

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 12

Bill No. 72 -2017

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the Purchasing Code of Howard County; amending certain definitions; removing certain obsolete references; revising certain duties imposed on the County Purchasing Agent, including the content of a required annual report and the frequency with which the purchasing manual must be reviewed; clarifying that certain requirements apply to formal bids; clarifying the County Purchasing Agent's role in the sale or lease of surplus County property to other governmental entities; making certain technical corrections; and generally relating to the Purchasing Code of Howard County.

Introduced and read first time _____, 2017. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, 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 _____, 2017.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2017 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2017 at ____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, 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
2 County Code is amended as follows:

3 1. By amending Title 4 “Contracts, Purchasing, and Property”
4 Subtitle 1 “Purchasing”:

5
6 Section 4.102 “Definitions”
7 Subsections (x) and (ao)

8
9 Section 4.103 “Authority and duties of the County Purchasing Agent”
10 Subsections (p), (v), (w), (x), (y), (z), and (aa)

11
12 Section 4.104 “Rules and procedures; purchasing manual”
13 Subsection (a)

14
15 Section 4.106 “Procurement methods; multi-step process; waivers; exemptions”
16 Subsections (d), (e) and (f)

17
18 Section 4.107 “Formal bidding; purchases and sales of \$30,000.00 or more”

19
20 Section 4.115 “Contracts with other government agencies”

21
22 Section 4.118 “Certification of funds; contract administration; multiyear contracts; conflicts”
23 Paragraph (8) of Subsection (b)

24
25 Section 4.120. Rainforest wood products purchasing prohibition.
26 Subsection (c)

27
28 Section 4.129 “Surplus supplies”

29
30 2. By adding Title 4 “Contracts, Purchasing, and Property”
31 Subtitle 1 “Purchasing”

32 Section 4.102 “Definitions”

- 1 (i) At least 51 percent owned by one or more women; or
2 (ii) In the case of any publicly owned corporation, at least 51 percent of the stock of
3 which is owned by one or more women; and
4 (2) Whose general management and daily business affairs and essential productive
5 operations are controlled by one or more women; and
6 (3) Which has been certified by the Equal Business Opportunity Commission as a women
7 business enterprise.

8
9 **Section 4.103. Authority and duties of the County Purchasing Agent.**

10 In addition to those functions and responsibilities listed in title VIII of the Howard County Charter
11 or indicated elsewhere in this subtitle, the Howard County Purchasing Agent:

12 (p) May waive the competitive bidding requirements for small purchases and sales [[involving
13 less than \$10,000.00]] THAT ARE LESS THAN THE FORMAL BID THRESHOLD;

14 (v) [[Shall submit to the County Council a semi-annual report of all purchases awarded through
15 formal bidding procedures]] SHALL INCLUDE IN THE REPORT REQUIRED UNDER SUBSECTION 4.103(I)
16 OF THIS SUBTITLE A LISTING OF ALL INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS ISSUED
17 EACH FISCAL YEAR. The report shall list the contracts awarded during the reporting period, the
18 contract amounts, the lowest bid price, the name of the successful contractor and subcontractors,
19 and the contracts awarded in which security requirements have been waived;

20 [[(w) Shall include in the report required under subsection 4.103(i) of this subtitle a listing of all
21 contract modifications, change orders or adjustment in prices described in subsection 4.118(b)(4)
22 of this subtitle;]]

23 ([[x]]w) Shall be responsible for the final decisions on bid protests;

24 ([[y]]x) Shall keep statistics on businesses that participate in the Equal Business Opportunity
25 Program;

26 ([[z]]y) Shall control and supervise all property accounting; and

27 ([[aa]]z) Shall award contracts for insurance.

28
29 **Section 4.104. Rules and procedures; purchasing manual.**

30 (a) *Preparation and revision* means the County Purchasing Agent shall:

- 1 (1) Prepare a purchasing manual containing the necessary rules, regulations and procedures to
2 implement:
- 3 (i) This subtitle;
 - 4 (ii) Subtitle 5 "Purchasing of Products Made from Recycled Materials" of this title;
 - 5 (iii) Subtitle 6 "Equal Business Opportunity" of this title;
 - 6 (iv) Article VIII of the Howard County Charter;
 - 7 (v) Applicable laws of Maryland regarding purchasing; and
- 8 (2) ~~[[Revise]]~~ REVIEW the purchasing manual ~~[[at least once every five years]]~~ ANNUALLY AND
9 REVISE THE MANUAL AS NEEDED.

10
11 **Section 4.106. Procurement methods; multi-step process; waivers; exemptions.**

12 (d) *Waiver Provisions:*

13 (1) *Informal bidding.* At the sole discretion of the County Purchasing Agent, the informal
14 competitive bidding requirements may be waived for purchases or sales ~~[[of less than~~
15 ~~\$10,000.00]]~~ THAT ARE LESS THAN THE FORMAL BID THRESHOLD.

16 (2) *Formal bidding.*

- 17 (i) The County Purchasing Agent, with the approval of the County Executive, may waive
18 formalities in competitive bidding as the interest of the County may require.
- 19 (ii) The County Council may, by resolution, authorize the County Purchasing Agent to
20 waive the formal competitive bidding requirements of this subtitle for any single
21 purchase or sale if, in the judgment of the County Council, the waiver will best serve
22 the interest of the County.

23 (e) *Exemption for Insurance.* The procurement of insurance including, without limitation,
24 casualty, property, and liability insurance is exempt from the competitive bidding provisions of
25 this subtitle. The County Purchasing Agent shall award contracts for insurance.

