Montgomery County Council

Committee GO
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #LocalBusinesses, #MoCo4Growth

AGENDA ITEM #15A
June 23, 2020
Action

SUBJECT

Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program - Established
Lead Sponsor: Council President Navarro at the request of the County Executive

EXPECTED ATTENDEES

Procurement Director Ash Shetty
Grace Denno, Procurement, Compliance Division Chief
Megan Greene, Associate County Attorney

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

Action - Council vote expected

DESCRIPTION/ISSUE

Bill 25-19 would provide a 10% price preference in evaluating a bid or proposal from a local business on a contract awarded by the County. The GO Committee amended the Bill to cap the dollar amount of the preference at $200,000 for a competitive sealed bid. The GO Committee also amended the effective date to July 1, 2020. The effective date may need to be moved back again to give Procurement more time to prepare for this change in the procurement procedures.

SUMMARY OF KEY DISCUSSION POINTS

- How would this affect the competition and bid prices on County contracts?
- How would this affect awards to minority owned businesses?
- How would this enhance the local economy and employment for County residents?
- What is the significant governmental purpose to be served by the legislation and how is the proposed program closely related to that significant purpose?

This report contains:

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AGENDA ITEM 15A
June 23, 2020
Action

M E M O R A N D U M

June 18, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program - Established

PURPOSE: Action – Council roll call vote required

Government Operations and Fiscal Policy Committee recommendation (3-0): approve Expedited Bill 25-19 with amendments.

Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program - Established, sponsored by Lead Sponsor Council President Navarro at the request of the County Executive, was introduced on September 17, 2019. Five speakers testified at the public hearing on October 15. A Government Operations and Fiscal Policy (GO) Committee worksession was held on March 12.[1]

Bill 25-19 would require a 10% price preference for a local business bidding on a contract or an evaluation factor worth 10% of the total points for a local business submitting a proposal under an RFP for a contract awarded by the County. The Bill, as amended by the GO Committee, would cap the dollar amount of the preference on a competitive sealed bid at $200,000.

The Director of the Office of Procurement would be required to certify a business as a local business if it has its principal place of business in the County. The definition of a local business would be established by a Method 2 regulation. The Procurement Regulations, COMCOR §11B.00.01.02.4.72, define a principal place of business in the County as:

> 2.4.72 *Principal Place of Business in the County*: A regular course of business commerce in the County by a business, along with any of the following:
> (1) The business has its physical business location(s) only in the County; or
> (2) The business has physical business locations both in and outside of the County, and the County-based location(s) account for over 50%

[1]#LocalBusinesses, #MoCo4Growth

of the business's total number of employees, or over 50% of the business's gross sales.

The County Attorney's Issue Manager Memorandum raises some legal issues with the local preference in Bill 25-19. See ©11-28 on the GO Staff Report. The County Attorney's Office recommended that the legislative record "clearly identify a significant governmental purpose to be served by the legislation and explain how the proposed program is closely related to that significant purpose."

Government Operations and Fiscal Policy Committee Chair Nancy Navarro sent the Executive questions concerning Bill 25-19 on December 6, 2019 (See ©74-75 of the GO Staff Report). Procurement Director Ash Shetty responded on behalf of the Executive on January 24, 2020. A copy of Mr. Shetty's response with attachments is at ©76-159 of the GO Staff Report. The GO Staff Report includes a discussion of these responses as part of the explanation of the issues.

GO Committee Worksession

Procurement Director Ash Shetty, Grace Denno, Procurement Compliance Division Chief, Associate County Attorney Megan Greene, and Senior Legislative Attorney Robert Drummer participated in the discussion. The Committee reviewed the Bill, the potential legal issues, the fiscal impact, the policy issues raised in the Staff Report, and the reasons for enacting the Bill.

The Committee amended the Bill to establish a $200,000 cap on the dollar amount of the preference for a competitive sealed bid and changed the effective date to July 1, 2020. The Committee recommended (3-0) approval of the Bill with these amendments.

For an extensive discussion of the legal, fiscal, and policy issues, please refer to the attached GO Staff Report.

Should the July 1 effective date be extended?

The GO Committee worksession for Bill 25-19 was held on March 12. At that time, delaying the effective date until July 1, 2020 gave Procurement more than 3 months to prepare for the new preference and gave a reasonable time period for businesses to seek certification as a local business. If the Council decides to enact Bill 25-19 on June 23, Procurement and local businesses would have 1 week to implement this significant change to the Procurement law. The Council may want to extend the effective date of the Bill before enacting it.

This packet contains:	Circle #
Staff Report	Page 1
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GO Staff Report with attachments	©1

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Expedited Bill No. 25-19
Concerning: Contracts and Procurement – Local business Preference Program - Established
Revised: March 12, 2020 Draft No. 3
Introduced: September 17, 2019
Expires: March 17, 2021
Enacted: [date]
Executive: [date signed]
Effective: January 1, 2020
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

(1) increase the number of local businesses awarded County contracts;
(2) establish a Local Business Preference Program for certain County contracts; and
(3) generally amend the law governing County procurement.

By adding
Montgomery County Code
Chapter 11B, Contracts and Procurement
Article XXI. Local Preference Program
Sections 11B-92, 11B-93, 11B-94, 11B-95, 11B-96, 11B-97, and 11B-98

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 11B-92, 11B-93, 11B-94, 11B-95, 11B-96, 11B-97, and 11B-98 are added as follows:

ARTICLE XXI. Local Business Preference Program.

11B-92. Purpose.

This Article is intended to bolster the County's economic growth and support the creation and retention of employment opportunities within the County by establishing a ten percent (10%) preference for the award of a County contract to a County-based business.

11B-93. Definitions.

In this Article, the following words have the meanings indicated.

Broker means a person that provides goods or services (other than real estate, investment, or insurance sales) on a pass-through basis as:

(a) a supplier of goods who:

(1) does not own, operate, or maintain a place of business in which goods of the general character required under the contract are kept in stock in the regular course of business;

(2) does not regularly assume physical custody or possession of goods of comparable character to those offered to the County; or

(3) exclusively acts as a middleman in the sale of goods to the County; or

(b) a supplier of services who does not regularly maintain the capability, capacity, training, experience, and applicable regulatory licensing to directly perform the principal tasks of a contract with the County and must provide the principal tasks through a subcontract with a third party.

Director means the Director of the Office of Procurement or the Director's designee.

Local Business means a business, other than a broker, that:

(a) has its principal place of business in the County;

(b) meets criteria established by method 2 regulations; and

(c) is certified by the Director as a Local Business under the provisions of this Article.

11B-94. Applicability.

This Article applies to all procurement purchases solicited under Sections 11B-9 or 11B-10.

11B-95. Procedures.

(a) *Eligibility.* To be eligible for local business preference points, a business must affirm and provide supporting documentation to the Director to show that it is a local business as defined in Section 11B-93. The Director may investigate and verify the information provided on the application, as necessary, and must certify a business as a local business for the purposes of this Article.

(b) *Certification.* Preference points must be applied only to a business:

(1) that has a valid local business certification when the business submits a bid or proposal; or

(2) who has applied for local business certification before the time to submit a bid or proposal has passed.

(c) *Notice.* The Director must publicly notify businesses of prospective procurement opportunities.

(d) *Competitive sealed bids.* The Director must adjust the bid of a Local Business who submits a bid in response to an Invitation for Bid issued under Section 11B-9:

(1) by reducing the bid price(s) by a factor of 10%, but not to exceed $200,000, for the purposes of evaluation and award only; or

(2) if a Local Business is eligible for a reciprocal preference pursuant to Section 11B-9(j), the bid of the Local Business must be adjusted by that reciprocal preference if it exceeds the 10% preference factor.

The Local Business preference points authorized under this Article must not be combined with reciprocal preference points authorized under Section 11B-9(j).

(e) *Competitive sealed proposals*. The Director must include an evaluation factor awarding additional points for a proposal from a Local Business worth 10% of the total available points in a Request for Proposals issued under Section 11B-10.

(f) *Waiver*. The Director may waive a bid or proposal preference under this Section in a solicitation if the Director finds that a preference would result in the loss to the County of Federal or State funds.

11B-96. Regulations.

The Executive must adopt regulations, by Method 2, to implement this Article. The regulations must include:

(a) Certification requirements for a business to qualify as a Local Business;

(b) Procedures to certify, re-certify, or decertify a Local Business; and

(c) Procedures that will enable the Director to monitor compliance with the Local Business Preference Program.

11B-97. Reports.

By October 31st of each year, the Director must report to the Council on the Local Business Preference Program. This report must include the number, solicitation type and dollar amount of contracts that were awarded pursuant to the Program.

11B-98. Penalty.

(a) A person must not:

(1) fraudulently obtain or retain, attempt to obtain or retain, or aid another person in fraudulently obtaining or retaining, or attempting to obtain or retain, certification as a Local Business;

(2) willfully make a false statement to a County official or employee for the purpose of influencing the certification of an entity as a Local Business; or

(3) fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining, or attempting to obtain, public monies to which the person is not entitled under this Article.

(b) A violation of this Article:

(1) is a class A violation; and

(2) may disqualify the violator from doing business with the County for up to 2 years.

Sec. 2. Expedited Effective Date

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on **[[**January 1, 2020**]]** July 1, 2020 and must apply to a solicitation issued under Section 11B-9 or Section 11B-10 on or after **[[**January 1, 2020**]]** July 1, 2020.

Approved:

Sidney Katz, President, County Council Date

Approved:

Marc Elrich, County Executive Date

This is a correct copy of Council action.

Selena Mendy Singleton, Clerk of the Council Date

GO ITEM 1
March 12, 2020
Worksession

MEMORANDUM

March 9, 2020

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney RHD

SUBJECT: Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program - Established

PURPOSE: Worksession – Committee to make recommendations on bill

Expected attendees:
Procurement Director Ash Shetty
Grace Denno, Procurement, Compliance Division Chief
Michael Brown, Procurement, Local Business Program Manager
Megan Greene, Associate County Attorney

Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program - Established, sponsored by Lead Sponsor Council President Navarro at the request of the County Executive, was introduced on September 17, 2019. Five speakers testified at the public hearing on October 15.[1]

Bill 25-19 would require a 10% price preference for a local business bidding on a contract or an evaluation factor worth 10% of the total points for a local business submitting a proposal under an RFP for a contract awarded by the County. The Director of the Office of Procurement would be required to certify a business as a local business if it has its principal place of business in the County. The definition of a local business would be established by a Method 2 regulation. The Procurement Regulations, COMCOR §11B.00.01.02.4.72, define a principal place of business in the County as:

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[1] #LocalBusinesses, #MoCo4Growth

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Government Operations and Fiscal Policy Committee Chair Nancy Navarro sent the Executive questions concerning Bill 25-19 on December 6, 2019 (See ©74-75). Procurement Director Ash Shetty responded on behalf of the Executive on January 24, 2020. A copy of Mr. Shetty's response with attachments is at ©76-159. We will discuss these responses as part of the explanation of the issues.

Public Hearing

All 5 speakers supported the Bill. Procurement Director Ash Shetty (©29), representing the Executive, testified that the Bill is designed to "bolster the County's economic growth and support the creation and retention of employment opportunities within the County by establishing a ten percent (10%) preference for County-based businesses." The other 4 speakers represented local companies that would benefit directly from the local preference program created by the Bill. Marilyn Balcombe (©30), representing the Gaithersburg-Germantown Chamber of Commerce, Kenneth O'Connell, O'Connell & Lawrence, Inc. (©31-32), Susan Young Mullineaux, Duane, Cahill, Mullineaux & Mullineaux, P.A. (©33), and Kenny Mallick, Mallick Plumbing (©34-35) each supported the Bill. We also received written testimony supporting the Bill from Jane Redicker, representing the Greater Silver Spring Chamber of Commerce (©36).

Issues

1. What is the fiscal and economic impact of the Bill?

The Bill would require the Office of Procurement to certify a business as a local business. A business must have its principal place of business in the County to be certified as a local business. The Procurement Regulations define a principal place of business as follows:

> 2.4.72 *Principal Place of Business in the County*: A regular course of business commerce in the County by a business, along with any of the following:
> (1) The business has its physical business location(s) only in the County; or
> (2) The business has physical business locations both in and outside of the County, and the County-based location(s) account for over 50% of the business's total number of employees, or over 50% of the business's gross sales.

Procurement would then have to apply a 10% price preference for a certified local business under a competitive sealed bid or a 10% local resident factor under a request for proposals. Although Procurement currently certifies a small business as local under the Local Small Business Reserve Program (LSBRP), this would make many more businesses who are not "small" eligible to be certified as a local business. OMB estimated that this could be done by current staff. We understand that Procurement currently has one professional person responsible for these certifications.

Council staff questions whether this can be done by the one existing staff person alone. If a business's only location is in the County, the analysis is straight forward. However, for a business with locations inside and outside the County, Procurement would have to analyze the number of total employees working in the County or if more than 50% of the company's gross sales originate from a County location. These calculations may be simple for a small business under the LSBRP but may become much more complicated for a large business with multiple locations.

OMB also looked at the increased cost of contracts if a local business wins a contract due to the 10% price preference over a non-local business with a lower bid by reviewing bids for FY18 and FY19. OMB did not look at increased costs from RFPs. In FY18, OMB found that 13 contracts would have been won by local businesses for an additional cost of $655,340. In FY19, OMB found that 13 contracts would have been won by local businesses at an increased cost of $58,942. While these numbers appear low compared to the $1 billion in contracts awarded by the County each year, there is no way to accurately predict future costs with confidence. If the Bill succeeds in encouraging more businesses to either locate in the County or more local businesses to bid on County work, it may discourage non-local businesses from bidding on County work. Less competition for County contracts would inevitably lead to higher bid prices, especially if local businesses with a 10% price preference decide to increase bid prices against non-local bidders to take advantage of the price preference.

