



MFD-V Program and Local Preference

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Requested Feedback

1. Does the Mayor and Council want to conduct a Disparity Study for the City of Rockville or alternatively expand upon current City outreach practices?
2. Does the Mayor and Council want to expand or maintain its local preference policies?
3. Does the Mayor and Council want to expand or maintain its environmental and social based procurement practices?

MFD-V Outreach Program: Background

- ❖ On October 20, 2014, the Mayor and Council unanimously approved the creation of an informal Minority, Female, and Disabled-owned (MFD) outreach program.
- ❖ The goal of the program is to increase procurement opportunities for MFD owned businesses through education, communication and collaboration so that MFD owned businesses may compete effectively in the City's bidding process.
- ❖ In FY2022, the MFD outreach program was enhanced to include Veteran-Owned Businesses.

Current MFD-V Outreach Program

The Procurement Department currently:

- ❖ Hosts an annual “Rockville Means Business” event
- ❖ Collaborates with participating agencies and exhibits the MFD-V Program at outreach/networking events
- ❖ Facilitates “How to do Business Sessions” (MWBC, Maryland Black Chamber, etc.)
- ❖ Conducts technical one-on-one assistance sessions with vendors
- ❖ Advertises bid opportunities via REDI, Rockville Chamber of Commerce, and Maryland Women’s Business Center (MWBC)
- ❖ Encourages MFD-V participation and MFD-V subcontractor participation in all solicitations
- ❖ Tracks MFD-V Spend for all awards
- ❖ Offers debriefs to unsuccessful bidders and offerors

Criteria for Establishing a Formal Program

- ❖ The approach when implementing a formal program begins with a Disparity Study.
- ❖ A Disparity Study is an evaluation of the procurement and contracting practices of government agencies, particularly involving their use of minority and women-owned businesses.
- ❖ Usually, formal programs do not include veteran-owned businesses as a category; however, some programs may consider disabled veteran-owned businesses.

Disparity Study: Background

- ❖ 1989 U.S. Supreme Court case, City of Richmond v. J.A. Croson Company

Finding: Governments cannot apply a remedy to a harm they hadn't explicitly proved existed.

As a result:

- ❖ Municipalities who choose to conduct a disparity study that identifies a disparity or disparities are obligated to establish a compelling interest to support the legal establishment of a minority and women-owned business program that can be defended in court
- ❖ The Disparity Study assesses the contracting activity of a government entity to determine if there is discrimination within the procurement process that excludes minority-owned, women-owned, and other disadvantaged businesses

Disparity Study: Key Steps



Disparity Study: Resources Needed

Cost Category	Initial Costs	Annual/On- Going Costs	Periodic Costs (every 5 years)
Disparity Study	\$300,000 +		\$300,000 +
Temporary personnel to assist the consultant with data gathering	Approximately \$37,440		
One (1) full-time position dedicated to operating the program (outreach, compliance, reporting, etc.), if a formal program is implemented		\$70,367 - \$116,105 (grade 217)	

Note: The estimated costs provided above are minimum estimates that were originally obtained in FY23.

Upon completion for the study, if it has been determined that a disparity exists:

- ❖ The City must implement remedial measures to address disparities
- ❖ Category-based subcontracting program may need to be implemented (construction, professional services, services, and goods) in order to establish goals or metrics to be addressed

Example of a Subcontracting Program and Impacts



❖ This type of program adds new costs and responsibilities on the City and the vendors

Category: Construction (20% City-wide Goal)

City Responsibilities	Prime Vendor Responsibilities
<ul style="list-style-type: none">➤ Include the subcontracting plan within solicitations➤ Verify certification of the *minority or *women-owned vendor(s) against certifying agencies➤ Tracking and managing compliance throughout project➤ Managing disputes between the prime and subcontractor➤ Reporting, training, and outreach on the program	<ul style="list-style-type: none">➤ Identifying a subcontractor for the project➤ Verify certification of the minority or women-owned vendor(s)➤ Completes the subcontracting plan, including percentage participation➤ Submit payment reports to the City

*A business at least 51% owned, operated, and controlled on a daily basis by a minority-owned or women-owned person(s)

Points to Consider if an MFD-V Subcontracting Program is Required

Opportunities	Challenges
Demonstrates an organization's commitment to supplier diversity	May require additional time, funding, and resources to operate the program
Supports economic development of minority, women-owned, and other disadvantaged groups	Identifying diverse vendors with necessary capabilities may be difficult
Increased likelihood of new prime and subcontractor relationships	Consistent/ongoing monitoring efforts to achieve goals
Offering of new perspectives and increased innovation	Increased risk in protest and disputes between prime and subcontractor
May enhance competition among a larger pool of vendors	Increased responsibilities, time, and costs may deter the interest of a prime vendor from bidding

Overview: Local Vendor Preference

Vendor Local Preference is:

- ❖ Policy/ordinance enacted by a legislative body that provides bidding preference to a defined group (businesses within City limits)

Typically:

- ❖ Government entities utilize a percentage mark-up that is applied to the non-preferential bidders or a markdown for the preferential bidders

Currently:

- ❖ City Code provides preference to local businesses when there is a tie low bid between a local and non-local business

Local Vendor Preference: Advantages and Disadvantages

Advantages	Disadvantages
Encourages businesses to stay or relocate to City	Increased costs and decreased competition
Can create jobs in the short-term	Conflicts with core procurement principles of fair and open competition
Represents commitment to local business	Potential for reciprocal action by other jurisdictions
Creates incentive for new business development	Increased administration required to oversee the policy



Local Vendor Preference: Example of 5% Local Preference

Bidder	Business Location	Original Bid	5% Preference Mark-up	Adjusted Bids (for evaluation purposes only)
Bidder 1	Gaithersburg			
Bidder 2	Hagerstown			
Bidder 3	Rockville			

Local Vendor Preference: Example of 5% Local Preference (cont.)

Bidder	Business Location	Original Bid	5% Preference Mark-up	Adjusted Bids (for evaluation purposes only)
Bidder 1	Gaithersburg	\$11,980,000		
Bidder 2	Hagerstown	\$12,300,000		
Bidder 3	Rockville	\$12,545,000		

Local Vendor Preference: Example of 5% Local Preference (cont.)

Bidder	Business Location	Original Bid	5% Preference Mark-up	Adjusted Bids (for evaluation purposes only)
Bidder 1	Gaithersburg	\$11,980,000	\$599,000	
Bidder 2	Hagerstown	\$12,300,000	\$615,000	
Bidder 3	Rockville	\$12,545,000	NA	

Local Vendor Preference: Example of 5% Local Preference (cont.)

Bidder	Business Location	Original Bid	5% Preference Mark-up	Adjusted Bids (for evaluation purposes only)
Bidder 1	Gaithersburg	\$11,980,000	\$599,000	\$12,579,000
Bidder 2	Hagerstown	\$12,300,000	\$615,000	\$12,915,000
Bidder 3	Rockville	\$12,545,000	N/A	\$12,545,000

Environmental and Social Outcomes Based Procurement

Current Programs work simultaneously to achieve collective goals:

- Sourcing Tools – eMMA, Vendor Connection Portal, County Vendor Registration System
- Contracting Resources with Sustainable Products/Initiatives – Office Depot, Grainger, Ferguson

Solicitation Development Assistance:

- Assistance with specifications, requirements, terms and conditions
- Assistance with development of Sustainable procurement processes, including metrics and key performance indicators

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