF OF PURCHASING OR**
17 **DESIGNEE MAY ENTER NEGOTIATIONS WITH VENDORS OR REQUEST**
18 **CLARIFICATIONS.**
- 19 L. Communications with vendors. Insofar as possible or practical, any communications with
20 vendors should be in writing to avoid misunderstandings and to provide an historical file.
- 21 M. Purchases considered as possible conflicts of interest. Purchases of supplies, materials or
22 services from a member of the governing body of Charles County or from members of his
23 or her immediate family; or from any other officer or employee of the County or members
24 of his or her immediate family; or from any member or employee of a commission, board or
25 corporation controlled or appointed by the Commissioners or from members of his or her
26 immediate family shall be documented to provide a record for the public establishing that
27 the purchase was made in the best interest of the County, price and other factors considered.
28 All such purchasing activity must comply with the provisions of the Charles County Code
29 of Ethics, Chapter 170 of the Code of Charles County.
- 30 N. Purchases of capital assets. Purchases of capital assets, items with a useful life exceeding
31 three years and costing **\$5,000.00** or more, shall require **CAPITAL ASSET**
32 **DESIGNATION** [~~a purchase order~~] **IN ADDITION TO THE PURCHASE ORDER.**
33 Trade-ins of assets shall be performed by the Chief of Purchasing only, and should only be
34 done if the Chief of Purchasing can demonstrate that it is highly probable that this would
35 provide a better economic value than if the asset were auctioned. Trade-ins also require the
36 approval of the Chief of Purchasing **OR DESIGNEE.** Rental/Purchase arrangements shall

1 be ~~coordinated~~ **REVIEWED** only by the Chief of Purchasing **OR DESIGNEE**, and
2 approved in advance, similar to other capital purchases. Purchases of used assets must be
3 specifically approved by the Chief of Purchasing **OR DESIGNEE**. *Amended 5-22-2013 by*
4 *Bill No. 2013-07*

5 O. Public availability of pricing information. ~~An open record policy shall be maintained~~
6 ~~whereby p~~Prices obtained through open competition and quotations are available to the
7 public **WITH WRITTEN REQUEST TO THE CHIEF OF PURCHASING IN**
8 **ACCORDANCE WITH COUNTY, STATE, AND/OR FEDERAL LAW AS**
9 **APPLICABLE.**

10 P. Purchasing and procurement standards. [Amended 2-28-2012 by Bill No. 2012-05]

11 (1) Preferential purchasing and contracts prohibited. Except as ~~proved~~ **APPROVED** by this
12 section, it is not permissible to favor any particular individual or firm with orders or to give
13 ~~those submitting bids or quotations~~ **VENDORS** information which will give anyone
14 advantage over others seeking County business.

15 (2) Local purchases and contracts. Unless otherwise provided by this section or by other
16 applicable law, purchasing of goods or services from vendors whose principal place of
17 business is physically located in Charles County is considered in the best interest of the
18 County, provided that cost, quality, specifications, and delivery are deemed equivalent. In
19 the event that these provisions cannot be met, it then shall be considered in the County's
20 interest to procure from a vendor whose principal place of business is located in the State of
21 Maryland.

22 (3) Small Local Business Enterprise Program. This section establishes the Small Local
23 Business Enterprise (SLBE) Program. Under this program, preference may be given to
24 Charles County Small Businesses which qualify pursuant to the provisions of this section
25 and become registered in the program. Preferences utilized shall include, but may not
26 necessarily be limited to, a percentage preference applied to bids/**QUOTES**, preference
27 points applied to proposal evaluations, and a small local business reserve. **THE SMALL,**
28 **LOCAL, AND MINORITY BUSINESS ENTERPRISE PROGRAMS DIVISION**[~~The~~
29 ~~Purchasing Division of the Department of Fiscal and Administrative Services~~] shall
30 **ADMINISTER** [implement] the SLBE Program and ~~[adopt detailed procurement and~~
31 ~~purchasing]~~ **SUCH** processes, procedures and guidelines for using **agencie**
32 **DEPARTMENTS** and vendors necessary for the efficient administration of the program.

