

Introduced 07.05.2023
Public Hearing 07.17.2023
Council Action 07.31.2023
Executive Action 08.02.2023
Effective Date 10.02.2023

County Council of Howard County, Maryland

2023 Legislative Session

Legislative Day No. 8

Bill No. 34 -2023

Introduced by: Deb Jung

AN ACT altering the composition of the Contract Review Committee; altering a certain provision of law when the County Purchasing Agent may award a contract for supplies and services without competition; requiring the County Purchasing Agent to forward a proposed contract to the members of the County Council for review and comment; requiring providing that the County Purchasing Agent ~~to~~ may review certain comments by the members of the County Council under certain circumstances; and generally relating to purchasing.

Introduced and read first time July 5, 2023. Ordered posted and hearing scheduled.

By order Michelle R. Harrod
Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on July 17, 2023.

By order Michelle R. Harrod
Michelle R. Harrod, Administrator

This Bill was read the third time on July 31, 2023 and Passed , Passed with amendments , Failed .

By order Michelle R. Harrod
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 31 day of July, 2023 at 5⁰⁰ a.m./p.m.

By order Michelle R. Harrod
Michelle R. Harrod, Administrator

Approved/Vetoed by the County Executive August 2, 2023

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County
2 Code is hereby amended as follows:

3 *By repealing and reenacting, without amendments:*

4 *Title 4 – Contracts, Purchasing and Property.*

5 *Subtitle 4. Purchasing.*

6 *Section 4.106A. Contract review committee.*

7

8 *By amending:*

9 *Title 4 – Contracts, Purchasing and Property.*

10 *Subtitle 4. Purchasing.*

11 *Section 4.110. Sole-source purchase.*

12

13

HOWARD COUNTY CODE

14

Title 4 – Contracts, Purchasing and Property

15

Subtitle 4. Purchasing

16 **Sec. 4.106A. Contract review committee.**

17 (a) *Composition.* The Contract Review Committee (CRC) shall be composed of:

18 (1) The County Chief Administrative Officer or designee; AND

19 ~~(2) The County Auditor or designee; and~~

20 ~~(3) (2) The Director of the Department of Finance or designee.~~

21 (b) *Rules of Procedure.* The CRC is authorized to adopt rules of procedure in considering
22 matters within its authority.

23 (c) *Authority.* CRC approval by ~~majority~~ A UNANIMOUS vote is required for the following:

24 (1) A sole-source contract for \$100,000.00 or more;

25 (2) A procurement contract for \$1,000,000.00 or more that receives less than three
26 responsive bids; and

27 (3) A procurement contract for \$100,000.00 or more where:

28 (i) No responsive bid was received;

1 (ii) Time did not permit a re-bid; and

2 (iii) The Office of Procurement and Contract Administration engaged in competitive
3 negotiations with potential vendors and proposes to award a contract upon the
4 completion of negotiations.

5 **Sec. 4.110. Sole-source purchase.**

6 (a) The County Purchasing Agent may award a contract for supplies and services without
7 competition when:

8 (1) The supplies or services are only available through one source;

9 (2) ~~EXCEPT FOR~~ THE PROPERTY THE SUBJECT OF OR UPON WHICH THE SUPPLIES OR SERVICES
10 ARE TO BE PROVIDED IS OWNED BY A PUBLIC UTILITY OR, RAILROAD CORPORATION, OR
11 THE PROPERTY IS NEEDED TO ENHANCE PUBLIC SAFETY;

12 (3) ~~[[There]]~~ ~~THERE~~ are SINGULAR AND unique circumstances OTHER THAN LAND OWNERSHIP
13 that make competitive bidding commercially impracticable; or

14 (3)(4) The purchase is for software support or maintenance or both.