Finance concluded that the Bill could have a positive impact on the County's economy if more local businesses are awarded County contracts. Finance concluded that this would increase income for local businesses and County residents. However, they did not include any analysis to support the assumption that local businesses employ more County residents than a business with its principal place of business located elsewhere in the District, Maryland, and Virginia.[2]

In his response to Councilmember Navarro's questions, Mr. Shetty referred to the economic theory of "the local multiplier effect" to explain how Bill 25-19 would improve the County's economy. Mr. Shetty attached several articles explaining this theory. On closer inspection, these articles discuss the positive effects of local consumers purchasing goods and services from locally owned businesses rather than online businesses or national chain retail stores. None of these articles talk about the positive benefits of a local government providing a price preference to local businesses in government procurement. Although the County's annual procurement is almost $1 billion, this represents a small percentage of the County gross domestic product of more than $86 billion.[3] The County does not purchase enough of any goods or services to materially affect the local economy.

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[2] The County does not receive a share of business income tax. The County receives a share of personal income tax and business personal property tax. Personal County income tax is based on the taxpayer's residence not the taxpayer's work address.

[3] According to the Bureau of Economic Analysis, the County's Real GDP in 2018 was $86,116,398,000. If we assume that the County's GDP grew the same as the U.S. in 2019 (2.3%) the 2019 GDP value is approximately $88,097,075,000.

Another problem with relying on these articles is that they often refer to the local economy as a regional economy, not a political subdivision. The relevant market for the County's procurement is generally the entire Washington metropolitan region that includes the District of Columbia, Northern Virginia, and the surrounding Maryland Counties. For example, Bill 25-19 makes an arbitrary distinction between a preferred local business located in Friendship Heights north of Western Avenue and a non-preferred local business located in Friendship Heights south of Western Avenue based on a political boundary.

Finally, these articles promote the benefit of additional tax revenue to the local government received from additional sales by a local business. For example, the article describing the experience of San Diego points to additional sales tax collected by the City from local sales. (See ©137-148). However, the County does not receive any portion of the Maryland sales tax or the Maryland business income tax. The County receives a portion of the Maryland income tax that is based on where the taxpayer lives not where the taxpayer works. The Executive did not submit any empirical data to show that a local business in the County hires more County residents than a local business located in the District of Columbia.

2. What are the legal issues with the Bill?

The County Attorney's Office (OCA) raised several potential legal issues that could affect the validity of the Bill. See County Attorney Bill Review Memorandum with attachments at ©11-28. The County Attorney attached several memoranda written by their Office concerning the requirement that a business in the LSBRP have a principal place of business in the County. OCA analyzed the local business requirement under the Commerce Clause, the Equal Protection Clause, and the Privileges and Immunities Clause of the U.S. Constitution. OCA concluded that the local requirement would not violate the Commerce Clause because the County was operating as a market participant rather than a regulator. They also opined that the local preference is likely to survive an Equal Protection challenge under the rational basis test because it does not involve a suspect class or fundamental right. Council staff agrees with this analysis.

OCA's analysis under the Privileges and Immunities Clause in Article IV of the U.S. Constitution is less optimistic. The Courts have determined that the purpose of this provision is to "foster a national union by discouraging discrimination against residents of another state on the basis of [their state] citizenship." Salem *Blue Collar Workers Association v. Salem*, 33 F.3rd265, 267 (3rd Cir. 1994). The Supreme Court, in *United Building and Construction Trades Council v. Camden*, 465 U.S. 208 (1984), held that a local law requiring 40% of the workers on a City construction project to be Camden residents was discriminatory under the Privileges and Immunities Clause. The Court held that the City must show a substantial reason for this discrimination against nonresidents for the law to survive. The Court remanded the case to the lower court to determine if Camden could show a substantial reason for its law. The case was settled before the lower court had to rule on this. More recently, the Supreme Court, in *McBurney v. Young*, 569 U.S. 221 (2013) held that a local law does not violate the Privileges and Immunities Clause unless it involves a fundamental privilege or immunity of citizenship. The Court upheld a Virginia public information law that guaranteed a Virginia resident the right of access to public records but denied that right to residents of other States. The Court held that this law did not violate the Privileges and Immunities Clause because the right to see government documents was not a fundamental privilege or immunity of citizenship.

OCA concluded that a local preference may not violate the Privileges and Immunities Clause if the legislative record demonstrates a substantial reason for this discrimination against a business located outside of the County. Council staff agrees but notes that the legislative record supporting the local preference is slim. The Executive requested this Bill without any data analysis of the percentage of local businesses on the County's bidding list and the percentage of County contract awards historically awarded to local businesses. Councilmember Navarro requested this information in December. Mr. Shetty's response included data showing that 27% of the dollars awarded by the County to prime contractors in FY19 were awarded to businesses with a County zip code and that 33% of the bidders registered with the County had a County zip code. See ©79-80. However, Procurement does not keep local subcontractor data. The 33% of registered businesses with a County zip code does not match up with availability of local prime contractors because it includes vendors that are primarily subcontractors. Also, Procurement has no data to support the assumption that a local business employs more County residents than a local business located in a neighboring jurisdiction.

OCA also looked at Article 24 of the Maryland Declaration of Rights. It is unclear how Maryland Courts would look at a local preference law that discriminates against a Maryland business located in another County. In the absence of Maryland cases on point, OCA concludes that the Maryland Courts are likely to demand substantial justification for a local preference law that discriminates against a Maryland business. Council staff agrees.

Although not mentioned by OCA in their initial Bill review, there is also an issue of implied preemption by the General Assembly. Section 1-402 of the Maryland Local Government Code establishes the following reciprocal local preference:

(a) ***Definitions. –***
- *(1) In this section the following words have the meanings indicated.*
- *(2) "Nonresident bidder" means a bidder whose principal office is outside the State.*
- *(3) "Preference" includes:*
  - *(i) a percentage preference;*
  - *(ii) an employee residency requirement; or*
  - *(iii) any other provision that favors a resident over a nonresident.*
- *(4) "Resident bidder" means a bidder whose principal office is in the State.*

(b) ***Conditions for preference. –*** *When a political subdivision or an instrumentality of government in the State uses competitive bidding to award a procurement contract, the political subdivision or instrumentality may give a preference to the resident bidder who submits the lowest responsive bid of any resident bidder if:*
- *(1) the resident bidder is a responsible bidder;*
- *(2) a responsible nonresident bidder submits the lowest responsive bid of all bidders; and*
- *(3) the state in which the nonresident bidder's principal office is located gives a preference to its residents.*

(c) ***Form of preference. –*** *A preference under this section shall be identical to the preference that the state in which the nonresident bidder's principal office is located gives to its residents.*

This State law defines a nonresident business as a business located outside the State of Maryland. The law expressly permits a local government to establish a local preference law that can be applied only against a nonresident business that is located in a State that has a local preference law. The Maryland Courts may conclude that this limited grant of authority to a local government precludes a local preference law under other circumstances. The only local preference law in a Maryland County we could find was a limited Prince George's County law that creates a 3% preference for a County based business under a request for proposals as part of a law that creates greater preferences for a County based small business, a County based minority owned business, and a nonresident minority owned business. See Prince George's County Code §10A-173 at ©37-38. **Prince George's County does not have a similar local preference law for contracts awarded under competitive sealed bidding.**

Councilmember Navarro asked the Executive to look at this issue. The County Attorney's Office addressed the preemption issue in a second memorandum and concluded that the State did not intend to preempt a County local business preference by enacting the reciprocal local preference in §1-402 of the Maryland Local Government Code Ann. See the memorandum at ©160-162.

3. Would the local business preference adversely affect minority owned businesses located outside of the County?

The County has a limited minority owned business program designed to remedy the effects of past discrimination against certain minority groups, including women. Code §11B-57 explains the purpose of the program:

11B-57. Legislative findings and policy.

(a) Minority owned businesses have experienced the effects of discrimination in the awarding of County contracts and subcontracts. The effect has been to:

(1) make a smaller percentage of contract and subcontract awards to minority owned businesses than the percentage of qualified minority owned businesses in the County's relevant geographic market area would indicate as reasonable;

(2) impede the economic development and expansion of minority owned businesses in the County's relevant geographic market area;

(3) impair the competitive position of minority owned businesses, and

(4) generally harm minority owned businesses.

(b) Adoption of the minority owned business purchasing program is intended to remedy the effects of discrimination on minority owned businesses.

(c) A goal of awarding an appropriate percentage of the dollar value of County contracts to minority owned businesses in proportion to their availability to perform work under County contracts is a reasonable and appropriate means to remedy discrimination against minority owned businesses.

The County has limited its minority owned business program to businesses owned by members of certain minority groups or women (referred to as MFDs) that have historically been underutilized in the award of County contracts compared to their availability in the relevant geographic market. In order to comply with the Equal Protection Clause of the 14th Amendment, as interpreted by the Courts, the program generally requires contractors to subcontract a portion of the work with one or more certified MFDs. The County limits bidding on certain contracts to local small businesses under the LSBRP but does not limit bidding on any contracts to MFDs in order to comply with the Equal Protection Clause. The County's procurement data indicates that the LSBRP has increased awards to MFD prime contractors even though it excludes MFDs that are not local. In FY19, Procurement awarded $26,023,123.92 to MFD primes under the LSBRP or 31.4% of the total dollars awarded under the LSBRP. MFD primes received only 19% of the dollars awarded outside of the LSBRP. In FY18, Procurement awarded 37.6% of the dollars to MFD prime contractors under the LSBRP but only 18% to MFD primes outside of the LSBRP. The awards to MFD primes under the LSBRP would likely be significantly larger under the LSBRP if small non-local MFD contractors were permitted to participate in the Program.

The County's most recent disparity study supporting the minority owned business program determined that the relevant geographic market for all County contracts includes jurisdictions outside of the County. For example, an award to a certified minority owned business located in the District of Columbia is counted under our program for MFD participation in County contracts.

Bill 25-19 would provide a greater preference for a large non-minority owned County based business than an MFD located outside of the County.[4] A non-local MFD that is the low bidder on a County contract may lose the contract to a non-minority owned County based business under Bill 25-19. Procurement staff provided the following data on the percentage of certified minority owned businesses registered for business with the County that have local zip codes in the County and the percentage of all businesses registered with the County with local zip codes:[5]

Vendors in CVRS	Companies including sole proprietors with local zip codes
Total 30,000 vendors	10,030 (33.43%)
Total 741 MFD certified vendors	280 (37.78%)

This information indicates that Bill 25-19 would adversely affect at least 63% of the certified MFD vendors registered to do business with the County. Therefore, it is possible that Bill 25-19 would reduce the number of prime contracts awarded to a certified MFD vendor.

4. How would the Bill affect the reciprocal local preference law enacted in Bill 49-14?

The Council enacted a reciprocal local preference law effective January 1, 2016 in Bill 49-14. See Code §11B-9(j) at ©39. This reciprocal local preference is limited to a situation where the low bidder is from a jurisdiction outside of the County that provides a local preference for its local businesses. The only such law in a local Washington Metropolitan Area jurisdiction is the local preference law in the District of Columbia and the limited law in Prince George's County

[4] In his response, Mr. Shetty argued that MFDs already receive the same 10% preference (©78). However, they do not receive any price preference as a prime contractor on competitive sealed bids. There is a preference for MFD participation in some requests for proposals, but a non-MFD prime can receive these points by maximizing MFD subcontracting.

[5] Listing a zip code that is in the County is an indication that the business may be eligible for the local preference, but some of these businesses may also have locations outside the County and may not be eligible under the current definition of principal place of business.

described above.[6] Based on conversations with Procurement staff, we understand that this provision has never been applied since it took effect in 2016.

The reciprocal local preference law is a defensive measure to discourage local preference laws in other jurisdictions by leveling the field for a County based business competing against a business in a jurisdiction with a local preference law. Bill 25-19 would create a local preference like the type of preference Bill 49-14 was designed to protect against. Bill 25-19 would subject a County based business to a reciprocal local preference law in other jurisdictions. Many states have enacted these reciprocal local preference laws, including Maryland and Virginia. See the chart of States with reciprocal local preference laws compiled by the State of Oklahoma in December 2018 at ©40-73. Therefore, Bill 25-19 would help a County based business competing for a County contract and may hurt them when competing for a contract in another jurisdiction. In his response, Mr. Shetty explained that Procurement does not track bids by County based businesses in other jurisdictions (©80).

If the Council enacts Bill 25-19, the reciprocal local preference law in Code §11B-9(j) would never be applied unless the non-local business is located in a jurisdiction with a local preference law that provides more than a 10% advantage.

5. Does the legislative record clearly identify a significant governmental purpose and explain how the Bill is closely related to that purpose?

OCA cautions that the legislative record must clearly identify a significant governmental purpose for the local preference and explain how the 10% preference is closely related to that purpose. The public testimony consisted of support from 2 local chambers of commerce who represent County based businesses and 4 County based businesses. Procurement Director Ash Shetty explained that the Bill is designed to "bolster the County's economic growth and support the creation and retention of employment opportunities within the County by establishing a ten percent (10%) preference for County-based businesses." Mr. Shetty argued that County based businesses "employ local residents, provide good jobs, and make real contributions to the local economy." These conclusions are not backed up with any statistics.