33 (a) The initial preference percentages, evaluation points, reserve level and caps shall be
34 established by Commissioner resolution and shall be part of and incorporated into this
35 section by reference. Future modifications, if any, to these parameters, or the definition of a

1 local business, shall be by resolution of the County Commissioners.

2 (b) Definitions. In this section, the following words have the meanings indicated:

3 **BROKER**

4 ~~A person that conducts business other than real estate, investment or insurance sales on a~~
5 ~~pass-through basis with respect to supplies and services.~~ **BROKER – A PERSON THAT**
6 **CONDUCTS BUSINESS (OTHER THAN REAL ESTATE, INVESTMENT, OR**
7 **INSURANCE SALES) ON A PASS-THROUGH BASIS AND WITH RESPECT TO:**

8 **(I) SUPPLIES:**

9 - **DOES NOT OWN, OPERATE, OR MAINTAIN A PLACE OF BUSINESS IN**
10 **WHICH SUPPLIES OF THE GENERAL CHARACTER REQUIRED UNDER THE**
11 **CONTRACT ARE KEPT IN STOCK IN THE REGULAR COURSE OF BUSINESS,**

12 - **DOES NOT REGULARLY ASSUME PHYSICAL CUSTODY OR POSSESSION**
13 **OF SUPPLIES OF COMPARABLE CHARACTER TO THOSE OFFERED TO THE**
14 **COUNTY, OR**

15 - **EXCLUSIVELY ACTS AS A MIDDLEMAN IN THE PROVISION OF SUPPLIES**
16 **OFFERED TO THE COUNTY; OR**

17 **(II) SERVICES:**

18 - **DOES NOT REGULARLY MAINTAIN THE CAPABILITY, CAPACITY,**
19 **TRAINING, EXPERIENCE, AND APPLICABLE REGULATORY LICENSING TO**
20 **DIRECTLY PERFORM THE PRINCIPAL TASKS OF A CONTRACT WITH THE**
21 **COUNTY, AND ACQUIRES THE SERVICES ELSEWHERE, FOR THE BENEFIT**
22 **OF THE COUNTY.**

23 **LOCAL BUSINESS**

24 A business in Charles County that has:

25 [1] Its principal place of business in Charles County; or

26 [2] **HAS A BRANCH OR SATELLITE OFFICE IN THE COUNTY THAT**
27 **GENERATES AT LEAST FIFTY PERCENT (50%) OF ANNUAL GROSS SALES**
28 **OF THE BUSINESS WITHIN THREE YEARS OF REGISTRATION WITH THE**
29 **CHARLES COUNTY SMALL LOCAL BUSINESS ENTERPRISE PROGRAM.**

30 [~~Twenty five percent of its number of full-time equivalent employees domiciled in Charles~~
31 ~~County; or]~~

32 [~~y Has a branch or satellite office in the County that generates at least 25% of the company's~~
33 ~~annual gross sales.]~~

1 SMALL BUSINESS

2 A business that is certified and maintains its certification in the State of Maryland Small
3 Business Reserve Program.

4 SMALL LOCAL BUSINESS

5 A for-profit business, other than a broker, that meets the definitions and criteria for both a
6 small and local business under this section.

7 SMALL LOCAL BUSINESS RESERVE

8 Those procurements that are limited to responses from local small businesses as defined
9 herein and which do not exceed informal bid limits as may be adopted and modified from
10 time to time by the County Commissioners.

11 (c) Small local business eligibility.

12 [1] A small local business shall be certified in the State of Maryland Small Business Reserve
13 (SBR) Program, shall maintain that certification and shall comply with all provisions of the
14 state program, including annual recertification.

15 [2] In addition to obtaining and maintaining certification in the state program, a small local
16 business shall meet all additional County program requirements at the time of the
17 submission of a bid or proposal in order to be eligible for any SLBE program preference.