15 (b) Before authorizing a sole source purchase, the County Purchasing Agent shall ~~[[have]]~~:

16 (1) ~~HAVE~~ a written justification prepared explaining that the specifications for supplies
17 or services are not overly restrictive for the County's needs, that only one supplier of the
18 particular supplies or services exists and that the sole source purchase serves the best
19 interests of the County; ~~and~~

20 (2) ~~EXCEPT FOR SOLE SOURCE PURCHASES WITH A CONTRACT CEILING TOTAL~~
21 PROJECTED VALUE OF \$500,000 OR MORE, EXCEPT FOR AN EMERGENCY PURCHASE UNDER §
22 4.111 OF THIS SUBTITLE OR AN EXPEDITED PROCUREMENT UNDER § 4.112 OF THIS
23 SUBTITLE, OR UNDER SUBSECTION (A)(2) OR (4) OF THIS SECTION FORWARD A COPY OF THE
24 PROPOSED CONTRACT, A NOTICE OF INTENT TO EXECUTE, AND THE WRITTEN JUSTIFICATION
25 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE MEMBERS OF THE COUNTY
26 COUNCIL FOR REVIEW AND COMMENT ON THE PROPOSED CONTRACT AT LEAST EIGHT
27 WEEKS PRIOR TO THE PLANNED EXECUTION DATE-; AND

1 (3) FOR A CONTRACT SUBJECT TO APPROVAL BY A UNANIMOUS VOTE OF THE CONTRACT
2 REVIEW COMMITTEE UNDER SECTION 4.106A(C) OF THIS SUBTITLE, PROVIDE THE COUNTY
3 AUDITOR WITH A COPY OF THE PROPOSED CONTRACT, A NOTICE OF INTENT TO EXECUTE,
4 AND THE WRITTEN JUSTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

5 (C) ~~THE~~ MEMBERS OF THE COUNTY COUNCIL SHALL FORWARD ANY COMMENTS ON THE
6 PROPOSED CONTRACT TO THE COUNTY PURCHASING AGENT AT LEAST TWO WEEKS PRIOR TO THE
7 PLANNED EXECUTION DATE.

8 (D) THE COUNTY PURCHASING AGENT ~~SHALL~~ MAY REVIEW ANY COMMENTS BY ~~THE~~ MEMBERS
9 OF THE COUNTY COUNCIL AND MAY ~~APPROVE, REVISE, OR DECLINE TO AUTHORIZE THE CONTRACT~~
10 ~~BASED ON THE COMMENTS OF THE COUNTY COUNCIL~~ TAKE INTO CONSIDERATION THOSE
11 COMMENTS IN DECIDING TO APPROVE, REVISE, OR DECLINE THE CONTRACT.

12 [[c)] (E) Sole source purchases may be obtained by seeking the supplier's best offer through
13 negotiation.

14 [[d)] (F) Any sole source contract between the County and any person which contains an option
15 or options to renew which would have the effect of extending the term of the contract
16 beyond three years shall be sent to the County Council for approval by a resolution prior to
17 the beginning of the fourth year of the contract and each subsequent renewal option, if any,
18 thereafter.

19 ***Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall***
20 *become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 34-2023

BY: Deb Jung

Legislative Day 9

Date: July 31, 2023

Amendment No. 1

(This amendment does the following:

- 1. removes the County Auditor from the Contract Review Committee;*
- 2. requires the County Purchasing Agent, with certain exceptions, to forward certain information to the County Council before authorizing sole source purchases with a ~~contract ceiling~~ total projected value of \$500,000 or more;*
- 3. for a contract subject to approval by unanimous vote of the Contract Review Committee, requires the County Purchasing Agent to provide the County Auditor with a copy of the proposed contract, a notice of intent to execute, and a certain written justification;*
- 4. clarifies that “members” of the County Council shall be notified of the proposed process;*
and
- 5. provides that the County Purchasing Agent “may” rather than “shall” review any comments by members of the County Council on a proposed contract and take into consideration those comments.)*

1 On the title page, in line 1 of the title, before “altering” insert “altering the composition of the
2 Contract Review Committee”. In line 3 of the title, before “County” insert “members of the”.
3 In line 4 of the title, before the second “County”, insert “members of the”. In line 4 of the title,
4 strike “requiring” and substitute “providing that”. In line 4 of the title, strike “to” and substitute
5 “may”.

