

Introduced November 2, 2020
Public Hearing November 16, 2020
Council Action December 7, 2020
Executive Action December 10, 2020
Effective Date February 9, 2021

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 15

Bill No. 62-2020

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

AN ACT amending the Howard County Code in order to change the name of the Office of Purchasing to be the Office of Procurement and Contract Administration; amending the name of the Administrator accordingly; and generally related to the Office of Purchasing.

Introduced and read first time November 2, 2020. Ordered posted and hearing scheduled.

By order

Diane Schwartz Jones
Diane Schwartz Jones, 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 November 16, 2020.

By order

Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on December 7, 2020 and Passed , Passed with amendments _____, Failed _____.

By order

Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 10 day of December, 2020 at 2 a.m./p.m.

By order

Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive December 10 2020

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
2 County Code is amended as follows:

3 By amending the following:

4 Section 4.103. "Authority and duties of the County Purchasing Agent"

5 Subsection (d) of Section 4.106. - Procurement methods; multi-step process; waivers;
6 exemptions.

7 Section 4.106A "Contract review committee"

8 Section 4.117 "Vendors and purchasers"

9 Subsection (b)(4) of Section 4.118 "Certification of funds; contract administration;
10 multiyear contracts; conflicts."

11 Section 4.124 "Electronic Procurement"

12 Section 4.130 "Veteran-Owned Business Enterprise Program"

13 Subsection (g) of Section 6.201 "Department of County Administration"

14 Section 6.405 "Office of Purchasing"

15 Section 6.701 "General powers and duties of the Commission for Veterans and Military
16 Families"

17 Section 21.301 "Police Department and Department of Fire and Rescue Services to
18 direct traffic; traffic section"

19
20 **Title 4. Contracts, Purchasing And Property.**

21 **Subtitle 1. Purchasing.**

22
23 **Section 4.103. - Authority and duties of the County Purchasing Agent.**

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

- 26 (a) Shall have the powers, duties and authority relating to the procurement of supplies, services
27 and construction and the management, control, sale and disposal of supplies;
- 28 (b) Shall develop and distribute the Purchasing Manual of the County, subject to the approval
29 of the County Executive;
- 30 (c) Shall serve as the principal contracting officer of the County;

- 1 (d) Shall develop and implement an Equal Business Opportunity Program, subject to the
2 approval of the County Executive and the County Council and incorporating the provisions
3 of section 4.122 of this subtitle, which is designed to assure the participation of minority
4 business enterprises, woman business enterprises and disabled business enterprises in the
5 purchasing activities of the County;
- 6 (e) Shall prepare a purchasing manual governing the operating procedures of the County
7 purchasing system;
- 8 (f) Shall distribute and enforce this subtitle and the purchasing manual and the Equal Business
9 Opportunity Program.
- 10 (g) Shall sell, trade, exchange or otherwise dispose of surplus supplies belonging to the
11 County.
- 12 (h) May maintain a bulletin board in the approximate area of the [[main purchasing
13 office]]OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION and shall maintain an
14 electronic bulletin board on the County Internet Web site;
- 15 (i) Shall submit to the County Executive and, subject to section 22.1000 of the County Code,
16 the County Council an annual report of the work of the [[purchasing office]] OFFICE OF
17 PROCUREMENT AND CONTRACT ADMINISTRATION which shall include a summary of the
18 progress and efforts made by the County in achieving the goals and measures set forth in
19 this subtitle;
- 20 (j) Shall debar bidders declared irresponsible pursuant to section 4.117 "Vendors and
21 Purchasers" of this subtitle;
- 22 (k) Shall submit to the County Executive and, subject to section 22.1000 of the County Code,
23 the County Council a monthly report of all emergency purchases and expedited purchases
24 of \$30,000.00 or more, indicating the amount of such purchases and an explanation of the
25 circumstances;
- 26 (l) May delegate authority:
- 27 (1) To designees to administer the Purchasing Code; and
28 (2) To the [[assistant purchasing]] Administrator OF THE OFFICE OF PROCUREMENT AND
29 CONTRACT ADMINISTRATION OR THE ADMINISTRATOR'S DESIGNEE to sign purchase
30 orders for less than \$30,000.00.