18 [3] A small local business is no longer eligible to participate in the program when:

19 [a] The business has received more than \$3 million in awards within any sixty-month period
20 based upon their SLBE status either as a prime contractor or a subcontractor, or

21 [b] The business exceeds the maximum annual gross sales or maximum number of employees
22 established in the criteria for certification in the Maryland Small Business Reserve Program;
23 or

24 [c] No longer complies with the definition of a local business.

25 (4) Discontinuation of Maryland Small Business Reserve Program. In the event the State of
26 Maryland discontinues its Small Business Reserve Program, the County Small Local
27 Business Enterprise Program shall continue under the last small business reserve gross
28 sales, employee, and other criteria in effect at the time of the termination of the state
29 program and the **SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE**
30 **PROGRAMS DIVISION** [~~Purchasing Division~~] shall establish procedures to implement
31 and maintain an equivalent small business certification process to that of the state program.

32 (5) Exclusions. In addition to the exclusions contained in the aforementioned resolution, the

1 President of the County Commissioners may waive the application of this section to a
2 specific ~~contract, bid or proposal~~ **PURCHASE** if it conflicts with the overall objectives and
3 responsibilities of this chapter or would be contrary to the best interests of the County.

4 (6) Enforceability. This section does not give any person, including a small local business, any
5 right or status, including standing, to challenge the award of a contract or subcontract under
6 the County procurement system.

7 (7) Penalties. A person must not willfully make a false statement to a County employee for the
8 purpose of obtaining eligibility in the Small Local Business Enterprise Program under this
9 section or fraudulently obtain, or attempt to obtain, or aid another person in fraudulently
10 obtaining or attempting to obtain a contract or funds to which the person is not entitled to
11 under this section. A violation of this section shall be deemed to constitute a material breach
12 of any contract awarded by the County and the Purchasing Division may terminate the
13 contract or exercise any other appropriate remedy available to it. In addition, any person or
14 firm found to have violated these provisions may be disqualified by the Purchasing Division
15 from doing business with the County for up to two years.

16 Q. Maintenance of files and records. Complete files are to be maintained in the Purchasing
17 Division consisting of at least the following: *Amended 5-22-2013 by Bill No. 2013-07*

18 (1) Requisitions and purchase orders and copies of related correspondence.

19 (2) General correspondence.

20 (3) ~~Bidders' lists.~~ **TABULATIONS AND SCORING SUMMARIES.**

21 (4) ~~Bids and quotations~~ **VENDOR SUBMISSIONS.**

22 (5) Negotiated purchase substantiations.

23 R. Violations of policies and procedures. The Director of Fiscal **AND ADMINISTRATIVE**
24 Services shall immediately report to the County Administrator the following for
25 administrative action or referral to the County Attorney:

26 (1) Any violations of purchasing and procurement policies.

27 (2) Any situation where a vendor is not responsive or cooperative in providing requested
28 information or invoices after reasonable attempts to secure same have been made.

29 (3) Any unusual delays in awarding contracts due to non-responsiveness of using
30 departments/agencies.