6

1

I certify this is a true copy of
Am 1 to CB34-2023
passed on July 31, 2023
Nicholas Haerndel
Council Administrator

1 On page 1, in line 18, after “designee;” insert “and”; strike line 19 in its entirety; and in line 20,
2 strike “(3)” and substitute “(2)”.

3
4 On page 1, in line 23, strike “majority” and substitute “A UNANIMOUS”.

5 On page 2:

- 6 • in line 9, strike “EXCEPT FOR” and substitute “THE”.
- 7 • ~~in line 9, after “PROPERTY” insert “IS”.~~
- 8 • ~~in line 9, strike the comma and substitute a semicolon.~~
- 9 • in line 9:
- 10 • after “PROPERTY” insert “THE SUBJECT OF OR UPON WHICH THE SUPPLIES OR SERVICES ARE
- 11 TO BE PROVIDED IS”;
- 12 • strike “OR” and substitute a comma;
- 13 • after “CORPORATION,”, insert “OR THE PROPERTY IS NEEDED TO ENHANCE PUBLIC SAFETY”;
- 14 and
- 15 • strike the comma and substitute a semi-colon.
- 16 • in line 10, before “[[There]]”, insert “(3)”.
- 17 • in line 10, strike the brackets and in the same line strike “THERE”.
- 18 • in line 10, after “are” insert “SINGULAR AND”.
- 19 • in line 12, strike “(3)” and substitute “(4)”.
- 20 • in line 17, strike “and”.
- 21 • in line 18, strike “EXCEPT” and substitute “FOR SOLE SOURCE PURCHASES WITH A
- 22 CONTRACT CEILING TOTAL PROJECTED VALUE OF \$500,000 OR MORE, EXCEPT”.
- 23 • in line 19, after “SUBTITLE,” insert “OR UNDER SUBSECTION (A)(2) OR (4) OF THIS
- 24 SECTION”.
- 25 • in line 21, strike “THE” and substitute “MEMBERS OF THE”.
- 26 • In line 23, strike the period and substitute “; AND”.
- 27 • after line 23, insert:

28 “(3) FOR A CONTRACT SUBJECT TO APPROVAL BY A UNANIMOUS VOTE OF THE CONTRACT

29 REVIEW COMMITTEE UNDER SECTION 4.106A(C) OF THIS SUBTITLE, PROVIDE THE COUNTY

30 AUDITOR WITH A COPY OF THE PROPOSED CONTRACT, A NOTICE OF INTENT TO EXECUTE, AND

31 THE WRITTEN JUSTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.

- 32 • in line 24, strike “THE” and substitute “MEMBERS OF THE”.
- 33 • in line 26, strike “SHALL” and substitute “MAY”.
- 34 • in line 26, strike “THE” and substitute “MEMBERS OF THE”.

- 1
 - 2
 - 3
- strike beginning with “APPROVE” in line 27 down through “COUNCIL” in line 28 and substitute “TAKE INTO CONSIDERATION THOSE COMMENTS IN DECIDING TO APPROVE, REVISE, OR DECLINE THE CONTRACT”.

Amendment 1 to Amendment No. 1 to Council Bill No. 34-2023

BY: Deb Jung

**Legislative Day 9
Date: July 31, 2023**

Amendment No. 1

(This amendment changes the phrase “contract ceiling value” to “total projected value” when requiring the County Purchasing Agent, with certain exceptions, to forward specified information to members of the County Council before authorizing sole source purchases with a total projected value of \$500,000 or more.)

- 1 On page 1, in line 5 of the parenthetical, strike “*contract ceiling*” and substitute “*total projected*
- 2 *value*”.
- 3
- 4 On page 2, in line 15, strike “CONTRACT CEILING” and substitute “TOTAL PROJECTED”.

I certify this is a true copy of
Aml Aml CB 34-2023
passed on July 31, 2023
Nicholas J. Jarrad
Council Administrator

Amendment 2 to Amendment No. 1 to Council Bill No. 34-2023

**BY: The Chairperson at the request
of the County Executive**

**Legislative Day 9
Date: July 31, 2023**

Amendment No. 2 to Amendment No. 1

(This amendment provides for sole source purchasing for property needed to enhance public safety and clarifies what is meant by "property".)