- 1 (m) May prescribe forms to be used in the requisitioning and ordering of supplies, services
2 and construction;
- 3 (n) May require statistical data from using agencies;
- 4 (o) May cancel invitations to bid, requests for proposal or other solicitations, or reject all bids,
5 parts of bids, or bids for any one or more supplies or services included in a proposed
6 contract when, in the judgment of the Purchasing Agent, the public interest would be
7 served;
- 8 (p) May waive the competitive bidding requirements for small purchases and sales that are
9 less than the formal bid threshold;
- 10 (q) May authorize the awarding of a sole-source contract;
- 11 (r) May establish and maintain programs for inspection, testing and acceptance of supplies
12 and services, including a compliance monitoring program;
- 13 (s) May suspend bidders pending investigation of possible debarment;
- 14 (t) May undertake programs involving joint or cooperative purchases with other public
15 jurisdictions at all levels of government;
- 16 (u) Shall carry out the procurement policies set forth in subtitle 5 "Purchasing of Products
17 Made from Recycled Materials" of this title;
- 18 (v) Shall include in the report required under subsection 4.103(i) of this subtitle a listing of all
19 invitations for bids and requests for proposals issued each fiscal year. The report shall list
20 the contracts awarded during the reporting period, the contract amounts, the lowest bid
21 price, the name of the successful contractor and subcontractors, and the contracts awarded
22 in which security requirements have been waived;
- 23 (w) Shall be responsible for the final decisions on bid protests;
- 24 (x) Shall keep statistics on businesses that participate in the Equal Business Opportunity
25 Program;
- 26 (y) Shall control and supervise all property accounting;
- 27 (z) Shall award contracts for insurance;
- 28 (aa) Shall develop and implement a Veteran-Owned Business Enterprise Program which is
29 designed to assure the participation of veteran-owned business enterprises in the
30 purchasing activities of the County; and

1 (ab) Shall keep statistics on veteran-owned business enterprises that participate in the Veteran-
2 Owned Business Enterprise Program.

3
4 **Section 4.106. - Procurement methods; multi-step process; waivers; exemptions.**

5 (d) *Multi-Step Purchasing Methods:*

6 (1) Multi-step purchasing is a method of purchasing which progresses in increments from
7 informational requests to final solicitation approval/purchasing.

8 (2) Step 1 involves a formal solicitation requesting information, technical data, or samples.
9 The [[purchasing office]] OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION and
10 the user agency evaluate the respondents' data to determine acceptable vendors. In step 2
11 the acceptable vendors are requested to provide price quotations, proposals or bids.

12 (3) A method may be used under which both price and technical proposals are submitted at the
13 same time in separate sealed envelopes. However, the price information may not be
14 reviewed until the technical evaluation is complete and the vendor found acceptable by the
15 [[purchasing office]] OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION and the
16 user agency. The sealed pricing and bid information from vendors found unacceptable
17 during the technical evaluation shall be returned unopened to the vendors.

18 (4) In all other respects, multistep sealed purchasing methods shall be treated in the same ways
19 as other purchasing methods.

20
21 **Section 4.106A. - Contract review committee.**

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

23 (1) The County Chief Administrative Officer or designee;

24 (2) The County Auditor or designee; and

25 (3) The Director of the Department of Finance or designee.

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

28 (c) *Authority.* CRC approval by majority vote is required for the following:

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

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

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

2 (i) No responsive bid was received;

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

4 (iii) The Office of [[Purchasing]]PROCUREMENT AND CONTRACT ADMINISTRATION

5 engaged in competitive negotiations with potential vendors and proposes to award a
6 contract upon the completion of negotiations.

7
8 **Section 4.117. - Vendors and purchasers.**

9 (a) *Criteria to be Considered in Determining Lowest Responsive, Responsible Bidder and Highest*
10 *Responsive, Responsible Bidder.*

11 (1) The ability, capacity, organization, facilities and skill of the bidder to perform the contract
12 or provide the service required;

13 (2) The ability of the bidder to perform the contract or provide the service promptly, within
14 the time specified and without delay or interference;

15 (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

16 (4) The quality of performance of previous contracts or services;

17 (5) The bidder's previous compliance with laws and regulations relating to the contract or
18 service;

19 (6) Whether or not the bidder is in arrears to the County on debt or contract;

20 (7) Whether or not the bidder is a defaulter on surety to the County;

21 (8) Whether or not the bidder is delinquent in County taxes or assessments;

22 (9) Whether or not the bidder has violated or attempted to violate the fair employment practices
23 described in section 4.119, "Ethics and Fair Employment Practices";

24 (10) The resale value and life cycle costs of a proposed purchase;

25 (11) The net cost to the County of the goods and services;

26 (12) The ability of the bidder to provide future maintenance and service for the use of the
27 supplies;

28 (13) The sufficiency of the financial resources of the bidder to perform the contract; and

29 (14) Other information the County Purchasing Agent believes to have a bearing on the decision
30 to award the contract.