- 1 (4) Abuse of the emergency purchase order system by a particular employee, division or
2 **DEPARTMENT**/agency.
- 3 (5) Capital purchases, not properly charged to capital outlay or preapproved by the County
4 Administrator.
- 5 2.§ 203-2 **FORMAL PROCUREMENT**: ~~Competitive bidding~~.
- 6 A. Specifications.
- 7 (1) Preparation; changes or modifications. The preparation of proper specifications is jointly the
8 responsibility of the ~~requesting~~ **USING** department and the Purchasing Division. Prior to
9 ~~obtaining bids~~ **ISSUANCE OF THE SOLICITATION**, the Chief of Purchasing may
10 modify those specifications submitted by the using **DEPARTMENT**/agency to permit
11 competitive bidding and provide for a level of quality commensurate with the intended use
12 of the article. The Chief of Purchasing shall notify the using **DEPARTMENT**/agency of ~~his~~
13 **THEIR** intent and provide the agency with full particulars regarding the need, reason,
14 extent and nature of the changes. Disputes shall be referred through the Director of Fiscal
15 **AND ADMINISTRATIVE** Services to the County Administrator for resolution.
- 16 (2) Standards of quality. A primary consideration in the preparation of specifications shall
17 always be that the proposed expenditures are derived from public funds and administered by
18 public agencies. Therefore, luxury or deluxe level of quality may not be in the public
19 interest. The specifications shall reflect an adequate, standard quality of merchandise
20 consistent with the end use requirements and shall represent an optimum relationship
21 between quality and prices.
- 22 (3) Types of specifications.
- 23 (a) Technical or design specifications. These shall describe in detail the construction of the item
24 desired.
- 25 (b) Performance specifications. These describe the function and use of the product as the basic
26 definition.
- 27 “(c) "Or equivalent" notation. This may be used to identify the level of quality desired and must
28 always be used when a brand name is noted on a request.
- 29 (4) In using any of the above types of specifications, it shall be the responsibility of the Chief of
30 Purchasing to afford a basis for full and fair competitive bidding. *Amended 2-28-2012 by*
31 *Bill No. 2012-05*
- 32 B. Bid security and/or ~~performance~~ bonds. The use of bid surety and/or performance or

1 payment bonds is at the discretion of the Chief of Purchasing. Bid security, in the form of a
2 certified check or bonds, shall be for a specific sum of money. All bid and performance
3 bonds shall be issued by companies licensed to do business in the State of Maryland. Bid
4 securities shall be returned to the unsuccessful bidders immediately after [~~award of the~~]
5 contract **EXECUTION** and to the successful bidder only after receipt of his performance
6 and payment bonds and proper execution of the contract. Failure to execute the contract or
7 furnish required bonds within the specified time may result in forfeiture of the bid security
8 to the County Commissioners as liquidated damages.

9 **C. ~~Receipt and opening of bids.~~ FORMAL PROCUREMENT SUBMISSIONS.**

- 10 (1) Sealed **SUBMISSIONS** ~~bids~~ must be received and opened at the prescribed time and date.
11 ~~Bids~~ **SUBMISSIONS** received after the prescribed time, regardless of reason, will be
12 returned to the ~~bidder~~ **VENDOR** unopened, ~~with a letter of explanation~~. No ~~bids~~
13 **SUBMISSION** may be changed or withdrawn after ~~bid~~-opening.
- 14 (2) The Chief of Purchasing shall be responsible for setting the amount of ~~bid bond~~ **BONDING**
15 required, if any. If a bid invitation specifies that a bid surety shall be submitted and such
16 surety is omitted, the bid will not be read, recorded or considered.
- 17 (3) All bid/quote submissions shall be publicly opened, read aloud and recorded. The tabulation
18 shall be available for inspection in the Purchasing **DIVISION** [~~Office~~] and made available
19 to vendors in attendance. The Chief of Purchasing shall not attempt to give interpretations
20 or answer questions until such time as **THE CHIEF** [~~he~~] has had adequate time to review
21 and study [~~proposals~~] **SUBMISSIONS. PROPOSALS RECEIVED IN RESPONSE TO**
22 **A REQUEST FOR PROPOSALS SHALL NOT BE PUBLICLY OPENED OR READ**
23 **ALLOUD.**
- 24 (4) A representative from the using agency or department is encouraged to attend the ~~bid~~
25 opening. At times, when an unusually complex or extensive bid is to be opened, the Chief
26 of Purchasing may request the attendance of the County Attorney.