In response to Councilmember Navarro's questions, Mr. Shetty pointed to data showing that the County has been lagging neighboring jurisdictions in business establishment, business retention, job creation, and wages (©76-77). Missing from this response is an explanation of how the 10% local preference is going to change these data in the future. These neighboring jurisdictions appear to have moved ahead of the County in these areas without a 10% local preference

6. What is the appropriate local preference?

The only local jurisdictions with a local preference are Prince George's County and the District of Columbia. **Prince George's has no local price preference for contracts awarded**

[6] Mr. Shetty mentioned a Baltimore City Small Local Business Enterprise Program that provides a 10% preference, but this is like the County LSBRP, not the local preference in Bill 25-19. Mr. Shetty also mentioned a 5% local preference provided by WMATA, but WMATA is a regional compact that includes Maryland, Virginia, and the District of Columbia. See ©78

through competitive sealed bids. The local preference for contracts awarded by Prince George's County through competitive proposals is 3%.[7] The District has a local preference for contracts awarded through competitive sealed bids or competitive proposals, but the preference is part of several preferences for different reasons. Here is a chart showing the different preference points for a District based business:

What are the preference points associated with each category of certification?

CBE Category	Proposal Points	Bid % Price Reduction
Local Business Enterprise	2	2%
Small Business Enterprise	3	3%
Disadvantaged Business Enterprise*	2	2%
Development Enterprise Zone	2	2%
Resident-Owned Business	5	5%
Longtime Resident Business	5	10%
Veteran-Owned Business Enterprise	2	2%
Local Manufacturing Business Enterprise	2	2%

*Note: The personal net worth of the applicant seeking DBE certification must be less than $1,000,000, excluding the value of his/her primary residence and values of his/her ownership interest in the CBE.

A District based business receives a 2% preference. If the business is also small, it receives an additional 5% preference. If the owner lives in the District, the business can receive an additional 5% preference. However, the total preference cannot exceed 12%.

Bill 25-19 would create a 10% local preference for any business that has a principal place of business in the County, including a large, non-minority owned business with owners living outside the County. There is also no maximum amount of the total bid price the 10% preference can apply to. Since most local jurisdictions do not have a local business preference and the preferences in the District and Prince George's are generally lower, the 10% local preference in Bill 25-19 appears to be out of line with other local jurisdictions.

In his response, Mr. Shetty explained that the 10% local preference is consistent with the 10% of points awarded on the basis of MFD participation, including subcontractors, for requests for proposals, a 12% preference in the District of Columbia (the chart above shows that the local preference in DC ranges from 2% to 12% for a variety of circumstances), the 10% local preference for local small businesses in Baltimore City (limited to small businesses unlike Bill 25-19), and a potential 15% of points for local businesses in requests for proposals in Prince George's. The 10% across the board price preference for any local business in Bill 25-19 is significantly more generous than the local preferences in other jurisdictions.

7. Should the local preference be limited?

If the Committee decides to recommend enacting Bill 25-19, Council staff recommends amending it to reduce the price preference to no more than 5% and to cap the dollar amount of a

[7] Awards under a request for proposals is based on an evaluation of several factors and is not based on price alone.

price preference on a specific contract. For example, lines 52-53 of the Bill at ©3 would be amended as follows:

> (1) by reducing the bid price(s) by a factor of [[10%]] 5%, but not to exceed $100,000, for the purposes of evaluation and award only; or

8. Should the Bill have a sunset provision?

If a local preference is enacted it may become difficult to repeal it even if it does not result in a significant boost to the County's economy. The Executive's justification for the Bill is based on theories and assumptions that may not prove correct. One method of ensuring a careful review of this program by the Council would be to include a sunset provision like the sunset provision included in the MFD program. If the Committee recommends approval of Bill 25-19, we recommend including a 3-year sunset. The Bill already includes an annual reporting requirement. If the reports support the extension of the program, the Council can extend it. This could be done by adding the following after line 92 of the Bill:

11B-99. Sunset Date.

This Article is not effective after July 1, 2023.

9. What is the appropriate effective date for the Bill?

The Bill, as introduced, is an expedited Bill that would take effect on January 1, 2020 and apply to solicitations issued after that date. Obviously, if the Council is going to enact Bill 25-19 the effective date should be moved back. Businesses would need time to apply for certification as a County based business and Procurement is likely to need some time to review and act on these applications.

This packet contains:

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Expedited Bill No. 25-19
Concerning: Contracts and Procurement - Local business Preference Program - Established
Revised: July 29, 2019 Draft No. 2
Introduced: September 17, 2019
Expires: March 17, 2021
Enacted: [date]
Executive: [date signed]
Effective: January 1, 2020
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

(1) increase the number of local businesses awarded County contracts;
(2) establish a Local Business Preference Program for certain County contracts; and
(3) generally amend the law governing County procurement.

By adding

Montgomery County Code
Chapter 11B, Contracts and Procurement
Article XXI Local Preference Program
Sections 11B-92, 11B-93, 11B-94, 11B-95, 11B-96, 11B-97, and 11B-98

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 11B-92, 11B-93, 11B-94, 11B-95, 11B-96, 11B-97, and 11B-98 are added as follows:

ARTICLE XXI. Local Business Preference Program.

11B-92. Purpose.

This Article is intended to bolster the County's economic growth and support the creation and retention of employment opportunities within the County by establishing a ten percent (10%) preference for the award of a County contract to a County-based business.

11B-93. Definitions.

In this Article, the following words have the meanings indicated.

Broker means a person that provides goods or services (other than real estate, investment, or insurance sales) on a pass-through basis as:

(a) a supplier of goods who:

(1) does not own, operate, or maintain a place of business in which goods of the general character required under the contract are kept in stock in the regular course of business;

(2) does not regularly assume physical custody or possession of goods of comparable character to those offered to the County; or

(3) exclusively acts as a middleman in the sale of goods to the County; or

(b) a supplier of services who does not regularly maintain the capability, capacity, training, experience, and applicable regulatory licensing to directly perform the principal tasks of a contract with the County and must provide the principal tasks through a subcontract with a third party.

Director means the Director of the Office of Procurement or the Director's designee.

Local Business means a business, other than a broker, that:

(a) has its principal place of business in the County;

(b) meets criteria established by method 2 regulations; and

(c) is certified by the Director as a Local Business under the provisions of this Article.

11B-94. Applicability.

This Article applies to all procurement purchases solicited under Sections 11B-9 or 11B-10.

11B-95. Procedures.

(a) *Eligibility.* To be eligible for local business preference points, a business must affirm and provide supporting documentation to the Director to show that it is a local business as defined in Section 11B-93. The Director may investigate and verify the information provided on the application, as necessary, and must certify a business as a local business for the purposes of this Article.

(b) *Certification.* Preference points must be applied only to a business:

(1) that has a valid local business certification when the business submits a bid or proposal; or

(2) who has applied for local business certification before the time to submit a bid or proposal has passed.

(c) *Notice.* The Director must publicly notify businesses of prospective procurement opportunities.

(d) *Competitive sealed bids.* The Director must adjust the bid of a Local Business who submits a bid in response to an Invitation for Bid issued under Section 11B-9:

(1) by reducing the bid price(s) by a factor of 10%, for the purposes of evaluation and award only; or

(2) if a Local Business is eligible for a reciprocal preference pursuant to Section 11B-9(i), the bid of the Local Business must be adjusted by that reciprocal preference if it exceeds the 10% preference factor.

The Local Business preference points authorized under this Article must not be combined with reciprocal preference points authorized under Section 11B-9(i).

(e) *Competitive sealed proposals.* The Director must include an evaluation factor awarding additional points for a proposal from a Local Business worth 10% of the total available points in a Request for Proposals issued under Section 11B-10.

(f) *Waiver.* The Director may waive a bid or proposal preference under this Section in a solicitation if the Director finds that a preference would result in the loss to the County of Federal or State funds.

11B-96. Regulations.

The Executive must adopt regulations, by Method 2, to implement this Article. The regulations must include:

(a) Certification requirements for a business to qualify as a Local Business;

(b) Procedures to certify, re-certify, or decertify a Local Business; and

(c) Procedures that will enable the Director to monitor compliance with the Local Business Preference Program.

11B-97. Reports.

By October 31st of each year, the Director must report to the Council on the Local Business Preference Program. This report must include the number, solicitation type and dollar amount of contracts that were awarded pursuant to the Program.

11B-98. Penalty.

(a) A person must not:

(1) fraudulently obtain or retain, attempt to obtain or retain, or aid another person in fraudulently obtaining or retaining, or attempting to obtain or retain, certification as a Local Business;

(2) willfully make a false statement to a County official or employee for the purpose of influencing the certification of an entity as a Local Business; or

(3) fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining, or attempting to obtain, public monies to which the person is not entitled under this Article.

(b) A violation of this Article:

(1) is a class A violation; and

(2) may disqualify the violator from doing business with the County for up to 2 years.

Sec. 2. Expedited Effective Date

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on January 1, 2020 and must apply to a solicitation issued under Section 11B-9 or Section 11B-10 on or after January 1, 2020.

Approved:

Sidney Katz, President, County Council — Date

Approved:

Marc Elrich, County Executive — Date

This is a correct copy of Council action.

Mary Anne Paradise, Acting Clerk of the Council — Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 25-19
Contracts and Procurement – Local business Preference Program - Established

DESCRIPTION:	The Bill would amend Chapter 11B of the County Code by establishing a local business preference program for all procurement purchases solicited under Sections 11B-9 and 11B-10.
PROBLEM:	Local businesses are often at a disadvantage when competing for County procurement contracts due to the cost of operating a business in the County. This Bill seeks to offset some of that cost.
GOALS AND OBJECTIVES:	The Bill will establish a ten percent (10%) preference for County-based businesses.
COORDINATION:	Office of Procurement and Office of the County Attorney
FISCAL IMPACT:	May impact contract award values
ECONOMIC IMPACT:	Could have a positive economic effect on the growth in local businesses by means of County contract awards and increase employment and incomes for both local businesses and their employees.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	Local preference programs have been enacted in Prince George's County and Howard County
SOURCE OF INFORMATION:	Office of Procurement
APPLICATION WITHIN MUNICIPALITIES:	NA
PENALTIES:	Class A violation; Debarment

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Fiscal Impact Statement
Bill XX-19 - Contracts and Procurement – Local Business Preference Program

1. **Legislative Summary**

   The purpose of this legislation is to increase the participation of local businesses in the County procurement process by establishing a Local Business Preference Program for certain County procurement contracts. The legislation adds Sections 11B-92 through 98 to the County Code.

   Section 11B-95 provides that, "(d) The Office of Procurement must adjust the bid of a Local Business who submits a bid in response to an Invitation for Bid issued under Section 11B-9 by reducing the bid price(s) by a factor of 10%, for the purposes of evaluation and award only. And (e) the Office of Procurement must include an evaluation factor with a value of 10% of the total available points in a Request for Proposals issued under Section 11B-10, awarding additional points for a proposal from a Local Business."

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   The County's total procurements are currently valued at approximately $1.0 billion. Using data on Invitation for Bids (IFBs) provided from the Office of Procurement, the following table summarizes the fiscal impact to the County if this preference was in place for the last two fiscal years.

Fiscal Year	Number of Low Bidders	Number of Local Low Bidders	Increase if Local Low Bidder Selected
2018	35	13	$655,340
2019	28	13	$58,942

   Of the $1.0 billion in annual procurements, the selection of the local low bidder would have resulted in an increase of approximately $655,340 in FY18 and $58,942 in FY19.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   It is difficult to project expenditure estimates for the next 6 fiscal years as the value of bids varies from each fiscal year.

4. **An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable.

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   Not applicable.

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Not applicable.

7. **An estimate of the staff time needed to implement the bill.**

   An existing Local Small Business Program Manager ("Program Manager") will absorb the staff time to implement and administer this program.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   The Program Manager will absorb the added responsibilities.

9. **An estimate of costs when an additional appropriation is needed.**

   Not applicable.

10. **A description of any variable that could affect revenue and cost estimates.**

    The intention of the Bill is to increase the participation of local businesses in the County procurement process. This increased competition in turn may bring cost savings to the County. Or in other scenarios, if the local business that is given preference points wins the contract, there may be an increase in the contract award values.

11. **Ranges of revenue or expenditures that are uncertain or difficult to project.**

    The range of cost increases or cost savings are difficult to project. If a local low bidder is selected under the local preference program, there may be a cost increase (as would have been the case in FY18 and FY19) or a cost savings (if it triggers increased competition for County contracts or encourages non-local vendors to be more aggressive with their pricing).

12. **If a bill is likely to have no fiscal impact, why that is the case.**

    The bill may result in cost savings or cost increases in contract award values as stated above.

13. **Other fiscal impacts or comments.**

    Not applicable.

14. **The following contributed to and concurred with this analysis:**

    Avinash G. Shetty, Office of Procurement

    Grace Denno, Office of Procurement

    Jane Mukira, Office of Management and Budget

    Naeem Mia, Office of Management and Budget

Richard Madaleno

Richard S. Madaleno, Director
Office of Management and Budget

7/5/19
Date

Economic Impact Statement
Expedited Bill ##-19, Contracts and Procurement –
Local Business Preference Program

Background:

The purpose of this legislation is to increase the participation of local businesses in the County procurement process by establishing a Local Business Preference Program for certain County procurement contracts. The legislation adds Sections 11B-92 through 98 to the County Code. Section 11B-95 states that for IFBs, "(d) The Office of Procurement must adjust the bid of a Local Business who submits a bid in response to an Invitation for Bid issued under Section 11B-9 by reducing the bid price(s) by a factor of 10%, for purposes of evaluation and award only, and (e) the Office of Procurement must include an evaluation factor with a value of 10% of the total available points in a request for proposals issued under Section 11B-10, awarding additional points for a proposal from a Local Business".

1. **The sources of information, assumptions, and methodologies used.**

   The source of information is the Office of Procurement. There are no assumptions or methodologies used by the Department of Finance in the preparation of the economic impact statement.

   According to the Office of Procurement, the goal of the bill is to provide incentives for local contractors to bid on Montgomery County government contracts by reducing the bid prices by a factor of 10% for local contractors thereby minimizing the contract price differential for IFBs; or by giving an evaluation factor with a value of 10% of the total available points for RFPs.