1 (b) *Suspension*. With approval of the County Purchasing Agent, the [[Purchasing]] Administrator
2 OF THE OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION may suspend a person from
3 receiving the award of a contract:

4 (1) For up to one year pending the completion of an investigation; or

5 (2) During any legal proceedings concerning conduct that might lead to debarment.

6 (c) *Suspension Procedures*. If the [[Purchasing]] Administrator OF THE OFFICE OF PROCUREMENT
7 AND CONTRACT ADMINISTRATION seeks to suspend a person:

8 (1) The [[Purchasing]] Administrator shall issue a written decision to suspend that includes:

9 (i) The reason for the suspension; and

10 (ii) A statement that the person may meet with the [[Purchasing]] Administrator within 30
11 days of the decision;

12 (2) The [[Purchasing]] Administrator shall send a copy of the decision to the County
13 Purchasing Agent; and

14 (3) The County Purchasing Agent shall approve, revise, or remand the decision within 15 days
15 of the decision.

16 (d) *Reasons for Declaring a Bidder Irresponsible*. The County Purchasing Agent may declare a
17 bidder irresponsible if the bidder:

18 (1) Fails, upon written request, to provide proof of the bidder's responsibility;

19 (2) Has, as a vendor to or contractor with the County, repeatedly made slow or unsatisfactory
20 delivery of supplies or services;

21 (3) Has violated any provisions of this subtitle or other subtitles of this title;

22 (4) Has, within the previous 12 months, been found by a court of competent jurisdiction to
23 have engaged in an unlawful employment practice as described in section 4.119 "Ethics
24 and Fair Employment Practices" of this subtitle; or

25 (5) Has offered a gratuity to an official or employee of the County.

26 (e) *Debarment*. If the County Purchasing Agent determines a bidder is irresponsible, the County
27 Purchasing Agent shall debar the person from bidding on County contracts for at least one year. A
28 determination to debar may be based on the debarment list of another governmental entity. The
29 County Purchasing Agent shall give the debarred bidder a written statement detailing the reasons
30 for debarment and shall advise the debarred bidder of the right to appeal.

1 (f) *Appeal of Debarment.* A person debarred from bidding may, within 30 days of debarment,
2 appeal the debarment to the Howard County Board of Appeals. The Board of Appeals shall hear
3 the appeal according to its rules of procedure.

4
5 **Section 4.118. - Certification of funds; contract administration; multiyear contracts;**
6 **conflicts.**

7 (b) *Contracts:*

8 (4) *Contract modifications.* Every contract modification, change order, or adjustment in
9 contract price initiated by a government agency relating to contracts for services, supplies
10 or construction projects shall be subject to the prior written approval of the County
11 Purchasing Agent. If the modification, change or adjustment initiated by a government
12 agency increases the contract price by 15 percent or more of the contract award amount,
13 the County Purchasing Agent shall not execute the modification, change or adjustment
14 unless all of the following conditions are met:

15 (i) The [[Purchasing]] Office OF PROCUREMENT AND CONTRACT ADMINISTRATION has a
16 written plan that sets forth internal control procedures;

17 (ii) Certification by the Director of Finance that sufficient funds are available;

18 (iii) The [[Purchasing]] Office OF PROCUREMENT AND CONTRACT ADMINISTRATION files
19 with the County Auditor the contract in which the price has been increased along with
20 written justification supporting the need for the modification, change or adjustment;
21 and

22 (iv) The [[Purchasing]] Office OF PROCUREMENT AND CONTRACT ADMINISTRATION
23 retains for audit purposes documents relating to the modification, change or
24 adjustment.

25
26 **Section 4.124. - Electronic procurement.**

27 (a) *Authority.* The Office of [[Purchasing]] PROCUREMENT AND CONTRACT ADMINISTRATION may
28 conduct procurement by electronic means including the solicitation, bidding, award, execution,
29 protest, and administration of a contract.

1 (b) *Effect of Electronic Bid.* Bidding on a solicitation by electronic means is consent by the bidder
2 to conduct all elements of the procurement by electronic means that the Office of [[Purchasing]]
3 PROCUREMENT AND CONTRACT ADMINISTRATION agrees to conduct by electronic means.

4 (c) *Electronic Signature.* Electronic procurement shall include the acceptance of an electronic
5 signature.