27 **D. COUNTY REVIEW AND PRE-AWARD ACTIVITIES**

28 (1) **SUBMISSIONS RECEIVED IN RESPONSE TO A FORMAL PROCUREMENT**
29 **SHALL BE REVIEWED FOR RESPONSIVENESS AND IN ACCORDANCE WITH**
30 **CRITERIA SET FORTH WITHIN THE SOLICITATION. BID AND QUOTE**
31 **SUBMISSIONS SHALL BE REVIEWED FOR RESPONSIBILITY. PROPOSAL**
32 **SUBMISSIONS SHALL BE EVALUATED IN ACCORDANCE WITH THE**
33 **CRITERIA SPECIFIED IN THE SOLICITATION.**

34 (2) **PURCHASING DIVISION MAY REQUEST CLARIFICATION, REVISED BIDS,**

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[Brackets] mean language deleted from the law

1 **BEST AND FINAL OFFERS, OR ANY OTHER INFORMATION FROM VENDORS**
2 **AS DETERMINED IN THE BEST INTEREST OF THE COUNTY PRIOR TO**
3 **CONTRACT EXECUTION BY THE COUNTY.**

4 **E. CANCELLATION OF FORMAL PROCUREMENT.**

5 **(1). NOTICE. EACH SOLICITATION ISSUED BY THE PURCHASING DIVISION**
6 **SHALL STATE THAT THE SOLICITATION MAY BE CANCELLED AS PROVIDED**
7 **IN THIS PROVISION.**

8 **(2). CANCELLATION BEFORE OPENING. THE COUNTY MAY CANCEL ANY**
9 **FORMAL PROCUREMENT BEFORE OPENING IF THE PURCHASING DIVISION,**
10 **WITH APPROVAL OF THE APPROPRIATE USING DEPARTMENT HEAD OR**
11 **DESIGNEE, DETERMINES THAT THIS ACTION IS FISCALLY ADVANTAGEOUS**
12 **TO THE COUNTY OR OTHERWISE IN ITS BEST INTEREST.**

13 **(3). CANCELLATION OF SOLICITATION AFTER OPENING OR REJECTION OF**
14 **ALL SUBMISSIONS. AFTER OPENING OF SUBMISSIONS BUT BEFORE**
15 **CONTRACT EXECUTION BY THE COUNTY, THE SOLICITATION MAY BE**
16 **CANCELLED OR ALL SUBMISSIONS MAY BE REJECTED IN WHOLE OR IN PART**
17 **WHEN THE PURCHASING DIVISION, WITH THE APPROVAL OF THE**
18 **APPROPRIATE USING DEPARTMENT HEAD OR DESIGNEE, DETERMINES THAT**
19 **CANCELLATION IS FISCALLY ADVANTAGEOUS OR OTHERWISE IN THE**
20 **COUNTY'S BEST INTEREST.**

21 **(4). DOCUMENTATION. THE DETERMINATION OF THE REASONS FOR**
22 **CANCELLATION OR REJECTION OF ALL SUBMISSIONS IN RESPONSE TO A**
23 **SOLICITATION SHALL BE MADE A PART OF THE PROCUREMENT FILE.**

24 **F. Contract award.**

25 (1) All formally advertised contracts shall be awarded by the Board of County Commissioners
26 through the County Administrator, upon recommendation of the **DIRECTOR OF THE**
27 Department of Fiscal and Administrative Services, in accordance with budget policies and
28 delegated authorities and procedures adopted by the Board as may be modified from time to
29 time. Any extensions or modifications of existing contracts may be approved based upon
30 the following delegations. For contract extensions, the delegation limit is based upon the
31 annual maximum value of the contract extension. For contract modification, the delegation
32 limit is based upon the cost of the modification, if any. **MODIFICATIONS AND**
33 **CHANGE ORDERS SHALL BE PROCESSED AND APPROVED IN**
34 **ACCORDANCE WITH DELEGATED AUTHORITIES** ~~Modifications resulting in an~~
35 ~~increase of more than 10% of the original contract amount must be submitted to the County~~
36 ~~Administrator for approval, regardless of the actual dollar amount of the modification.~~

Asterisks *** mean intervening code language remaining unchanged
CAPITALS mean language added to the law
[Brackets] mean language deleted from the law

1 *Amended 5-22-2013 by Bill No. 2013-07*

2 (2) [~~The Director of Fiscal and Administrative Services shall submit a written award~~
3 ~~recommendation to the President of the Board of County Commissioners through the~~
4 ~~County Administrator covering each formally advertised contract in excess of \$25,000.~~
5 ~~This] **THE** award recommendation shall include the following information: *Amended 5-22-*
6 *2013 by Bill No. 2013-07*~~

7 (a) The bid **SOLICITATION** number, title and opening date.