2. **A description of any variable that could affect the economic impact estimates.**

   The variables that could affect the economic impact estimates are the number of businesses that would benefit by reducing the contract price or evaluation points differential

3. **The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

   The legislation could have a positive economic effect on the growth in local businesses by means of County contract awards, and increase employment and incomes for both local businesses and their employees. The legislation may also attract more businesses to move to the County and set up their principal place of business in Montgomery County.

4. **If a Bill is likely to have no economic impact, why is that the case?**

   The legislation could have an economic impact. Please see paragraph 3.

Economic Impact Statement
Expedited Bill ##-19, Contracts and Procurement –
Local Business Preference Program

5. **The following contributed to or concurred with this analysis:**

   David Platt and Rob Hagedoorn, Finance;
   Grace Denno, Office of Procurement.

Michael Coveyou, Acting Director
Department of Finance

7/3/19
Date

10

Marc Elrich
County Executive

OFFICE OF THE COUNTY ATTORNEY

Marc P. Hansen
County Attorney

MEMORANDUM

TO: Avinash G. Shetty
Director, Office of Procurement

FROM: Megan B. Greene
Associate County Attorney

VIA: Edward B. Lattner EBL
Chief, Division of Government Operations
Office of the County Attorney

DATE: October 3, 2019

RE: AMENDED - Issue Manager Memo – Expedited Bill 25-19- Contracts and Procurement – Local Business Preference Program - Established

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Expedited Bill 25-19 – Contracts and Procurement – Local Business Preference Program, was introduced to the County Council on September 17, 2019, at the request of the County Executive. At the time of the Bill's introduction, no modifications were proposed. A public hearing on the Bill is scheduled for October 15, 2019.

When the County Council undertook consideration of legislation to establish the Local Business Subcontracting Program in 2004, this Office conducted an in-depth analysis of the legal landscape regarding government purchasing preference programs. See OCA Memorandum Opinions dated September 8, 2004, September 29, 2004, and April 7, 2005, attached hereto. In short, it is our opinion that the legislative record establishing such a program must: (1) identify a significant governmental purpose justifying the implementation of a local preference; and (2) demonstrate that the means proposed to achieve the significant purpose are closely related to achieving that end.

With those words of caution, we note that local business preference programs have been established in many jurisdictions, including Washington, D.C, Prince George's County, Maryland, Boston, MA, Cleveland, OH, and Madison, WI, to name a few. The specific details of the programs often vary from one jurisdiction to another, and few have been subjected to legal scrutiny. The constitutionality of one such program was challenged in *J.F. Shea Co. v. Chicago*, 992 F.2d 745 (7th Cir. 1993). At issue was a City of Chicago ordinance providing a bid advantage of 4 to 8 percent to local businesses for all contracts exceeding $100,000 in value. Municipal Code of

Chicago §2-92-412. The 7th Circuit upheld the program, relying on the market participant exception to the Commerce Clause. Please note, however, that the legality of a local preference program under Maryland law has not been challenged in court.

In conclusion, it is our recommendation that the legislative record for Expedited Bill 25-19 clearly identify a significant governmental purpose to be served by the legislation and explain how the proposed program is closely related to that significant purpose.

cc: Marc Hansen
Robert Drummer
Dale Tibbetts
Tammy Seymour

OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr.
County Attorney

M E M O R A N D U M

September 8, 2004

TO: Joseph Beach
Assistant Chief Administrative Officer

VIA: Marc Hansen, Chief *MPH*
General Counsel Division

FROM: Clifford L. Royalty *CLR*
Associate County Attorney

RE: *Bill 23-04, Contracts and Procurement - Local Small Business Reserve Program*

Bill 23-04 proposes several amendments to Chapter 11B, Contracts and Procurement. The Bill would require County departments to "post . . . on a County website" certain planned purchases "valued at $1,000 to $25,000." (See § 11B-17A, lines 3-6). The Bill would also create a "Local Small Business Reserve Program" ("Program") whereby each County department would allot to "small businesses" 10% of the "combined total dollar value" of the department's contracts. (See § 11B-66, lines 70-74). A "small business" is defined to include "a minority owned business as defined in § 11B-58(a)" or a business that meets a litany of criteria, including a requirement that "[a]t least 50%" of a business' employees "work in the County." [1] (See § 11B-65, lines 29-64). The Bill is intended to rectify the "competitive disadvantage" that local small businesses encounter, when bidding on County contracts, by creating a "separate defined market in which small businesses will compete against each other, not against larger firms for County contracts." (See Memorandum dated July 9, 2004, from Sonya E. Healy to County Council).

Summary of Opinion

The local preference created by the Bill raises serious legal concerns. To respond to these concerns, we recommend that the legislative record be supplemented with credible evidence, including expert analysis, that identifies the evils that a local preference is meant to

[1] We understand that the Bill is not intended to allow all "minority owned" businesses to participate in the Local Small Business Reserve Program, only those that qualify as a "small business." We also understand that the Bill will be amended to clarify its intended scope. We note that such an amendment is more than a technical matter; if the Program were to include all minority businesses it might violate the United States Constitution under the reasoning adopted by the Supreme Court in *Richmond v. J.A. Croson Co.* 488 U.S. 469 (1989).

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remedy and that demonstrates that the degree of local preference employed bears a close relation to the evils identified.

We also recommend that the definition of small business be amended to eliminate the criterion that a small business must not be "dominant" in its field of operation. (See, § 11B-65, line 35). As we discuss below, that criteria will be difficult to apply.

Analysis

The Bill is modeled after a recently adopted State law that creates its own small business reserve program, although there are significant differences between the Bill and the State law. (See Senate Bill 904). Foremost among these is the scope of each. All small businesses may participate in the State program, whereas only "local" small businesses may avail themselves of the County program. The Bill's proposed Program, with its locality restrictions, necessitates a more involved legal analysis.

As is evidenced by the State program, the County's proposed Program is a variation on a not uncommon theme. Vendor preference laws are frequently enacted and just as frequently challenged. The success of those challenges often turns on the facts, rather than bright-line legal principles. Subtle factual distinctions sometimes yield disparate results. Nevertheless, we will endeavor to lay down some guiding principles that can be ferreted out of the case law.

Insofar as it affects commerce and advantages a subset of the business community (to wit, local businesses), the Program touches upon provisions of both the United States and Maryland constitutions. Vendor preference laws have been challenged in the federal courts under the Commerce Clause, the Equal Protection Clause, and the Privileges and Immunities Clause. While there have not been comparable challenges to vendor preference laws in the Maryland courts, there have been analogous challenges to regulatory acts under Article 24 of the Maryland Declaration of Rights. We will address each constitutional provision in turn.

Commerce Clause challenges to vendor preference laws have not met with success. The Commerce Clause vests in the United States Congress the power to regulate interstate commerce. The courts have read the Clause as impliedly limiting the authority of state and local governments to regulate commerce. *Hughes v. Oklahoma*, 441 U.S. 322 (1979). The Supreme Court has emphasized that the Clause applies to state and local governments only when they act in their regulatory capacity. In contracting for goods and services, the Supreme Court has reasoned, a government acts as a market participant, not a market regulator. *See Hughes v. Alexandria Scrap*, 426 U.S. 794 (1976); *White v. Massachusetts Council of Construction Employers, Inc.*, 460 U.S. 204 (1983). Therefore, the Commerce Clause is no impediment to vendor preference laws in general, or Bill 23-04 in particular.

The Equal Protection Clause of the 14th Amendment prohibits state and local governments from denying to any person "the equal protection of the laws." The provision ensures that like persons will be treated in a like manner. By favoring some vendors more than

(14)

others, vendor preference laws create a statutory classification that must satisfy the Equal Protection Clause. Insofar as a vendor preference law does not impinge upon a fundamental right or impact a suspect class, it will be subject to rational basis review, meaning that if a rational purpose can be articulated in support of the law and the law furthers that purpose, the law will be upheld. *Smith Setzer & Sons, Inc. v. South Carolina Procurement Review Panel*, 20 F.3d 1311 (1994). The federal courts (but not necessarily the Maryland courts) have accepted, as rational, a local government's desire to promote local businesses or alleviate tax or other burdens that impact local businesses. *See Smith Setzer & Sons, Inc. v. South Carolina Procurement Review Panel*, 20 F.3d 1311 (1994); *Associated Gen. Contractors of California, Inc. v. San Francisco*, 813 F.2d 922 (9th Cir. 1987). The Bill does just that and should survive the rational basis scrutiny to which it would be subject in the federal courts under a 14th Amendment challenge.

The Privileges and Immunities Clause contained in Article IV of the United States Constitution presents a more formidable impediment to vendor preference laws. The Privileges and Immunities Clause entitles "[t]he Citizens of each State to all Privileges and Immunities of Citizens in the several States." Its purpose is to "foster a national union by discouraging discrimination against residents of another state on the basis of [their state] citizenship." *Salem Blue Collar Workers Association v. Salem*, 33 F.3d 265, 267 (1994). The Clause protects "fundamental interests that promote "interstate harmony." *United Building & Construction Trades Council v. Mayor and Council of Camden*, 465 U.S. 208 (1984) (internal citations omitted). That protection extends to the acts of local governments. The Supreme Court so held in *United Building & Construction Trades Council v. Mayor and Council of Camden*, a case that is particularly pertinent to our review of the Bill.

In *Camden*, a municipality enacted an ordinance requiring "40% of the employees of contractors and subcontractors working on city construction projects be Camden residents." *Id.* at 210. The Supreme Court was called upon to decide whether an "out-of-state resident's interest in employment on public works contracts" in Camden was protected by the Clause. *Id.* at 219. The Court found that it was. The "pursuit of a common calling is one of the most fundamental of those privileges protected by the Clause." *Id.* And, insofar as the Camden ordinance infringed upon a nonresident's ability to seek employment with a private contractor, even one working on a public project, it was found to be discriminatory within the meaning of the Privileges and Immunities Clause. But the Court also found that the Clause "is not absolute" and, thus, that discrimination against nonresidents will be upheld if there is a "substantial reason" for it. *Id.* at 222. "The inquiry in each case must be concerned with whether such [substantial] reasons do exist and whether the degree of discrimination bears a close relation to them." *Id.* (internal citations omitted). The Court remanded the case to allow the state court to "decide . . . on the best method for making the necessary findings." *Id.* at 223.[3] By so doing, the Court implied that

[3] The City of Camden contended that the ordinance was "necessary to counteract grave economic and social ills . . . ," including "[s]piraling unemployment, a sharp decline in population, and a dramatic reduction in the number of businesses located in the city . . . ." *Id.* at 222.

(15)

it may not be giving the usual deference to legislative rationale that is afforded under the rational basis test.

Camden creates a measure of uncertainty as to the legality of the local preference created by the Bill. While the Bill contains no residency requirement, it does require that "at least 50 percent" of the employees of a small business "work in the County." (See lines 38-39). Further, in order to qualify as a small business, the Bill requires that a business have "a principal place of business in the County" and pay "personal property taxes to the County . . . ." (See lines 36-37, 40-43). If the courts were to equate the Bill's location requirements with a residency requirement, then the County would be charged with demonstrating a substantial problem justifying the discriminatory impact of the Bill.

However, insofar as the courts view a residency requirement as qualitatively different than a work location requirement, the *Camden* decision may be distinguishable. Choosing one's residence may be viewed as more personal, therefore more fundamental, than choosing one's workplace. If the location requirements do not infringe a fundamental right, such as pursuing one's livelihood, then the Bill's legislative rationale may be adequate to repel a challenge under the Privileges and Immunities Clause.

Maryland law further complicates our analysis of the Bill, particularly Article 24 of the Maryland Declaration of Rights. While Article 24 is the State analog to the 14th Amendment to the United States Constitution, the Maryland courts have long reserved the right to read protections in Article 24 that are not contained in the 14th Amendment. *See Attorney General of Maryland v. Waldron*, 289 Md. 683, 426 A.2d 929 (1981). Thus federal decisions upholding vendor preference laws under the 14th Amendment are persuasive, but not controlling, authority. Unlike the federal courts, the Maryland courts have not had occasion to squarely address the validity of vendor preference laws. The closest Maryland cases involve local regulations that discriminate against nonresident persons or entities; these cases address the role of government as market regulator, rather than market participant. *See Frankel v. Board of Regents of the University of Maryland System*, 361 Md. 298, 761 A.2d 324 (2000); *Verzi v. Baltimore County*, 333 Md. 411, 635 A.2d 967 (1994); *Bruce v. Director, Department of Chesapeake Bay Affairs*, 261 Md. 585, 276 A.2d 200 (1971). Nevertheless, the Maryland courts may apply a more rigorous form of equal protection review to the Bill than the deferential form applied by the federal courts. In fact, review by the Maryland courts is likely to be analogous to that of the federal courts under the Privileges and Immunities Clause. *See Verzi v. Baltimore County*, 333 Md. 411, 635 A.2d 967 (1994). The Maryland courts are not likely to summarily approve a procurement program that discriminates against nonresident businesses or employees, especially those located within Maryland. The Maryland courts will probably demand substantial justification for such a program, as did the Supreme Court in *Camden*. The Maryland courts have harbored a long-standing antipathy toward discriminatory local laws. *See, e.g. Bradshaw v. Lankford*, 73 Md. 428, 21 A. 66 (1891); *Havre de Grace v. Johnson*, 143 Md. 601, 123 A. 65 (1923); *Dasch v. Jackson*, 170 Md. 251, 183 A. 534 (1936).

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Conclusion

Unfortunately, the existing legislative record does not precisely define the scope of the problem that the Bill's local preference is meant to address or substantiate the existence of that problem. In order to ensure that the Bill survives a challenge in the courts, we recommend that the legislative record be supplemented with information, data, findings, expert analysis, or the like, that identifies the social and economic evils that the local preference is meant to remedy and that describes how the Program will remedy those evils. The record should also show that the Program does not unnecessarily burden those who do not benefit from it. Without that supplementation of the record, the Bill's legal fate is precarious.