6
7 **Section 4.130. - Veteran-Owned Business Enterprise Program.**

8 (a) *Purpose.* It is the policy of Howard County Government to encourage increased participation
9 by veteran-owned business enterprises in the procurement of all goods and services through all
10 solicitations by the County.

11 (b) *Adoption of the Program.* Pursuant to subsections 4.103(aa) and (ab) of this subtitle, the County
12 Purchasing Agent shall implement a Veteran-Owned Business Enterprise Program. The County
13 Purchasing Agent shall seek the input of the Commission for veterans and military families in the
14 implementation of the Program.

15 (c) *Goals.* The Office of [[Purchasing]] PROCUREMENT AND CONTRACT ADMINISTRATION shall
16 structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an
17 overall minimum of one percent of the County's total dollar value of procurement contracts to be
18 made directly or indirectly with veteran-owned business enterprises.

19 (d) *Notification of Goals.* The Office of [[Purchasing]] PROCUREMENT AND CONTRACT
20 ADMINISTRATION shall notify the public and respondents to County solicitations of Program goals.

21 (e) *Data.* The Office of [[Purchasing]] PROCUREMENT AND CONTRACT ADMINISTRATION shall
22 collect and maintain statistical data which shall measure the effectiveness of the Program.

23 (f) The provisions of this subtitle do not apply the County's procurement procedures to the extent
24 that the County determines that those provisions are in conflict with an applicable State or Federal
25 program.

26 (g) *Procurements Conducted by Formal Bidding.* Procurements conducted by formal bidding shall
27 be in accordance with section 4.107 of this Code.

28 (h) *Procurements Conducted by Competitive Sealed Proposals.* Procurements conducted by
29 competitive sealed proposals shall be in accordance with section 4.108 of this Code.

30 (i) *Investigation of Complaints.* The Administrator of the Office of [[Purchasing]] PROCUREMENT
31 AND CONTRACT ADMINISTRATION shall investigate sworn, written allegations that a business

1 verified by the Center for Verification and Evaluation of the United States Department of Veterans
2 Affairs has engaged in any of the prohibited acts set forth in subsection (k) of this section:

3 (j) *Hearing on Complaints.* If the Administrator of the Office of [[Purchasing]] PROCUREMENT
4 AND CONTRACT ADMINISTRATION investigation indicates that there is reasonable cause to believe
5 that the allegation is correct, the Administrator [[of the Office of Purchasing]] shall submit the
6 results to the Purchasing Agent, which may conduct a hearing on the allegation. The Purchasing
7 Agent may recommend the Office of [[Purchasing]] PROCUREMENT AND CONTRACT
8 ADMINISTRATION take other appropriate action consistent with the County Code.

9 (k) *Prohibited Acts; Prohibition from Further Contracting with the County.*

10 (1) *Prohibited acts.* A person may not:

11 (i) Practice fraud or deceit for the purpose of obtaining verification;

12 (ii) Provide to the County incomplete or substantially inaccurate ownership or financial
13 information;

14 (iii) Fail to report a change which affects a businesses' verified status with the Center for
15 Verification and Evaluation of the United States Department of Veteran's Affairs; or

16 (iv) Violate any provision of this title.

17 (2) *Prohibition from further contracting with the County.* A business or person who commits
18 an act prohibited by this subsection may be debarred or suspended from further contracting
19 opportunities with the County as set forth in section 4.117 of this subtitle.

20
21 **Title 6. County Executive and the Executive Branch.**

22 **Subtitle 2. Administrative Departments and Offices.**

23
24 **Section 6.201. - Department of County Administration.**

25 (g) *Office of [[Purchasing]] PROCUREMENT AND CONTRACT ADMINISTRATION.* There is an Office
26 of [[Purchasing]] PROCUREMENT AND CONTRACT ADMINISTRATION. The qualifications of its
27 Administrator and the nature of its duties and responsibilities are set forth in subtitle 4,
28 "Department of County Administration," of [this] title 6, "County Executive and the Executive
29 Branch," of the Howard County Code.