1 On page 2, strike lines 7 and 8 and substitute:

2 "in line 9:

- 3 • after "PROPERTY" insert "THE SUBJECT OF OR UPON WHICH THE SUPPLIES OR SERVICES ARE
- 4 TO BE PROVIDED IS";
- 5 • strike "OR" and substitute a comma;
- 6 • after "CORPORATION," insert "OR THE PROPERTY IS NEEDED TO ENHANCE PUBLIC SAFETY";
- 7 and
- 8 • strike the comma and substitute a semi-colon."

I certify this is a true copy of

Am2 Aml CB 34-2023

passed on

July 31, 2023

Mishela Jordan
Council Administrator

Amendment 3 to Amendment No. 1 to Council Bill No. 34-2023

BY: Opel Jones

Legislative Day 9

Date: July 31, 2023

Amendment No. 3

(This amendment alters from \$500,000 or more to \$1,000,000 or more the amount of the contract ceiling value for specified sole source purchases.)

- 1 On page 1, in line 5 of the parenthetical, strike “\$500,000” and substitute “\$1,000,000”.
- 2
- 3 On page 2, in line 15, strike “\$500,000” and substitute “\$1,000,000”.

I certify this is a true copy of

Am 3 Am 1 CB 34-2023

passed on July 31, 2023

Mushuli Dargatzis
Council Administrator

FAILED

Introduced 07-05-2023
Public Hearing 07-17-2023
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2023 Legislative Session

Legislative Day No. 8

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Introduced by: Deb Jung

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Introduced and read first time July 5, 2023. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on July 17, 2023.
By order Michelle Harrod
Michelle R. Harrod, Administrator

This Bill was read the third time on _____, 2023 and Passed _____, Passed with amendments _____, Failed _____.
By order _____
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2023 at _____ a.m./p.m.
By order _____
Michelle R. Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2023

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

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12

13

HOWARD COUNTY CODE

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16 **Sec. 4.106A. Contract review committee.**

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3 negotiations with potential vendors and proposes to award a contract upon the
4 completion of negotiations.

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7 competition when:

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9 (2) EXCEPT FOR PROPERTY OWNED BY A PUBLIC UTILITY OR RAILROAD CORPORATION,
10 [[There]] THERE are unique circumstances OTHER THAN LAND OWNERSHIP that make
11 competitive bidding commercially impracticable; or

12 (3) The purchases is for software support or maintenance or both.

13 (b) Before authorizing a sole source purchase, the County Purchasing Agent shall [[have]]:

14 (1) HAVE a written justification prepared explaining that the specifications for supplies
15 or services are not overly restrictive for the County's needs, that only one supplier of the
16 particular supplies or services exists and that the sole source purchase serves the best
17 interests of the County; and

18 (2) EXCEPT FOR AN EMERGENCY PURCHASE UNDER § 4.111 OF THIS SUBTITLE OR AN
19 EXPEDITED PROCUREMENT UNDER § 4.112 OF THIS SUBTITLE, FORWARD A COPY OF THE
20 PROPOSED CONTRACT, A NOTICE OF INTENT TO EXECUTE, AND THE WRITTEN JUSTIFICATION
21 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COUNTY COUNCIL FOR
22 REVIEW AND COMMENT ON THE PROPOSED CONTRACT AT LEAST EIGHT WEEKS PRIOR TO THE
23 PLANNED EXECUTION DATE.

24 (c) THE COUNTY COUNCIL SHALL FORWARD ANY COMMENTS ON THE PROPOSED CONTRACT TO
25 THE COUNTY PURCHASING AGENT AT LEAST TWO WEEKS PRIOR TO THE PLANNED EXECUTION DATE.

26 (d) THE COUNTY PURCHASING AGENT SHALL REVIEW ANY COMMENTS BY THE COUNTY
27 COUNCIL AND MAY APPROVE, REVISE, OR DECLINE TO AUTHORIZE THE CONTRACT BASED ON THE
28 COMMENTS OF THE COUNTY COUNCIL.