8 (b) The department.

9 (c) A tabulation of bids/**QUOTES** received.

10 (d) Award recommendations.

11 (e) Basis of award recommendations.

12 (f) The signature of the County Attorney attesting to the legal sufficiency of the contract
13 documents.

14 G. Notification to bidders **VENDORS**.

15 (1) ~~Successful bidders~~ **SUCCESSFUL CONTRACTOR**. After a bid **FORMAL**
16 **PROCUREMENT** has been awarded by the Board of County Commissioners, the Chief of
17 Purchasing shall notify the successful bidder **CONTRACTOR. AWARD IS**
18 **CONTINGENT UPON COMPLETION OF THE PROTEST PERIOD. THE**
19 **SUCCESSFUL CONTRACTOR SHALL BE NOTIFIED.** ~~The following methods of~~
20 ~~notification may be used:~~

21 (a) ~~A contract award notice shall be mailed to the vendor.~~

22 (b) ~~A letter of award with a request for submission of performance and payment bonds, when~~
23 ~~applicable, shall be sent to the bidder.~~

24 (c) ~~A notice to proceed, with a copy of the executed contract, shall be sent to the bidder.~~

25 (2) Unsuccessful bidders **VENDORS**. The Chief of Purchasing shall be required to issue
26 notifications to the unsuccessful bidders **VENDORS** and return bid bonds or a certified
27 check if included as a bid **SUBMISSION** requirement.

28 **H. BID/AWARD PROTESTS.**

29 **(1) THE CHIEF OF PURCHASING SHALL ESTABLISH BID AND AWARD**

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**PROTEST PROCEDURES FOR PROTESTS PERTAINING TO COUNTY
FORMAL PROCUREMENTS.**

3.§ 203-3 Disposition of surplus property.

* * * * *

4.§ 203-4 Law enforcement supplies and equipment.

- A. The responsibilities and authorities of the Charles County Chief of Purchasing and the County Commissioners, as defined in this chapter, shall be delegated to the Sheriff of Charles County for the purchase of all materials, equipment and services for agencies over which the Sheriff has expenditure control and responsibility.
- B. The Charles County Sheriff shall otherwise comply with all other purchasing policies and procedures as defined under this chapter to the extent applicable.
- C. The Charles County Purchasing **DIVISION** [~~Office~~] shall be available to assist the Sheriff in providing information regarding potential suppliers, specifications, open supply contracts and other relevant information.
- D. The Charles County Sheriff shall establish internal controls surrounding purchasing transactions to ensure that:
 - (1) Proper purchasing and accounting records are maintained.
 - (2) Proper approvals for purchases are obtained.
 - (3) Competitive bidding policies and procedures are followed.
 - (4) Sole-source or emergency purchases are documented and approved.
 - (5) Receipt of merchandise is properly controlled and documented.
 - (6) Inventory records are properly maintained.
 - (7) Check requests to the Department of Fiscal **AND ADMINISTRATIVE** Services are adequately documented.
 - (8) Disposition of surplus property is properly controlled and recorded in the Accounting records.
- E. The internal control policies and procedures established by the Sheriff shall be documented, in writing, and are subject to the approval of, modification by or audit ordered by the County Commissioners of Charles County.

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- 1 F. The Director of the Department of Fiscal and Administrative Services and the internal
2 auditor for the County Commissioners shall be available to assist in documenting or setting
3 up internal control policies and procedures for the Charles County Sheriff. *Added 5-22-2013*
4 *by Bill No. 2013-07*

5 Article II
6 **Minority AND WOMEN-OWNED Business ENTERPRISE PROGRAM**
7 **(MWBE) Policies and Procedures**

8 *Adopted 5-22-2013 by Bill No. 2013-07*

9 5.§ 203-5 Definitions.