In addition to the need for supporting data, the Bill is in need of a minor clarifying amendment. The Bill provides that a small business must be not be "dominant in its field of operation." (See line 35). Lacking a definition of the term "dominant" or standards by which that dominance can be adjudged, the provision will be difficult to implement. And we question whether this criterion is needed; it seems unlikely that a small business will be "dominant in its field of operation." Therefore, we recommend that this criterion be stricken.

Lastly, on an admittedly nonlegal note, we feel constrained to discuss a potential policy implication of the Bill: We are aware that Virginia and Pennsylvania have adopted laws that authorize the imposition of a penalty on a business seeking a government contract if the business is located in a jurisdiction that awards a preference to local businesses.[1] In competing for government contracts from Virginia and Pennsylvania, County businesses may be disadvantaged by such laws, even if the County businesses have never benefitted (or could not benefit) from the County's proposed Program. Passage of the Bill, with the local preference provision intact, might have the unintended effect of dissuading businesses from locating in the County.

If you have any questions or concerns regarding this memorandum, please feel free to contact us.

cc: Charles W. Thompson, Jr., County Attorney
Edward Stockdale, Office of Procurement

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[1] The State of Maryland has enacted a similar law. *See Md. Ann. Code art. 21, § 8-102 (2003).*

OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr
County Attorney

MEMORANDUM

September 29, 2004

TO: Joseph Beach,
Assistant Chief Administrative Officer

Via: Marc Hansen *Marc Hansen*
Division of General Counsel

From: Vickie L. Gaul
Associate County Attorney

RE: Bill No. 23-04: Local Small Business Reserve Program – Supplemental Analysis[1]

Federal regulations generally prohibit the County from implementing a procurement under the proposed Local Small Business Reserve Program if the procurement is funded by federal grant money. There are at least 29 federal regulations (all of which concern procurement and contain identical language) prohibiting local procurement practices that use geographical preferences. A listing of these 29 federal regulations is attached and marked as Attachment 1. All of these regulations set out the procurement requirements for grantees and subgrantees of federal grant programs. These requirements contain the following pertinent language:

> *Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed In-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided that its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.*[2]

[1] This advice should be considered as supplementary to our earlier analysis of Bill 23-04 dated September 8, 2004.

[2] See, for example, 24 CFR 85.36(c)(2). A copy of this HUD regulation, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments, Subpart C – Post-Award Requirements Changes, Property, and Subawards" is attached as Attachment 2

101 Monroe Street, Rockville, Maryland 20850-2540•240-777-6716•TTD 240-777-2545•Fax 240-777-6705

Accordingly, if the Council enacts a local preference under Bill 23-04, the bill's current provision, or something similar, requiring that the value of contracts subject to federal and State grant requirements which conflict with the provision of Bill 23-04 be excluded from the total dollar value of procurements undertaken by each using department, should be retained.

If you would like to discuss this matter further, please feel free to call me at x76716.

Attachments

cc: Sonya Healy, Legislative Analyst
Jerry Pasternak, Special Assistant to the County Executive
Clifford Royalty, Associate County Attorney
Beatrice Tignor, Director, Office of Procurement

OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr.
County Attorney

MEMORANDUM

TO: Thomas Perez, President
Montgomery County Council

FROM: Marc P. Hansen, Chief
Division of General Counsel

Clifford L. Royalty
Associate County Attorney

DATE: April 7, 2005

RE: Bill 23-04, Contracts and Procurement-Local Small Business Reserve Program

The full council has conducted two work sessions on Bill 23-04. Out of these sessions three legal issues have arisen.

1. Professor Raskin, in a letter dated March 21, 2005, advised the Council that our legal analysis of Bill 23-04 was unduly pessimistic. The Council asked for our response to Professor Raskin's advice.

We continue to believe that the legislative record for Bill 23-04 should be supplemented in order to identify a significant governmental purpose justifying the implementation of a local preference, and to support that the legislative means selected to accomplish this significant purpose are closely related to achieving that end. We appreciate Professor Raskin's agreement that a strengthened legislative record would "thicken the bill's constitutional armor." *See Raskin letter, p. 1.* But we also believe that Professor Raskin's lack of Maryland experience led him to express unduly optimistic views about the likelihood of the Maryland Court of Appeals rejecting long held precedent in order to sustain a local preference.

2. The Virginia General Assembly enacted House Bill 2151 while the Council considered Bill 23-04. Bill 2151 provides in relevant part:

> Whenever the lowest responsive and responsible bidder is a resident of any other state, **and such state under its laws** allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest bidder is a resident contractor of a state with an absolute preference, the bid shall not be considered. (emphasis added).

Noting the phrase "and such state under its laws allows a ... [local] preference", the Council has sought our advice as to whether the enactment of Bill 23-04 would cause this Virginia statute to be applied to businesses from Montgomery County, a political subdivision of a state. We conclude that it is more likely than not that the Virginia Attorney General, if faced with a challenge made by a Virginia business to a proposed contract award to a Montgomery County business, is likely to advise that House Bill 2151 precludes a contract award to the Montgomery County business.

3. Councilmember Silverman has asked about the meaning of "principal place of business" (*see* lines 46-47 of Bill 23-04), one of the criteria for determining whether a local business qualifies for the proposed small business set aside program. We have broadened Councilmember Silverman's inquiry to comment on all of the proposed criteria for identifying local businesses. We conclude that the criteria proposed for defining a local business will be difficult to implement. We recommend that, if the Council restores the local preference

provisions to Bill 23-04, it provide a general definition for a local business, and require the Executive Branch to develop regulations to flesh out this general definition.

<u>Reply to Professor Raskin</u>

Professor Raskin has taken issue with our conclusion that, without further supplementation of the legislative record, the "legal fate" of Bill 23-04 "is precarious." Professor Raskin charges us with "a misreading of legal precedent" and with arriving at a conclusion that is "unduly pessimistic". *See Raskin letter, p. 1.* The former charge is refuted by an examination of the relevant case law; the latter charge, based on our recent experience before the Court of Appeals, is without merit.

Professor Raskin does not substantially differ with our analysis of the applicable federal law. As you will recall, in our Memorandum opinion, we discussed the implications of the Supreme Court's decision in *United Building and Construction Trades Council v. Mayor and Council of Camden*, 465 U.S. 208 (1984). In the *Camden* case, the Supreme Court addressed the constitutionality of a municipal ordinance that required "40% of the employees of contractors and subcontractors working on City construction projects to be Camden residents" *Id.* at 210. The Supreme Court found that an "out-of-state resident's interest in employment on public works contracts" was protected by the Privileges and Immunities Clause of Article IV of the United States Constitution. *Id.* at 219. The Court ruled that a local preference, at least in so far as it includes a residency requirement, must be supported by a "substantial reason." *Id.* at 222.

We pointed out in our Memorandum that the residency requirement, as addressed in *Camden*, is distinguishable from the work place requirement contained in the Bill, but that a Court might apply the Privileges and Immunities Clause to the work place requirement. Professor Raskin seems to discount that possibility, although he provides no legal support for doing so. The breadth of rights protected by the Privileges and Immunities Clause is more expansive than Professor Raskin seems to recognize. The purpose of the Clause is to foster a national union by discouraging discrimination against residents of another state on the basis of state citizenship; one of the fundamental rights sheltered by the Clause's umbrella is the pursuit of a common calling, without regard to the state from which the individual hails. In light of the policy goals of the Privileges and Immunities Clause, we continue to believe that there is a strong possibility that the federal courts would construe a work place requirement as a functional equivalent of a residency requirement. Both impede, on the basis of political or jurisdictional association, the ability of an individual to pursue a livelihood, potentially turning our nation into a Balkanized association of competing principalities.

Therefore, our concern is well-founded. However, we apparently agree with Professor Raskin that, with a better record identifying substantial problems that would be rectified by a local preference, Bill 23-04 would be sustainable under a Privileges and Immunities Clause challenge.

We reject Professor Raskin's reliance on the purported "gentle bite" of the Bill's 10% set aside. You will recall that Professor Raskin expressed the view that the Bill's set aside is defensible because, at 10%, it is smaller than the set aside at issue in *Camden*. Professor Raskin states that, with respect to "minority business contracts set asides" the Supreme Court has "paid close attention to the actual size of preferences, upholding small ones…while invalidating large ones as an overly blunt instrument." *See Raskin letter, p. 3.* In support of that proposition, Professor Raskin compares *Richmond v. Croson*, 488 U.S. 469 (1989), in which the Supreme Court struck down a 30% minority business preference, with *Fullilove v. Klutznick*, 448 U.S. 448 (1980), in which the Supreme Court upheld a 10% preference. This comparison, indeed Professor Raskins entire discussion in this regard, is flawed. *Fullilove* is of dubious persuasive value, having been gutted by the Supreme Court in *Croson* and *Adarand v. Pena*, 515 U.S. 200 (1995). More importantly, in *Croson*, the Court did not strike down the minority business enterprise participation requirement because of its size. The Court struck down the preference primarily because it was not justified by the legislative record. If the preference in *Croson* had been 1%, it would have met the same fate. A "bite" does not have to break the skin to be unconstitutional. If the local preference impinges upon a fundamental right and if the record is insufficient to support that impingement, then the Bill is unconstitutional, regardless of the amount of the set aside in the Bill.[1]

As you will recall, we expressed particular misgivings about how the Maryland Courts would receive Bill 23-04. We rightly cited Maryland cases that expressed hostility to discriminatory local laws. As evidence of the Maryland Courts' longstanding hostility to such laws, we cited three Maryland cases, *Bradshaw v. Lankford*, (a 1891 case), *Havre de Grace v. Johnson* (a 1923 case), and *Dasch v. Jackson*, (a 1936 case). Professor Raskin completely ignores the modern cases that we cited and dismisses the older cases as "antique." Professor Raskin neglects to mention that these "antique" cases, and the principles for which they stand, have been cited and relied on by the Maryland Courts in the modern era, indeed, as recently as 2003. See *Holiday Universal v. Montgomery County*, 377 Md. 305 (2003); *Tyma v. Montgomery County*, 369 Md. 497 (2002); *Frankel v. Board of Regents of the University of Maryland System*, 361 Md. 298 (2000). We cited these "antique" cases because we recognized that the Maryland Court's distrust of discriminatory local laws has been long standing, although we recognize that the Maryland Courts have expressed this hostility in the context of cases involving economic regulations. *Verzi v. Baltimore County*, 333 Md. 411 (1994). Considering this case law in its

[1] The size of the bite becomes relevant in the context of determining if the means the legislature chooses to address a demonstrated problem justifying the program is narrowly tailored to remediate the problem being solved. In short, a

entirety, we believe that the Maryland Courts may well subject Bill 23-04 to the same level of scrutiny as the economic regulations addressed in much of the case law. Our collective experience before Maryland's Appellant Courts buttresses our concern.

Professor Raskin downplays our concerns, but he does not dispute that bolstering the legislative record would be prudent. We continue to urge that the legislative record be bolstered in order to identify a significant reason justifying the enactment of a local preference and that demonstrates that the means selected to remedy this significant problem are closely related to achieving that end.

Virginia Legislation-House Bill 2151

As the Council is aware the Virginia General Assembly has enacted House Bill 2151, which provides in impertinent part,

> Whenever the lowest responsive and responsible bidder is a resident of any other state and **such state under its laws** allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest bidder is a resident contractor of a state with an absolute preference, the bid shall not be considered.

Councilmembers have asked if this Virginia statute only applies to a preference enacted by a state government and would, therefore, not be triggered by a local preference enacted by a political subdivision like Montgomery County. We cannot provide a conclusive answer, but we believe that the Virginia statute would be applied to a business from Montgomery County if the County enacts a local preference law.

We begin by noting that the Virginia Supreme Court determines the intent of the General Assembly based on the words contained in the statute. *Vaughn, Inc. v. Beck*, 262 Va. 673, 677 (2001). A narrow interpretation of the phase "under its [State's] laws" could lead to the

government may not adopt a 10% solution to solve a 1% problem.

conclusion that a preference law enacted by Montgomery County would not trigger the retaliatory provisions of House Bill 2151.

But there is another view, one advanced by a representative of the Office of the Virginia Attorney General. An Assistant Attorney General argued to us that a Montgomery County local preference law would trigger the retaliation provisions of House Bill 2151, because Montgomery County derives its powers under state law and, therefore, the provision "under its ['State's] laws" would be satisfied. Clearly, at this point, we cannot conclude with certainty how Virginia will decide to implement House Bill 2151. But it seems more likely than not that, if faced with a challenge made by a Virginia business to a proposed contract award or to a Montgomery County business, Virginia is likely to side with the Virginia business.

Developing Appropriate Criteria for Identifying Local Businesses

If Council elects to restore the local preference provisions to Bill 23-04, then the Council should fashion a clear and workable definition of local business. At this stage, we understand that the Council is considering requiring that a local business meet three criteria.

1. The business must pay personal property tax to the County for the fiscal year in which the business receives a contract award under the program and continue to pay personal property taxes for the term of the contract.

Comments:

The personal property tax is imposed on a fiscal year basis (July 1 through June 30 of the following year). The tax is imposed on property located in the County as of the preceding January 1 (the Date of Finality). Therefore, a business that locates taxable property in Montgomery County, for example on April 12, 2005, will not be required to pay tax until the following July 1st, for example July 1, 2006. Thus, this provision as currently proposed will prevent start-up businesses from qualifying for the program, in some cases for more than a year.

We also note that locating a filing cabinet in a shared office generates personal property tax liability and would therefore satisfy the requirements, as currently drafted.

