

**AN ORDINANCE FOR THE PURPOSE OF ENACTING AND ADOPTING A  
LOCAL BUSINESS PREFERENCE PROGRAM**

**WHEREAS**, Title 6, §6-105 of the Code of Public Local Laws of Calvert County, Maryland, being Title 6, §6-105 of *Article 5* of the Code of Public Laws of Maryland (hereinafter, the “Code”), authorizes and empowers the Board of County Commissioners of Calvert County, Maryland (hereinafter, the “Board of County Commissioners”) to enact an ordinance that establishes a local percentage preference for certain procurement contracts;

**WHEREAS**, the Board of County Commissioners sought this enabling legislation because local businesses contribute significantly to the economic health of our County through job creation, keeping businesses within the geographic area, and increased tax revenues, and contribute significantly to the quality of life of our citizens and visitors;

**WHEREAS**, the Board of County Commissioners seeks to bolster the County’s economic growth and support the creation and retention of employment opportunities within the County through increased participation of these local businesses in the County’s purchase of goods and services;

**WHEREAS**, the Board of County Commissioners also recognize that local business owners can be found both supporting, and opposing, local preference programs because of the effect a reciprocal preference can have on their competitiveness in other jurisdictions;

**WHEREAS**, with the advice and input of the Calvert County Chamber of Commerce, the Calvert County Minority Business Alliance, the Southern Maryland Minority Chamber of Commerce, and others, staff have prepared and presented a draft Local Business Preference Program for public consideration at informational meetings before scheduling a public hearing;

**WHEREAS**, a public hearing regarding a Local Business Preference Program was duly advertised in two County newspapers for two consecutive weeks before the public hearing as required by Section 9-105 of the *Local Gov’t Art.* of the Md. Ann. Code and held on August 27, 2024 at which time the Board of County Commissioners received public comment; and

**WHEREAS**, upon due consideration of the comments of the public and staff and in furtherance of the public health, safety and welfare, the Board of County Commissioners finds that the adoption of the Local Business Preference Program as set forth in Exhibit A, attached hereto and made a part hereof, is in the best interest of the public.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners that the following new title be appended to the Code of Local Laws of Calvert County, Maryland:

CHAPTER 63. Local Business Preference Program.

§ 63-1-101. Purpose.

The purpose of this Chapter is to establish a preference for Resident Businesses, hereinafter defined, in the award of bids as provided in Title 6, §6-105 of the Code of Public Local Laws of Calvert County, Maryland, which allows a percentage preference to be given to resident businesses, except where mandated otherwise by Federal or State Law. This Chapter shall be read consistent with its intended to

bolster the County's economic growth and support the creation and retention of employment and business opportunities within Calvert County.

- § 63-1-102. Definitions. As used in this Chapter, the following terms shall have the meaning indicated below:
- A. "Bid Process" means the solicitation of goods or services using the appropriate procurement method in accordance with Title 6 of the Code of Public Local Laws of Calvert County, Maryland, as amended from time to time.
  - B. "Board" means the Board of County Commissioners of Calvert County, Maryland.
  - C. "Emergency Purchases" means an emergency expenditure affecting the health, safety, or welfare of the County, its residents, or landowners.
  - D. "Evaluation Committee" means a group of at least three (3) County employees with knowledge of the commodities or services sought in a Request for Proposal to evaluate and select bid proposals for award.
  - E. "Formal Solicitation" means those solicitation procedures required for purchases that exceed \$29,999.99, individually and collectively, annually and are initiated using Invitations to Bid and Request for Proposals. Contracts using said methods are awarded by the Board, or by the official authorized to contract for the County. Additional purchases may require formal solicitation procedures at the discretion of the Procurement Office Division Chief.
  - F. "Invitation to Bid" ("ITB") means a document that solicits bid submissions from prospective contractors for specific product(s) or service(s) through a formal bidding process. An ITB involves the issuance of a formally advertised solicitation that calls vendors to submit a sealed bid for product(s) or service(s) with clear specifications and adequate available competition.
  - G. "Local Bid Preference" means an amount deducted from the total bid price in order to calculate the bid price to be used to evaluate the bid submitted by a Resident Business on a competitively bid solicitation to be awarded on the basis where price is a factor.
  - H. "Nonresident Business" means a business whose Principal Office is outside the County.
  - I. "Principal Office" means the office, in or out of the state, where the principal executive office or a domestic or foreign corporation is located and that is designated in the annual report or application for authority to transact business in the State. A Post Office box cannot be used to establish a local or principal address.
  - J. "Piggyback" means procuring goods or services without informal or formal bid procedures by utilizing another public entity's currently active, formally solicited, and awarded contract(s). The Piggyback will be by all the terms and conditions, unit prices, time frames, and other criteria as included in the different public entity's formal solicitation.
  - K. "Request for Proposal" ("RFP") means a request for product(s) or service(s) for which factors other than price are a main consideration for award, including, without limitation, qualifications, technology used, and experience. Interviews or presentations may also be held as part of the evaluation. An RFP is generally

used to solicit professional services, such as architecture, professional engineering, etc.