1 [[c)] (E) Sole source purchases may be obtained by seeking the supplier's best offer through
2 negotiation.

3 [[d)] (F) Any sole source contract between the County and any person which contains an option
4 or options to renew which would have the effect of extending the term of the contract
5 beyond three years shall be sent to the County Council for approval by a resolution prior to
6 the beginning of the fourth year of the contract and each subsequent renewal option, if any,
7 thereafter.

8 ***Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall***
9 *become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 34-2023

BY: Deb Jung

Legislative Day 9

Date: July 31, 2023

Amendment No. 1

(This amendment does the following:

- 1. removes the County Auditor from the Contract Review Committee;*
- 2. requires the County Purchasing Agent, with certain exceptions, to forward certain information to the County Council before authorizing sole source purchases with a contract ceiling of \$500,000 or more;*
- 3. for a contract subject to approval by unanimous vote of the Contract Review Committee, requires the County Purchasing Agent to provide the County Auditor with a copy of the proposed contract, a notice of intent to execute, and a certain written justification;*
- 4. clarifies that "members" of the County Council shall be notified of the proposed process;*
and
- 5. provides that the County Purchasing Agent "may" rather than "shall" review any comments by members of the County Council on a proposed contract and take into consideration those comments.)*

1 On the title page, in line 1 of the title, before "altering" insert "altering the composition of the
2 Contract Review Committee". In line 3 of the title, before "County" insert "members of the".
3 In line 4 of the title, before the second "County", insert "members of the". In line 4 of the title,
4 strike "requiring" and substitute "providing that". In line 4 of the title, strike "to" and substitute
5 "may".
6

1 On page 1, in line 18, after “designee;” insert “and”; strike line 19 in its entirety; and in line 20,
2 strike “(3)” and substitute “(2)”.

3
4 On page 1, in line 23, strike “majority” and substitute “A UNANIMOUS”.

5 On page 2:

- 6 • in line 9, strike “EXCEPT FOR” and substitute “THE”.
- 7 • in line 9, after “PROPERTY” insert “IS”.
- 8 • in line 9, strike the comma and substitute a semicolon.
- 9 • in line 10, before “[[There]]”, insert “(3)”.
- 10 • in line 10, strike the brackets and in the same line strike “THERE”.
- 11 • in line 10, after “are” insert “SINGULAR AND”.
- 12 • in line 12, strike “(3)” and substitute “(4)”.
- 13 • in line 17, strike “and”.
- 14 • in line 18, strike “EXCEPT” and substitute “FOR SOLE SOURCE PURCHASES WITH A
15 CONTRACT CEILING VALUE OF \$500,000 OR MORE, EXCEPT”.
- 16 • in line 19, after “SUBTITLE,” insert “OR UNDER SUBSECTION (A)(2) OR (4) OF THIS
17 SECTION”.
- 18 • in line 21, strike “THE” and substitute “MEMBERS OF THE”.
- 19 • In line 23, strike the period and substitute “; AND”.
- 20 • after line 23, insert:

21 “(3) FOR A CONTRACT SUBJECT TO APPROVAL BY A UNANIMOUS VOTE OF THE CONTRACT
22 REVIEW COMMITTEE UNDER SECTION 4.10(A)(C) OF THIS SUBTITLE, PROVIDE THE COUNTY
23 AUDITOR WITH A COPY OF THE PROPOSED CONTRACT, A NOTICE OF INTENT TO EXECUTE, AND
24 THE WRITTEN JUSTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.”

- 25 • in line 24, strike “THE” and substitute “MEMBERS OF THE”.
- 26 • in line 26, strike “SHALL” and substitute “MAY”.
- 27 • in line 26, strike “THE” and substitute “MEMBERS OF THE”.
- 28 • strike beginning with “APPROVE” in line 27 down through “COUNCIL” in line 28 and
29 substitute “TAKE INTO CONSIDERATION THOSE COMMENTS IN DECIDING TO APPROVE,
30 REVISE, OR DECLINE THE CONTRACT”.

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 2023.

August 2
Michelle Harrod

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2023.

Michelle Harrod, Administrator to the County Council