2. At least 50% of the business' employees must work in the County.

Comment: This criteria will be difficult to implement. For example, does an employee who delivers goods on an average of 5 hours per week in Montgomery County count as working in the County? Should a Montgomery County business that adds temporary employees for a project outside Montgomery County be removed from the program if the additional temporary employees reduce the business' total employees working in the County below 50%?

3. The business must have a principal place of business in the County.

Comment: The term "principal" is unclear in this context. In the corporate law context, "principal place of business" means wherever the corporate charter designates as the principal place of business. This may not necessarily have any relationship to the economic activity that is directly generated at the principal place of business; in fact, another site may generate more income for the business than the site designated in the corporate charter as the principal place of business.

On the other hand, principal may mean more than half. If the intent of Bill 23-04 is to require that the business must generate more than half of its economic activity from sites in the County, how will this activity be measured?

We recommend that Bill 23-04, if a local preference is to be included, provide that a local business must generate significant economic activity in the County and require the Executive Branch to develop regulations to flesh out this general criterion.

cc: Charles W. Thompson, Jr.
County Attorney

Beatrice B. Tignor, Director
Office of Procurement

David Edgerley, Director
Department of Economic Development

Joseph Beach, Assistant Chief
Administrative Officer

Jerry Pasternak Special Assistant to
The County Executive

Andrew Thompson
Assistant County Attorney

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OFFICE OF PROCUREMENT

Marc Elrich
County Executive

Avinash G. Shetty
Director

TESTIMONY ON BEHALF OF THE COUNTY EXECUTIVE ON BILL 25-19, LOCAL BUSINESS PREFERENCE PROGRAM

October 15, 2019

I am Ash Shetty, Director of the Office of Procurement. I am here on behalf of the County Executive to encourage the Council's favorable consideration of Bill 25-19 to establish a preference program for Montgomery County based businesses.

The purpose of this legislation is to increase the participation of local businesses in the County's procurement process by establishing a Local Business Preference Program for certain County procurement contracts. This Bill is intended to bolster the County's economic growth and support the creation and retention of employment opportunities within the County by establishing a ten percent (10%) preference for County-based businesses.

Montgomery County has a robust, active and responsive business community. These businesses employ local residents, provide good jobs, and make real contributions to the local economy. It is clear that local businesses will benefit from the new preference program. The program is widely supported by local vendors, chambers of commerce, and County residents, because it encourages local businesses to participate in the County's procurements. In addition, this preference program will provide an economic opportunity that every local business can benefit from now and in the future. Prince George's County and District of Columbia both have local preference programs for their local vendors. This legislation will level the playing field and assist Montgomery County based businesses to gain more County contracting opportunities.

This Bill is one of the many efforts that the County is making based on feedback from the business community to make improvements to procurement programs and procedures. County Executive Elrich believes that passage of this Bill will help us better serve our business community.

2

Gaithersburg-Germantown Chamber of Commerce, Inc.

910 Clopper Road, Suite 205N, Gaithersburg, Maryland 20878 (301) 840-1400, Fax (240) 261-6395

Bill 25-19 – Contracts and Procurement Local Business Preference Program

SUPPORT

The Gaithersburg-Germantown Chamber of Commerce supports Bill 25-19 to establish a ten percent preference for the County-based businesses competing for Montgomery County contracts. Not only will this bill help all participating businesses, the proposed preference program will compliment the existing Local Small Business Reserve Program to ensure that County departments award 20 percent of their procurements for goods, services and construction to registered and certified local, small businesses. While Bill 25-19 is not limiting the size of the participating business – which we agree with - it will nonetheless help our small businesses compete.

I would like to focus my remarks on two specific issues. First, this bill helps to level the playing field for Montgomery County businesses who most likely have higher costs solely because they are based in Montgomery County. Those increased costs include higher costs for owning and/or leasing commercial space and higher personnel costs. In balancing the needs of our local workforce with promoting economic development, the County has passed legislation resulting in a higher cost to do business in Montgomery County. Bill 25-19 recognizes that doing business in Montgomery County comes at a real cost for our local businesses.

The second point is strictly economic. Awarding more contracts to Montgomery County businesses will have an economic multiplier effect in our local economy. Based on the fiscal impact statement, this bill would have resulted in an additional $700,000 coming back into our economy – being spent on jobs and other commercial expenses which will in turn be spent on entertainment, restaurants, and various retail. Pumping more money into local businesses will also help our businesses grow and be more competitive not only within the County, but also outside of Montgomery County.

I would also like to take the opportunity to thank the Director of Procurement for reaching out to businesses and listening to their concerns. Many of our small businesses basically gave up on ever doing business with the County because the process had become too cumbersome. Our understanding is that the process has been significantly streamlined. The challenge now is to convince our existing businesses to give the program another chance. The Gaithersburg-Germantown Chamber has reached out to our members to let them know that changes are being made. Our hope is that the changes result is more businesses getting more contracts and growing our local economy.

3

O'C&L

O'CONNELL & LAWRENCE INC.

17904 GEORGIA AVENUE, SUITE 302
OLNEY, MARYLAND, 20832

TEL 301-924-4570 FAX: 301-924-5872

October 15, 2019

Council President

100 Maryland Avenue

Rockville, MD 20850

Reference Montgomery County Council Public Hearing: Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program

Good Afternoon,

My name is Ken O'Connell and I am here today representing O'Connell & Lawrence Inc. 17904 Georgia Ave. Olney. I want to thank the Council and County Executive for advancing Bill 25-19 to this stage and allowing me the opportunity to speak to you

I am proud to say that I am a life-long resident of Montgomery County. I am also proud to say that this year marks O'Connell & Lawrence's 25th year in business – the entirety of this 25 years as a Montgomery County Business.

I live here, I work here, and I pay taxes here. O'Connell & Lawrence has been here for 25 years and it pays taxes here. I vote in every election.

I support Bill 25-19, Contracts and Procurement because

- It is good for Montgomery County businesses
- It is good for Montgomery County tax payers
- It is good for the Montgomery County tax base

Since O'Connell & Lawrence has its principal place of business in Montgomery County, it buys

- Its vehicles here
- Its gas here
- Its office supplies here
- And our employees contribute every day to other Montgomery County businesses

O'Connell & Lawrence generates revenue not only from its business inside Montgomery County, but also from outside Montgomery County. We bring revenue home from the State of Maryland, other states, other counties, the District of Columbia, and the Federal government.

When we compete in other jurisdictions, we compete with firms that benefit from those jurisdictions' local business preferences and sadly, we mostly compete here in our own county against those very same firms with no local businesses preference of our own.

I am not an economist but I have read several articles that show how local dollars, kept local, come back many fold ... far greater than 10%. Further, there is no evidence that 10% preference points for professional services (RFP) cost a single dollar more if awarded to a local firm.

There may be some opponents of the bill that will speak to you here today, I encourage you to ask them if they:

1. Live in Montgomery County; and
2. Represent <u>only</u> Montgomery County Businesses

Or, simply ask yourself this question.

Why is it ok for other jurisdictions to subject Montgomery County businesses to preference programs, when the same benefits are not afforded to our own Montgomery County businesses ... the answer is simple; it is not.

There is so much more that you can do to help Montgomery County businesses but this is a good start! Please pass this bill, quickly!

Thank you for your time.

Kenneth J. O'Connell, President

DUANE, CAHILL, MULLINEAUX & MULLINEAUX, P. A.
Architecture, Planning, Interiors Consulting

Susan Young Mullineaux, AIA
Richard C. Mullineaux, AIA
Stephen A. Mullineaux, AIT, LEED Green Associate
Franklin J. Duane, AIA (retired)
John C. Cahill, RA 1931-1994

October 15, 2019

Council President
Montgomery County, Maryland
100 Maryland Avenue
Rockville, MD 20850

Reference: Montgomery County Council Public Hearing
Expedited Bill 25-19- Contracts and Procurement- Local Business Preference Program

Good afternoon,

As a local small business that has proudly provided architectural services in Montgomery County since the 1940s, we **strongly support the proposed Local Business Preference Program Bill 25-19.**

The reasons for our support are as follows:

- We are small business owners based in Montgomery County.
- We live in the county.
- Our staff lives in the county.
- We frequent and support local businesses.
- We work with many other Montgomery County based businesses.
- There are numerous qualified professional firms in the county- no reason to look elsewhere.
- We pay local taxes- personal and business
- We vote.

The county should give local business preference to county-based businesses on county contracts.
Our neighboring jurisdictions give preferential treatment to their local businesses, putting Montgomery County firms at a competitive disadvantage

Our tax dollars should support the numerous local Montgomery County qualified businesses instead of awarding contracts to PG, Howard, Baltimore, DC or VA businesses who have no direct financial stake in our county.

Sincerely,

Susan Young Mullineaux

Susan Young Mullineaux, AIA
President, **DCMM Architects**

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Gaithersburg, MD 20879
(301) 840-5860

5

October 15, 2019

Council President
100 Maryland Avenue
Rockville, MD 20850

Reference: Montgomery County Council Public Hearing: Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program

Good Afternoon,

My name is Kenny Mallick and I am here today representing two companies, Mallick Plumbing and Heating Inc. and Mallick Mechanical Contractors Inc. located at 8010 Cessna Ave Gaithersburg. I want to thank the Council and County Executive for advancing Bill 25-19 to this stage and allowing me the opportunity to speak to you.

I am also proud to say that I am a life-long resident of Montgomery County. I am also proud to say that this year marks the Mallick companies 26th year in business – the entirety of this 26 years as a Montgomery County Business.

I live here, I work here, and I pay taxes here. Both of the Mallick companies have been here for 26 years, and play taxes here. I vote in every election.

I support Bill 25-19, Contracts and Procurement because

- It is good for Montgomery County businesses
- It is good for Montgomery County taxpayers
- It is good for the Montgomery County tax base
- It is good for traffic easing within Montgomery County, the 270 corridor, etc

Since both Mallick companies have its principal place of business in Montgomery County, we buy

- its vehicles here
- its gas here
- its office supplies here
- And our 165+ employees contribute every day to other Montgomery County businesses

Both Mallick Plumbing and Mallick Mechanical generate revenue not only from its business inside Montgomery County, but also from outside Montgomery County. We bring revenue home from the State of Maryland, other states, other counties and the District of Columbia.

When we compete in other jurisdictions, we compete with firms that benefit from those jurisdictions' local business preferences and sadly, we mostly compete here in our own county against those very same firms with no local business's preference of our own

MALLICK

8010 Cessna Avenue
Gaithersburg, MD 20879
(301) 840-5860

I am not an economist, but I have read several articles that show how local dollars, kept local, come back many fold ... far greater than 10%. Further, there is no evidence that 10% preference points for construction services cost a single dollar more if awarded to a local firm.
There may be some opponents of the bill that will speak to you here today, I encourage you to ask them if they.

1. Live in Montgomery County; and
2. Represent only Montgomery County Businesses.

Or, simply ask yourself this question:

Why is it ok for other jurisdictions to subject Montgomery County businesses to preference programs, when the same benefits are not afforded to our own Montgomery County businesses .. the answer is simple: it is not.

There is so much more that you can do to help Montgomery County businesses, but this is a good start! Please pass this bill, quickly!

Thank you for your time.
Kenny Mallick, President

GREATER SILVER SPRING CHAMBER OF COMMERCE

OUR MISSION:
Working to enhance the economic prosperity of greater Silver Spring through robust promotion of our member businesses and unrelenting advocacy on their behalf.

Bill 25-19, Contracts and Procurement - Local Business Preference Program
Testimony in Support
Tuesday, October 15, 2019

Good afternoon Council President Navarro and members of the Council. Jane Redicker, President of the Greater Silver Spring Chamber of Commerce, representing more than 440 employers, mostly small businesses that have been interested in doing business with Montgomery County.

I come before you today in support of Expedited Bill 25-19, which would require a 10% price preference for a local business bidding on a contract or submitting a proposal under an RFP for a contract awarded by the County.

For several years now, our Chamber has believed that businesses located in Montgomery County should be given priority for any and all procurement contracts issued by County government entities County leaders have been reluctant to implement such a requirement, instead awarding the contract simply based on price or prior relationship. While an award on price seems a responsible use of tax dollars, it puts locally owned businesses at a disadvantage. As Montgomery County has enacted laws that increase the cost of operating a business here, local businesses have found it impossible to compete against like vendors in jurisdictions where, for example, the minimum wage is lower and fewer employee benefits are required.

Expedited Bill 25-19 seeks to offset some of the increased cost of doing business in Montgomery County and give our locally owned businesses a better chance of getting work from the County where they operate and contribute to the economy.

It's worth noting that local preference programs are already in place in three of our neighboring jurisdictions – the District of Columbia and Prince George's and Howard counties. It's time Montgomery County recognized the importance of our local businesses and required County agencies to "buy local." This bill is an important first step in that direction. In addition, several of our small business members suggest taking a page from some of these other jurisdictions and also giving extra points on the score sheet for: having a business location in the County, having staff in Montgomery County, and having an owner who resides in Montgomery County.

For these reasons, we urge you to enact Expedited Bill 25-19 and take an important step to awarding our local businesses the business they deserve.

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SUBDIVISION 3. - BUSINESS PREFERENCES; COUNTY-LOCATED BUSINESS ASSISTANCE

Sec. 10A-173. - Business preferences.

(a) On any procurement for which a County agency or the County government secures competitive proposals pursuant to Section 10A-113 the Purchasing Agent shall add the following percentage points to the total evaluated score of the bid or proposal

Business Type	Where participation in the proposal by each type of certified firm is 45% or more add:
County-based small business	15%
County-based minority business enterprise	15%
County-based business	10%
Minority Business Enterprise or Disadvantage Business Enterprise	5%
County-located business	3%

Cumulative preference points. Where a bid or proposal includes the participation of two or more certified firms and the cumulative participation of the entities is at least 45% of one of the certified business categories above, the preference points applicable to that 45% participation listed above will be applied to the bid. A bid comprised of two or more firms that achieves an additional 45% of participation of one of the certified business categories above will receive an additional amount of preference points listed above applicable to that additional 45% participation. The same firm's participation in a bid or proposal shall not be counted for preference points for more than one of the certified business categories above and shall receive preference points for the highest scoring certified business category for which it qualifies. No single certified firm can receive more than 15% percentage points in any one bid or proposal.