10 As used in this article, the following terms shall have the meanings indicated:

11 **MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE).**

12 **A BUSINESS THAT IS CERTIFIED AND MAINTAINS ITS CERTIFICATION**
13 **WITH THE STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION,**
14 **MINORITY BUSINESS ENTERPRISE PROGRAM, OR OTHER BONA FIDE**
15 **CERTIFICATION ACCEPTED BY THE COUNTY. [~~As defined in the State of~~**
16 ~~Maryland Department of Transportation's Minority Business Enterprise Program for state~~
17 ~~contracts, which includes African Americans, American Indians/Native Americans, Asians,~~
18 ~~Hispanics, women and physically or mentally disabled persons and disabled American~~
19 ~~veterans.]~~

20 6.§ 203-6 Qualifications AND CERTIFICATION.

21 A. **A MINORITY-OWNED, WOMAN-OWNED, OR DISADVANTAGED BUSINESS**
22 **SHALL BE CERTIFIED IN THE STATE OF MARYLAND DEPARTMENT OF**
23 **TRANSPORTATION (MDOT) MINORITY BUSINESS ENTERPRISE PROGRAM,**
24 **OR OTHER BONA FIDE CERTIFICATION ACCEPTED BY THE COUNTY.**
25 **MWBE VENDOR SHALL MAINTAIN THAT CERTIFICATION AND SHALL**
26 **COMPLY WITH ALL PROVISIONS OF THE THAT PROGRAM, INCLUDING**
27 **ANNUAL RECERTIFICATION. [~~Minority businesses can be qualified through Federal~~**
28 ~~8(A) Registration, the State of Maryland Department of Transportation's Minority Business~~
29 ~~Enterprise Program registration or a Charles County government-administered certification~~
30 ~~process.]~~

31 7.§ 203-7 Minority AND WOMEN-OWNED Business ENTERPRISE (MWBE) Program.

32 A. Policy. The following practices and procedures apply to the minority **AND WOMEN-**
33 **OWNED** business enterprises (MWBE[S]) in County procurement activities for
34 commodities and **SERVICES** [~~sources~~].

35 B. Practices/procedures. [~~The Charles County Purchasing Office shall:]~~

1 THE PROGRAM GOALS, PRACTICES, AND PROCEDURES SHALL BE
2 ESTABLISHED BY COMMISSIONER RESOLUTION AND SHALL BE PART OF
3 AND INCORPORATED INTO THIS SECTION BY REFERENCE.

4 C. EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS CONTAINED IN THE
5 AFOREMENTIONED RESOLUTION, THE PRESIDENT OF THE COUNTY
6 COMMISSIONERS MAY WAIVE THE APPLICATION OF THIS ARTICLE TO A
7 SPECIFIC CONTRACT, BID, OR PROPOSAL IF IT CONFLICTS WITH THE
8 OVERALL OBJECTIVES AND RESPONSIBILITIES OF THIS CHAPTER OR
9 WOULD BE CONTRARY TO THE BEST INTERESTS OF THE COUNTY.

10 D. ENFORCEABILITY. THIS SECTION DOES NOT GIVE ANY PERSON,
11 INCLUDING A MWBE BUSINESS, ANY RIGHT OR STATUS, INCLUDING
12 STANDING, TO CHALLENGE THE AWARD OF A CONTRACT OR
13 SUBCONTRACT UNDER THE COUNTY PROCUREMENT REGULATIONS.