30
31 **Title 6. County Executive and the Executive Branch.**

- 1 (4) Research, assemble, analyze, and disseminate information and educational materials
2 relating to activities and programs that will assist in meeting the needs of veterans and their
3 families;
- 4 (5) Identify and maintain a list of veterans' organizations as a resource to the Commission;
- 5 (6) Institute and conduct educational and other programs, meetings, and conferences to
6 promote the rights of and opportunities for veterans and military families;
- 7 (7) Advise the Executive and the Council on the status of programs and services in the State
8 and County related to the needs of veterans and military families;
- 9 (8) Assist in planning appropriate public acknowledgement of the contributions made by
10 veterans and military families and assist in planning commemoration activities recognizing
11 contributions made by veterans and military families;
- 12 (9) Advise the Office of [[Purchasing]] PROCUREMENT AND CONTRACT ADMINISTRATION on
13 ways to further promote efforts of the County in procuring goods and services from
14 veteran-owned business enterprises pursuant to the County's Veteran-Owned Business
15 Enterprise Program; and
- 16 (10) Review and provide advice to the Office of [[Purchasing]] PROCUREMENT AND CONTRACT
17 ADMINISTRATION on policies, programs and practices designed to promote business
18 opportunity for veteran-owned business enterprises.

19
20 **Title 21. Traffic Control and Transportation.**

21 **Subtitle 3. Traffic.**

22
23 **Section 21.301. - Police Department and Department of Fire and Rescue Services to direct**
24 **traffic; traffic section.**

25 (a) *Police Department.* Personnel of the Police Department may direct traffic by voice, hand, or
26 signal.

27 (b) *Department of Fire and Rescue Services.* Notwithstanding any other provision of this title, in
28 the event of a fire or other emergency, personnel of the Department of Fire and Rescue Services
29 may direct traffic to expedite traffic or to safeguard pedestrians.

30 (c) *Traffic Section Established.* There is, in the Police Department, a traffic section to be under the
31 control of an officer appointed by and responsible to the Chief of Police.

- 1 (d) *Duty of Traffic Section.* The traffic section shall:
- 2 (1) Enforce the provisions of this subtitle and the Maryland Vehicle Law;
- 3 (2) Make arrests for traffic violations;
- 4 (3) Investigate accidents;
- 5 (4) Establish an accident towing program;
- 6 (5) Cooperate with the Department of Public Works and other County Officials in the
- 7 administration of the traffic laws and in developing ways and means to improve traffic
- 8 conditions; and
- 9 (6) Carry out other duties and responsibilities imposed by law.
- 10 (e) *Traffic Section to Investigate Accidents.* The traffic section shall investigate traffic accidents
- 11 and, arrest and assist in the prosecution of those persons charged with violations of law causing or
- 12 contributing to such accidents.
- 13 (f) *Traffic Accident Studies.* Whenever the accidents at any particular location become
- 14 numerous, the traffic section shall cooperate with the Department of Public Works in conducting
- 15 studies of such accidents and determining remedial measures.
- 16 (g) *Traffic Accident Reports.* The traffic section shall maintain a suitable system of filing traffic
- 17 accident reports. Selected groups of reports shall be forwarded to the Department of Public Works
- 18 for its use and information.
- 19 (h) *Accident Towing Program:*
- 20 (1) To ensure public safety on County roads, there is an accident towing program in the traffic
- 21 section of the Police Department.
- 22 (2) The traffic section shall establish criteria for the program, which covers the towing of:
- 23 (i) Private vehicles from collision scenes;
- 24 (ii) Disabled vehicles; and
- 25 (iii) Vehicles that impede the safe circulation of traffic on County roads or represent a threat
- 26 to public safety.
- 27 (3) Contracts for the accident towing program shall be awarded by the [[office of purchasing]]
- 28 OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION through a competitive process
- 29 under title 4 of this Code.
- 30 (4) A tow operator shall not charge more than a maximum rate that is set annually by resolution
- 31 of the County Council.

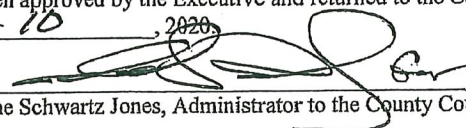
1

2 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***

3 *this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 10, 2020.


Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

Office of the County Auditor
Auditor's Analysis

Council Bill No. 62-2020

Introduced: November 2, 2020

Auditor: Michelle R. Harrod

Fiscal Impact:

The fiscal impact of this legislation is nominal. According to the Purchasing Administrator, the only expected cost incurred would be the approximately \$300 to change signage at the Gateway Building.

Stationary and other reference material with the current name will be changed in the normal course of business when supplies have been depleted. No additional costs are anticipated.

Purpose:

The purpose of this legislation is to change the name of the Office of Purchasing to the Office of Procurement and Contract Administration. It also proposes changing the name of the Purchasing Administrator accordingly.

Other Comments:

Companion legislation is Council Resolution 173-2020, which modifies the Purchasing Manual according to these proposed changes. If this bill fails, the resolution may require amendments to remove the corresponding name changes.