(b) The Purchasing Agent may determine not to apply a bid or proposal preference under this Section if the Purchasing Agent certifies that such a preference would result in the loss of federal or state funds, subject to the approval of the County Executive

(c) The requirements of this Section shall apply to the procurement of vendors retained by a County agency or the County government to assist in the financing and sale of County government debt. The requirements of this Section shall also apply to the procurement of brokerage firms, investment banking firms, investment management firms, consultants, and other vendors retained to manage or invest funds controlled or administered by a County agency or the County government. The application of this Subsection is subject to the requirements and restrictions of federal and state law

(d) A business may opt to not receive a business preference under this Section

(e) For the purposes of this Division, the term "competitive bids or proposals" means any bids or proposals for procurement funded or administered by a County agency or the County government except for procurement awards made pursuant to Section 10A-114.

(CB-67-2014; CB-115-2017)

Sec. 10A-174. - County-located business certification requirements.

(a) A business that seeks to be certified as a County-located business shall make application to the Purchasing Agent on a form provided by the Purchasing Agent. Such an application shall not be approved by the Purchasing Agent unless the business

(1) Submits documentation requested by the Purchasing Agent verifying that the business meets the definition of a County-located business as prescribed in Section 10A-101(13.3), including

(A) Leasing or ownership documents,

(B) Payroll information,

(C) Property and income tax information,

(D) Information regarding office dimensions, and

(E) Any other documentation or information requested by the Purchasing Agent to verify compliance with the definition of County-located business set forth in Section 10A-101(13.3);

(2) Files a written certificate that the business is not delinquent in the payment of any County taxes, charges, fees, rents or claims; and

(3) Files documentation showing that during the preceding twelve (12) months the business has continuously maintained a valid business license or permit.

(b) Once an application for certification is approved under this Section by the Purchasing Agent, a copy of the approved application shall be expeditiously transmitted to the County Auditor.

(c) Nonprofit entities that satisfy the applicable requirements of this Section are eligible to be certified as County-located businesses.

(d) A business that is certified as a County-located business shall meet the requirements of certification under this Section continuously after the date the business's application for certification is approved by the Purchasing Agent or the business's certification shall be void. In such instances, the business must re-apply pursuant to the requirements of this Section to be certified as a County-located business.

(CB-67-2014)

Sec. 10A-175. - Regulations authorized.

The County Executive may promulgate regulations to govern the implementation of this Subdivision, provided that such regulations are consistent with the provisions of this Subdivision. Any such regulations must be approved by the County Council.

(CB-67-2014)

Editor's note— CR-40-2015 approves regulations promulgated by the County Executive governing the implementation and administration of the County-located business certification application process.

County Code §11B-9(j)

(j) *Reciprocal preference for County-based bidder.*

(1) In making an award under this Section, the Director must give a preference to a responsible and responsive County-based bidder if:

(A) a non County-based bidder is the lowest responsible and responsive bidder;

(B) the non County-based bidder has its principal place of business in a state or political subdivision that gives a preference to its residents; and

(C) a preference does not conflict with a federal law or a grant affecting the purchase or contract.

(2) A preference given under this subsection must be identical to the preference that the other state or political subdivision gives to its residents.

(3) A preference must not be given under this subsection if it would result in an award to a County-based bidder when:

(A) a non County-based bidder has submitted a lower responsible and responsive bid than any County-based bidder before the application of any reciprocal preference; and

(B) the non-County-based bidder has its principal place of business in a state or political subdivision that does not give a preference to its resident.

Ferris J. Barger
State Purchasing Director
Central Purchasing

OMES
OFFICE OF MANAGEMENT & ENTERPRISE SERVICES

Denise Northrup
Director

December 14, 2018

RE Bidding Preferences – Reciprocity

In accordance with the state statute below, the schedule following this memo provides a list of states that provide bidders in their states a preference and a summary of that preference.

Title 74 § 85.17A. Bidding Preferences—Reciprocity—Awarding contracts

A. State agencies shall not discriminate against bidders from states or nations outside Oklahoma, except as provided by this section. State agencies shall reciprocate the bidding preference given by other states or nations to bidders domiciled in their jurisdictions for acquisitions pursuant to the Oklahoma Central Purchasing Act. The State Purchasing Director shall annually prepare and distribute to certified procurement officers a schedule providing which states give bidders in their states a preference and the extent of the preference. This schedule shall be used by state agencies in evaluating bids.

B. For purposes of awarding contracts state agencies shall:

1. Give preference to goods and services that have been manufactured or produced in this state if the price, fitness, availability and quality are otherwise equal;

2. Give preference to goods and services from another state over foreign goods or services if goods or services manufactured or produced in this state are not equal in price, fitness, availability, or quality; and

3. Add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in the state in which the bidder resides.

The list of states providing bidders a preference and a summary of the preference may be found at the following:

STATE RECIPROCAL AND PREFERENCE PRACTICES

Reviewed December 14, 2018

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Alabama	Yes	Yes Tie bid will be awarded to the bidder that, in the opinion of the Director of Purchasing, will serve in the best interest of the state.	Preferred Vendor	• Under this preference law, the awarding authority may award a contract to a "preferred vendor" if the vendor was a responsible bidder, falls within one of the definitions of a "preferred vendor," and offers a price of not more than (5%) five percent greater than the low responsible bid (Not used on a routine basis)
Alaska	Yes	No	Qualified Alaska Bidder 5% Additional Evaluation Criteria 10% Agricultural or Fishery Products Alaska Products 3-7% Recycled Products 5%	• A reduction in the bid price or offer applies to all vendors who qualify as Alaska bidders, as defined in **AS 36.30.990(2)**. • **2 AAC 12.260(e)** provides Alaska offerors an additional 10% overall evaluation point preference (10% of the available points) if a numerical rating system is used - such as a Request for Proposal. Alaska bidders, as defined in AS 36.30.990(2) are eligible for this preference. • Award will go to the bidder who offers agricultural or fisheries products harvested in the state (or within the jurisdiction of the state) - provided they are available, of comparable quality, and priced not more than 7% higher than products harvested outside of the state (or outside the jurisdiction of the state). Agricultural products include dairy products, timber, and lumber, and products manufactured in the state from timber and lumber. • A 3%, 5%, or 7% reduction applies to the qualifying products value in a bid price or offer that designates the use of Alaska products. The applicable discount is dependent on what percent the product being offered was produced or manufactured in the state. • A reduction in the bid price or offer applies to all vendors who offer recycled products. The products must be on the DGS pre-approved recycled product list.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference and Conditions
Alaska	Yes	No	Employment Program 15% Qualifying Disability 10% Veterans 5%	• Award will be given to the bidder that qualifies for the Alaska bidder preference, and is offering services through a qualified employment program as defined in **AS 36.30.990(12)**, and is the lowest responsible and responsive bidder with a bid not more than 15% higher than the lowest bidder • Award will be given to the bidder that qualifies for the Alaska bidder preference, and is a qualifying entity as defined in **AS 36.30.321(d)**, and is the lowest responsible and responsive bidder with a bid price no more than 10% higher than the lowest bidder. • Alaska Veterans preference was enacted as of 09/04/2010 A 5% reduction in the bid price or offer to all vendors that qualify as Alaska bidders as defined in **AS 36.30.321(f)** and meet the requirements established in **AS 36.30.990(2)** as a qualifying entity. The preference may not exceed $5,000.00 for a single procurement.
Arizona	Yes	No In tie-bid situations, the agency chief procurement officer shall make the award by drawing lots.	Small Business	• Small Business Preference for procurements under $100,000, **A.R.S. § 41-2535.B**
Arkansas	Yes	No	Prison Industry 15%	• Preference against out-of-state prison industry bids.
California	Yes	Yes	5% of lowest responsive responsible, non-small business's net bid price when certified small business is not lowest bidder Up to 5% lowest responsive, responsible non-small business net bid	• **Small Business (SB) (GC 14838)** Goods, services, construction, and IT. **The maximum preference is $50,000 and when combined with other preferences, the preference total cannot exceed $100,000** Goods, Services, Construction, and IT. • **Non-small Business Subcontractor Preference (GC 14838)** Goods, services, construction, and IT. The maximum preference is $50,000 and when combined with other preferences, the preference cannot exceed $ 100,000

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
California	Yes	Yes In case of the bid between a Small Business and a Disabled Veteran Business Enterprise (DVBE) The award goes to the DVBE	price that is not subcontracting with a small business when the small business is not the lowest bidder. Up to 5% for Disabled Veteran Business Enterprises (DVBE) 5% of the lowest virgin net bid price. 5% of the lowest responsive, responsible net bid price for worksite in distressed area an additional 1-4% for hiring high risk unemployed people percentage of workforce during contract performance using scale below	Applies to bids submitted by non-small business that are subcontracting with at least 25% to a certified small business (SB). Applies unless application of the preference would preclude a SB from winning the contract. • **MVC 14838** Goods, Services, Construction, and IT. Competitive solicitations that include the DVBE participation requirement, regardless of solicitation format delivery method or dollar value must identify in the solicitation the allowable incentive percentage and evaluation will occur. For awards based on low price, the allowable incentive percent identified in the solicitation cannot exceed 5% or be less than 1%. Awards based on high points, incentive cannot exceed 5% or be less than 1% of total available points, not including points for socioeconomic incentives or preferences. • **Recycled Tires (PRC 42891-42894)** Goods. Applies unless application of the preference would preclude a SB from winning the contract. The maximum preference is $50,000 and when combined with other preferences, the preference cannot exceed $100,000 • **Target Area Contract Preference Act (TACPA) (GC 4533 et seq.)**. Applies to goods and service contracts over $100,000 if the work site is located in a distressed area as designated by the Department of Finance. TACPA allows to award California based companies the bid preference when 50% of the labor required to perform goods contracts or 90% for service contracts. The maximum preference is $50,000, and when combined with other preferences, the preference total cannot exceed 15% of the net bid price or $100,000, whichever is lower. The hiring preference is allowed only if the worksite preference is claimed and the bidder is eligible for it. The worksite preference does not apply if the state specifies the worksite where the work is to be completed. To receive a contract award based on preferences, the company must certify under penalty of perjury that the required contract labor shall be accomplished at the approved work site.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
California	Yes	Yes In case of the bid between a Small Business and a Disabled Veteran Business Enterprise (DVBE). The award goes to the (DVBE).	1% for 5-9%, 2% for 10-14%, 3% for 15-19%, 4% for 20 or more. Same as for TACPA except applies to worksites in enterprise zones and hiring persons living in targeted employment area or are enterprise zone eligible Same as for TACPA except applies to worksites in local agency military base recovery area and hiring people living in such area.	**Economic Zone Act (EZA)** (GC 7084 et seq.) Assembly Bill 93 repealed the EZA Program • **Local Agency Military Base Recovery Area (LAMBRA)** (GC 7118). Assembly Bill 93 repealed the LAMBRA Program
Colorado	Yes	Yes Low tie bids require an in-state preference, including preference for Colorado Agricultural products.	Resident Bidder	• Colorado law mandates that resident bidders be given a preference over non-resident bidders equal to the preference given by the state in which the non-resident bidder is a resident. i.e., if a non-resident bidder is 4% lower than the resident bidder but the state of residence of the non-resident bidder awards a 5% preference to in state bidders, then the Colorado bidder becomes the lowest bidder by 1%.
Connecticut	Yes	Yes	Correctional Enterprises	• Each state department, agency, commission or board shall purchase its necessary products and services from the institution industries if such products and services are produced or manufactured and made available by such industries, provided such products and services are of comparable price and quality and in sufficient quantity as may be available for sale or offered for sale outside the institutions.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Connecticut	Yes	Yes	Board of Education and Services for the Blind Disabled Persons Agricultural Products	• The authority in charge of any building or property owned, operated or leased by the state or any municipality therein shall grant to the Department of Rehabilitation Services a permit to operate in such building or on such property a food service facility, a vending machine or a stand for the vending of newspapers, periodicals, confections, tobacco products, food and such other articles as such authority approves when, in the opinion of such authority, such facility, machine or stand is desirable in such location • Whenever any products made or manufactured by or services provided by persons with disabilities through community rehabilitation programs or in any workshop established, operated or funded by nonprofit and nonsectarian organizations for the purpose of providing persons with disabilities training and employment suited to their abilities meet the requirements of any department, institution or agency supported in whole or in part by the state as to quantity, quality and price such products shall have preference over products or services from other providers, except (1) articles produced or manufactured by Department of Correction industries as provided in section 18-88, (2) emergency purchases made under section 4-98, and (3) janitorial or contractual services provided by a qualified partnership, pursuant to the provisions of subsections (b) to (d), inclusive, of section 4a-82 • The Commissioner of Administrative Services, when purchasing or contracting for the purchase of dairy products, poultry, eggs, beef, pork, lamb, farm-raised fish, fruits or vegetables pursuant to subsection (a) of this section, shall give preference to dairy products, poultry, eggs, beef, pork, lamb, farm-raised fish, fruits or vegetables grown or produced in this state, when such products, poultry, eggs, beef, pork, lamb, farm-raised fish, fruits or vegetables are comparable in cost to other dairy products, poultry, eggs, beef, pork, lamb, farm-raised fish, fruits or vegetables being considered for purchase by the commissioner that have not been grown or produced in this state.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Connecticut	Yes	Yes	Recycled material Clean alternative fuel Micro-business Veteran Owned Microbusiness 15%	• Price preference up to 10% for purchase of goods made with recycled materials • Price preference up to 10% for purchase of motor vehicle powered by clean alternative fuel or to convert a motor vehicle to use alternative fuel or dual use of clean alternative fuel • Price preference up to 10% for contracting with a "micro-business" • Price preference for the purpose of determining the lowest responsible qualified bidder if certified by the Connecticut Department of Veteran's Affairs
Delaware	Yes	No	Public Works Set Asides	• **Public works contract #6962(4)(b).** Preference for Delaware Labor for work regarding Public works for the state. Must be bona fide legal citizens of the state who have established citizenship by residence of at least 90 days in the State. • **Set Asides.** In accordance with Delaware Code, Chapter 96, <u>State</u> Use <u>Law</u>, certain State contracts are awarded as internal contracts as authorized by the State Use Commission (which rests under the jurisdiction of the Department of Health and Social Services). Therefore, these contracts are not part of the normal bid process.
Florida	Yes	Yes	Resident Bidder Foreign manufacturers Veteran Business Enterprise	▪ Whenever two or more competitive sealed bids are received one or more of which relates to commodities manufactured, grown or produced within this state, and whenever all things stated in such received bids are equal with respect to price, quality and service, the commodities manufactured, grown or produced within this state shall be give preference. ▪ Any foreign manufacturing company with a factory in Florida and employing over 200 employees working in the state shall have preference over any other foreign company when price, quality, and service are the same, regardless of where the product is manufactured. ▪ Veteran Business Enterprises Opportunity Act – a state agency, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a certified veteran business enterprise, which are equal with respect to all relevant
	Reciprocal	**Tie Bid**		