14 E. PENALTIES. A PERSON MUST NOT WILLFULLY MAKE A FALSE
15 STATEMENT TO A COUNTY EMPLOYEE FOR THE PURPOSE OF OBTAINING
16 ELIGIBILITY IN THE MWBE PROGRAM UNDER THIS SECTION OR
17 FRAUDULENTLY OBTAIN, OR ATTEMPT TO OBTAIN, OR AID ANOTHER
18 PERSON IN FRAUDULENTLY OBTAINING OR ATTEMPTING TO OBTAIN, A
19 CONTRACT OR FUNDS TO WHICH THE PERSON IS NOT ENTITLED TO
20 UNDER THIS SECTION. A VIOLATION OF THIS SECTION SHALL BE
21 DEEMED TO CONSTITUTE A MATERIAL BREACH OF ANY CONTRACT
22 AWARDED BY THE COUNTY AND THE PURCHASING DIVISION MAY
23 TERMINATE THE CONTRACT OR EXERCISE ANY OTHER APPROPRIATE
24 REMEDY AVAILABLE TO IT. IN ADDITION, ANY PERSON OR FIRM FOUND
25 TO HAVE VIOLATED THESE PROVISIONS MAY BE DISQUALIFIED BY THE
26 PURCHASING DIVISION FROM DOING BUSINESS WITH THE COUNTY FOR
27 UP TO THREE YEARS.

28 (1) ~~[Maintain/provide information regarding the state of Maryland Department of~~
29 ~~Transportation's certified MBE/business and program. Provide technical assistanee~~
30 ~~regarding forms to complete, where to submit certification application form(s), who to~~
31 ~~contact for technical questions, and related matters.~~

32 (2) ~~Provide maximum opportunity for MBES to participate in the County's procurement~~
33 ~~process through dissemination of bid information and solicitations in publications which~~
34 ~~primarily target MBE firms.~~

35 (3) ~~Include a mandatory MBE questionnaire in all bid solicitations which would identify the~~

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1 MBE status of a given firm and the total percentage of the overall contract which would be
2 provided by MBE firms.

3 ~~(4) Include in every bid solicitation package either a copy of the entire MBE program or those~~
4 ~~elements of the program which would apply to that particular solicitation.~~

5 ~~(5) Include a statement in every bid solicitation that "certified minority business enterprises are~~
6 ~~encouraged to respond."~~

7 ~~(6) Encourage the use of MBE subcontractors by contractors which have been awarded County~~
8 ~~construction contracts in order to meet the established 15% and 25% short and long term~~
9 ~~goals, respectively.~~

10 ~~(7) Identify and seek qualified MBES through participation in business opportunity~~
11 ~~fairs/seminars, meetings, trade shows, as well as communication with procurement~~
12 ~~personnel in other jurisdictions and through directories that identify MBE firms.~~

13 ~~(8) Identify and highlight at County pre-bid meetings the County's MBE program and the~~
14 ~~specific goals which the County has established to encourage the participation of MBE~~
15 ~~firms.~~

16 ~~(9) Provide technical assistance to MBE firms regarding the County's overall procurement and~~
17 ~~bidding procedures.~~

18 ~~(10) Establish a local MBE clearinghouse where invitation to bid packages, including plans and~~
19 ~~specifications, will be forwarded by the purchasing office, for all commodity, services, and~~
20 ~~construction bids/contracts.~~

21 ~~(11) Maintain statistics and report annually on the number of MBES awarded~~
22 ~~contracts/subcontracts, and total dollar value and percentage of total contracts/subcontracts~~
23 ~~awarded MBES, by certification type.~~

24 ~~(12) Maintain a list of all minority contractors receiving awards and applying for County~~
25 ~~certification.]~~

26 **SECTION 2. BE IT FURTHER ENACTED, THAT ARTICLE I OF THIS ACT SHALL**
27 **TAKE EFFECT JULY 1, 2024, AND ARTICLE II OF THIS ACT SHALL TAKE**
28 **EFFECT APRIL 1, 2025.**

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ADOPTED this 19th day of September 2023.

**COUNTY COMMISSIONERS
CHARLES COUNTY, MARYLAND**

Reuben B. Collins, II, Esq., President

Ralph E. Patterson, II, M.A., Vice President

Gilbert O. Bowling, III

Thomasina O. Coates, M.S.

Amanda M. Stewart, M.Ed.

ATTEST:

Carol Desoto
Clerk to the Commissioners