26 (F) *EXEMPTION FOR RETIREMENT PLANS.* THE PROCUREMENT OF SERVICES AND SUPPLIES RELATED
27 TO MANAGEMENT OF THE HOWARD COUNTY POLICE AND FIRE EMPLOYEES RETIREMENT PLAN
28 AND THE HOWARD COUNTY RETIREMENT PLAN IS EXEMPT FROM THE BIDDING REQUIREMENTS OF
29 THIS SUBTITLE.

1 **Section 4.107. Formal bidding; purchases and sales of \$30,000.00 or more.**

2 (a) Except as provided otherwise by this subtitle, the purchase of supplies or services involving
3 an expenditure of \$30,000.00 or more shall be accomplished through a formal bid procedure, with
4 the contract being awarded to the lowest responsive, responsible bidder.

5 (b) Except as provided otherwise by this subtitle, the sale of surplus supplies with an estimated
6 value of \$30,000.00 or more shall be accomplished through a formal bid procedure, with the
7 contract being awarded to the highest responsive, responsible bidder.

8 (c) No contract, sale or purchase shall be subdivided to avoid the requirements of this section.

9 [[(d) Procurement of services and supplies related to management of the Howard County Police
10 and Fire Employees Retirement Plan and the Howard County Retirement Plan shall be exempt
11 from the bidding requirements of the Howard County Purchasing Code.]]

12
13 **Section 4.115. Contracts with other government agencies.**

14 *When used.* This process is used:

15 (a) When a pricing advantage may be obtained by purchasing goods or services through contracts
16 or surplus lists established by other governmental purchasing/supply agencies, including Federal,
17 State, and local government agencies;

18 (b) When it is to the County's advantage to contract with [[a]] State or Federal [[agency]] AGENCIES
19 created to assist local governments with particular types of projects; or

20 (c) When it is in the County's advantage to contract with other counties or public entities including,
21 without limitation, a Board of Education, community college, or library.

22
23 **Section 4.118. Certification of funds; contract administration; multiyear contracts;**
24 **conflicts.**

25 (b) *Contracts:*

26 (8) *Statements under oath.* All contracts VALUED AT OR ABOVE THE FORMAL BID
27 THRESHOLD shall be accompanied by the following statements to be signed under
28 oath by the vendor or purchaser certifying that the vendor or purchaser has not:

29 (i) Been a party to an agreement to bid a fixed or uniform price.

30 (ii) Offered nor will offer any gratuity to any County official or employee.

1 (iii) Violated any of the fair employment provisions of section 4.119 "Ethics and Fair
2 Employment Practices" of this subtitle.
3

4 **Section 4.120. Rainforest wood products purchasing prohibition.**

5 (c) *Exemptions.* The County Purchasing Agent shall only exempt an item or type of wood product
6 from the requirements of this subtitle upon:

- 7 (1) Written evidence showing the use of tropical wood or wood products is deemed necessary
8 for historical restoration or to repair existing facilities, that such item has no acceptable
9 nontropical wood equivalent and that imposing the requirements on that item or type
10 would cause undue hardship; or
11 (2) Written evidence showing that the tropical wood item or type has been harvested from a
12 preexisting plantation, managed to maintain environmental functions, including
13 watershed stability and erosion control practices, sustained yield production, and positive
14 impact on the well being of local communities; or
15 (3) Written evidence showing that the use of a tropical wood item would be an
16 environmentally superior alternative to a native or imported wood type presently in use
17 in Howard County; or
18 (4) Written evidence showing that the wood products were required to be purchased under a
19 contract entered into prior to the effective date of this subtitle. The provisions of this
20 subtitle shall not apply to any procurement that is under [[\$2,000.00]] THE FORMAL BID
21 THRESHOLD. The provisions of this subtitle shall not apply to any joint or cooperative
22 purchasing program authorized in accordance with subsection 4.103(t). Notwithstanding
23 any exemptions provided by this section, the County Purchasing Agent shall make every
24 effort to purchase only those items not containing tropical wood or wood products.
25

26 **Section 4.129. Surplus supplies.**

27 (a) *Reports.* All user agencies shall submit to the County Purchasing Agent reports showing
28 stocks of all surplus supplies.

29 (b) *Transfer to Other Agencies.* The County Purchasing Agent may transfer surplus supplies to
30 other using agencies instead of filling requisitions for new supplies.

1 (c) *Disposal.* If the County Purchasing Agent determines that the surplus supplies cannot be used
2 by any agency of the County, the County Purchasing Agent may dispose of the surplus
3 supplies and seek to gain the maximum value for the County in the disposition by:

4 (1) Trading in the surplus supplies;

5 (2) Auctioning or selling surplus supplies, including selling them for scrap value of
6 dismantling them for recovery of valuable parts; OR

7 (3) If no value can be realized from the surplus supplies, by destroying them.

8 (d) *Sale or Lease to Other Governmental Entities.* With the approval of the County Executive and
9 the County Council, AND UPON SUCH TERMS AND CONDITIONS AS THE COUNTY PURCHASING
10 AGENT DEEMS PROPER, the County Purchasing agent may sell or lease surplus supplies to
11 [[the]]A State or any political subdivision or agency of [[the]]A State, or to the Federal
12 Government [[upon such terms and conditions as the County Purchasing Agent deems
13 proper]].

14
15 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
16 *this Act shall become effective 61 days after its enactment.*