- L. "Request for Quote" ("RFQ") means the issuance of an informal solicitation that calls to vendors to submit an emailed or hand-delivered quote for a product or service with clear specifications and adequate available competition.
- M. "Resident Business" means a business whose Principal Office, as defined, is in Calvert County.

§63-1-103. Grant of a Local Bid Preference.

- A. Informal Solicitations. For informal solicitations, including RFI, RFQ, and RFP under \$30,000:
  - 1) If a Resident Business is involved in a Bid Process, and is a responsive and responsible bidder, but their bid is not the lowest, the Resident Business shall be granted a Local Bid Preference deduction to be the lowest bidder of 5%.
  - 2) If there is more than one Resident Business in competition, the lowest Resident Business will be selected first for the Local Bid Preference. If this bidder declines, the process will continue until the Resident Business list is completed.
  - 3) If all Resident Businesses decline the contract, the contract will be awarded to the next lowest responsive and responsible non-resident bidder.
- B. Formal Solicitations. For formal solicitations, including ITB, RFI, and RFP, or \$30,000 or more:
  - 1) If a Resident Business is involved in a Bid Process, and is a responsive and responsible bidder, but their bid is not the lowest, the Resident Business shall be granted a Local Bid Preference deduction to be the lowest bidder, not to exceed 5%, or \$25,000, whichever is less.
  - 2) If there is more than one Resident Business in competition, the lowest Resident Business will be selected first for the Local Bid Preference. If this bidder declines, the process will continue until the Resident Business list is completed.
  - 3) If all Resident Businesses decline the contract, the contract will be awarded to the next lowest responsive and responsible non-resident bidder.

§63-1-104. Exclusions. This Chapter does not apply where:

- A. Federal or State Law, grant agreements, subrecipient agreements, or other funding mechanism supporting the solicitation, precludes the offer of a Local Bid Preference;
- B. When Piggybacking other jurisdiction's competitively bid contracts;
- C. Purchases made under a cooperative agreement;
- D. Procurement has exercised any discretion afforded by Title 6 of the Code of Public Local Laws of Calvert County, Maryland to waive competitive bidding requirements in the following situations:
  - 1. Where it can be demonstrated that the requiring department could not have foreseen the required purchase in sufficient time for normal purchasing procedures to be used;

- 2. Emergency Purchases, where life is in imminent peril and likely will be endangered, or property will be destroyed, or considerable costs will be incurred because of events beyond the control of the department if the procurement is not completed without delay; and
- 3. At the direction of the County Administrator when other overriding factors warrant an exception to this Chapter.

**BE IT FURTHER ORDAINED**, by the Board of County Commissioners that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, it is the intent of the Board of County Commissioners to sever only the invalid portion of the provision, and that the remainder of the Ordinance shall be enforceable and valid;

**BE IT FURTHER ORDAINED**, by the Board of County Commissioners that the foregoing recitals are adopted as if fully rewritten herein; and

**BE IT FURTHER ORDAINED**, by the Board of County Commissioners that this Ordinance shall be effective upon recordation and publication of a fair summary.

**DONE**, this 24<sup>th</sup> day of Sept., 2024 by the Board of County Commissioners of Calvert County, Maryland sitting in regular session.

Aye: 5  
 Nay: 0  
 Absent/Abstain: 0

ATTEST:

**BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND**

Katie Brittain  
 Katie Brittain, Clerk

Earl F. Hance  
 Earl F. Hance, President

Catherine M. Grasso  
 Catherine M. Grasso, Vice-President

Approved for form and legal sufficiency:

Mark C. Cox Sr.  
 Mark C. Cox Sr.

John B. Norris, III  
 John B. Norris, III, County Attorney

Mike Hart  
 Mike Hart

Received for Record.....9/25....., 2024  
 at.....11:34.....o'clock.....4.....M. Same day  
 recorded in Liber KPS No. ....74.....  
 Folio.....429.....COUNTY COMMISSIONERS  
 ORDINANCES AND RESOLUTION.

Todd Ireland  
 Todd Ireland

Kathy P. Smith