State	Law/Statute	Preference	Preference	Scope of Preference & Conditions
Florida	Yes	Yes When two or more bids, proposals, or replies that are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid proposal, or reply received from a business that certifies it has implemented a drug-free workplace program shall be given preference in the award process	Certified Minority Business Enterprise Drug Free Workplace Home industries in public buildings Printing 5% Personal Property 5%	considerations, including price, quality, and service, shall award such procurement or contract to the certified veteran business enterprise. • Certified Minority Business Enterprise – If two equal responses and one response is from a certified minority business enterprise, the agency shall enter into a contract with the certified minority business enterprise • Drug Free Workplace – whenever two or more bids, proposals, or replies that are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid proposal, or reply received from a business that certifies that it has implemented a drug-free workplace program shall be give preference in the award process. • Preference shall be given in the purchase of material and in letting contracts for the construction of any public administrative or institutional building to home industries residing within the state. • A preference shall be given if the lowest bid is submitted by a vendor whose principal place of business is located outside the state for materials to be printed. • A preference shall be given to the lowest responsible and responsive bidder residing in the state when making purchases of personal property through competitive solicitations.
Georgia	Yes	Yes	Resident Bidder	• Resident vendors in the State of Georgia are to be granted the same preference over vendors resident in another state in the same manner, on the same basis and to the same extent that preference is granted in awarding bids or proposals for the same goods or services by such other state, to vendors resident therein over vendor's resident in the State of Georgia. This preference is used for evaluation purposes only

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Georgia	Yes	Yes Tie bid preference shall be given to products manufactured or produced within the State; to products sold by local suppliers within the State; and products manufactured or sold by small businesses.	Compost and Mulch	• All state agencies, departments, and authorities responsible for the maintenance of public lands shall give preference to the use of compost and mulch in all road building, land maintenance, and land development activities. Preference shall be given to compost and mulch made in the State of Georgia from organics which are source separated from the state's non-hazardous solid waste stream.
			Forest Products	• **Georgia Code 50-5-63 Forest products** Green Building Standards: Exclusive use of Georgia forest products in state construction contracts; exception where federal regulations conflict. • (a) No contract for the construction of, addition to, or repair of any facility, the cost of which is borne by the state or any department, agency, commission, authority, or political subdivision thereof, shall be let unless the contract contains a stipulation therein providing that the contractor or any subcontractor shall use exclusively Georgia forest products in the construction thereof when forest products are to be used in such construction, addition, or repair, and if Georgia forest products are available. (b) This Code section shall not apply when in conflict with federal rules and regulations concerning construction.
			Goods manufactured or produced in the State where reasonable and practicable	• The state and any department, agency, or commission thereof, when contracting for or purchasing supplies, materials, equipment, or agricultural products, excluding beverages for immediate consumption, shall give preference as far as may be reasonable and practicable to such supplies, materials, equipment, and agricultural products as may be manufactured or produced in this state. Such preference shall not sacrifice quality.
			State Use Law 8%	• Price preference in the cost evaluation in accordance with the State Use Law intended to create opportunities for disabled persons employed by community based rehabilitation programs and training centers certified by the State Use Council.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Hawaii	Yes	Yes	Class I 10% Class II 15% Recycled 5% Software 10% Printing 15% Tax 4.5% 5% Rehabilitation Program	• Reciprocal law applies to bidders from states which apply preferences. Preference shall be equal to the preference the out of state bidder would receive in their own State or shall be in the amount the out of state preference exceeds comparable in Hawaii. Preference applies to state and counties for commodities produced, manufactured, grown, mined, or excavated in Hawaii, and requires over 50% Hawaii input counted towards the total cost of the product. *Agricultural, aqua-cultural, horticultural, forestry, flower farming, or livestock product that is raised, grown, or harvested in the state • Recycled products based on recycled content as a percentage to total weight. In-state contractors' preference. • Software development businesses principally located in-state, with 80% of labor for software development performed by persons domiciled in Hawaii. "Software Development Business" includes any work related to feasibility studies, systems analysis, programming, testing, or implementation of an electronic data processing system." • Printing, binding, and stationery work Effective July 1, 1994, applies to all out-of-state bidders if their price is lower than Hawaii's bidders' price. • Tax Preference. Preference to ensure fair competition for bidders paying the Hawaii general excise and applicable use tax • Qualified Community Rehabilitation Program (QRP). Preference for QRP's located in Hawaii.
Idaho	Yes	Yes Tie-bid preference given only to products of local and domestic production and manufacture of Idaho domiciled bidders	10% printing only	• Printing preference of 10% applies to state and counties. Reciprocal law applies to state and political subdivisions for commodities, construction and services.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Illinois	Yes	Yes	Resident Bidder	• Reciprocal law allows when a contract is awarded to the lowest responsible bidder, the resident bidder will be allowed preference against a non-resident bidder from any state which gives a preference to bidders from that state. The preference will be equal to the preference given or required by the state of the non-resident bidder.
			Soybean Oil-based Ink	• Contracts requiring procurement of printing services will specify use of soybean oil based ink unless a State Purchasing Officer determines that another type of ink is required
			Recycled Supplies	• When a contract is to be awarded to the lowest responsible bidder, any otherwise qualified bidder who will fulfill the contract through the use of products made of recycled supplies may be given preference over other bidders unable to do so, provided the cost included in the bid of supplies made of recycled materials does not constitute undue economical or practical hardship.
			Recyclable Paper	• All supplies purchased for use by State agencies must be recyclable paper unless a recyclable substitute cannot be used to meet requirements or contribute an undue economic or practical hardship.
		In tie-bid situations, preference shall be given to the Illinois vendor over an out of state vendor.	Environmental preferable procurement	• State agencies must contract for supplies and services that are environmentally preference unless contracting supply or service would impose an undue economic or practical hardship.
			Correctional Industries	• Preference is given to "Illinois Correctional Industries" for certain designated contracts.
			Sheltered Workshops	• Preference is given to "Illinois Sheltered Workshops for the severely handicapped" for certain designated contracts.
			U.S. Steel	• Preference for products made with steel produced in the United States.
			Coal 10%	• Preference is given for use of Illinois coal
			Vehicle Mileage	• All State vehicles purchased must be flex fuel or fuel efficient hybrid, or be able to run on 5% biodiesel fuel.
			Small businesses	• The Chief Procurement Officer has the authority to designate as small business set asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. In awarding the contracts, only bids from qualified small businesses shall be considered

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Illinois	Yes	Yes In tie-bid situations, preference shall be given to the Illinois vendor over an out of state vendor.	Agricultural products	• When procuring agricultural products, preference may be given to a bidder who will fulfill the contract through the use of agricultural products grown in Illinois
			Corn based plastics	• When procuring plastic products, preference may be given to a bidder who will fulfill the contract through the use of plastic made from Illinois corn by-products
			Coal	• When purchasing coal for fuel purposes, a preference must be given to Illinois mined coal if the cost is not more than 10% greater than the cost of coal mined in any other state, including transportation cost.
			Minorities, Females, Persons of Disabilities	• Not less than 20% of the total dollar amount of State contracts (non-construction) will be established as a goal to be awarded to businesses owned by minorities (11%), females (7%), and persons with disabilities (2%). In construction contracts, not less than 10% of the total dollar amount is established as a goal to be awarded to businesses owned by minority and female owned businesses (50% of goal to female owned businesses)
			Steel	• Each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public agency shall contain a provision that steel products used or supplied in the performance of that contract or any subcontract, shall be manufactured or produced in the United States
			Domestic Products	• Each purchasing agency procuring products must promote the purchase of and give preference to manufactured articles, materials, and supplies manufactured in the United States
			Historic Area	• Preference shall be given to locating its facilities, whenever operationally appropriate and economically feasible, in historic properties and buildings located within government
			Local site preference (leasing)	• Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts or redevelopment districts.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Indiana	Yes	Yes	Resident Bidder	• The Indiana business preference is considered for an out-of-state business only when the offeror is a business from a state bordering Indiana and the offerors home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana to Indiana businesses.
Iowa	Yes	Yes	Resident Bidder Non-resident Bidder	• Preference shall be given to purchasing Iowa products and purchases from Iowa based businesses if the Iowa based business bids submitted are comparable in price to bids submitted by out of state businesses and otherwise meet the required specifications • If the laws of another state mandate a percentage preference for businesses or products from that state and the effect of the preference is that bids from Iowa businesses or products that are otherwise low and responsive are not selected in the other state, the same percentage preference shall be given to Iowa businesses and products when businesses or products from that other state are bid to supply Iowa requirements.
Kansas	No	Yes Tie bids from in-state and out-of-state vendors shall be awarded to in-state vendor.	None	No other information available.
Kentucky	No	Yes	Resident Bidder Commodities of Services	• Prior to a contract being awarded to the lowest responsible and responsive bidder on a contract by a public agency, a resident bidder of the Commonwealth shall be given a preference against a nonresident bidder registered in any state that gives or requires to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder • Preference is to be given in purchasing commodities or services from the Department of Corrections, Division of Prison Industries; Kentucky Industries for the Blind; agencies of individuals with severe disabilities; incorporated or any other nonprofit corporation that furthers the purposes of **KRS Chapter 163**.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Kentucky	No	Yes	Agriculture	• State agencies, as defined by KRS 45A.505, shall purchase Kentucky grown agricultural products if the products are available and if the vendor can meet the applicable quality standards and pricing requirements of the state agency.
Louisiana	Yes	Yes	Agricultural or forestry Produce Eggs or crawfish Seafood Products produced from seafood Paper and paper products Agricultural or Forestry Products Meat and meat products	• Agricultural or forestry products, including meat, seafood, produce, eggs, paper or paper products shall be granted a 10% preference (does not have to lower bid price). • Produce processed in Louisiana, but grown outside of Louisiana, provided the cost of the produce processed in Louisiana does not exceed the cost of produce processed outside of Louisiana by more than 7%. • Eggs or crawfish which are processed in Louisiana under the grading service of the Louisiana Dept. of Agriculture and Forestry, provided the cost of the further processed eggs or crawfish does not exceed the cost of other eggs or crawfish by more than 7% • Seafood shall be, o Harvested in Louisiana seas or other Louisiana waters. o Harvested by a person who holds a valid appropriate commercial fishing license issued under statute • Products produced from such seafood shall be processed in Louisiana. Domesticated catfish shall be processed in Louisiana from animals which were grown in Louisiana. • Paper and paper products shall be manufactured or converted in Louisiana • For preference, all other agricultural or forestry products shall be produced, manufactured, or processed in Louisiana. • Meat and meat products shall be processed in Louisiana from animals which are alive at the time they enter the processing plant. Meat and meat products which are further processed in Louisiana under the grading and certification service of the Louisiana Department of Agriculture and Forestry, provided the cost of the further processed meat and meat products does not exceed the cost of other meat or meat products by more than 7% (does not have to lower bid price).

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Louisiana	Yes	Yes	Catfish Miscellaneous Steel Treated wood Clay Domestic products 5% Rodeos and livestock shows	• Domesticated or wild catfish which are processed in Louisiana but grown outside of Louisiana provided the cost of the domesticated or wild catfish which are processed outside of Louisiana does not exceed by more than 7% (does not have to lower bid price) • Materials, supplies, products, provisions, or equipment produced, manufactured, or assembled in Louisiana in which the following conditions are met: ○ The cost of such items does not exceed the cost of other items outside the state by more than 10% (does have to lower bid price) ○ The vendor of such Louisiana item agrees to sell the items at the same prices as the lowest bid offered • Steel rolled in this state provided the cost of the steel rolled in this state does not exceed by more than 10%(does not have to lower bid price). • The above preference language does not apply to treated wood poles or piling • Preference shall not apply to Louisiana products whose source is clay which is mined or originates in Louisiana and which is manufactured, processed or refined in Louisiana for sale as an expanded clay aggregate form different than its original state. This exception from preference does not apply to bricks manufactured in Louisiana. • Preference for products manufactured anywhere in the United States. This preference applies if no Louisiana product preference takes place • In-state vendors given preference over out of state vendors provided cost does not exceed by more than 5% for rodeos and livestock shows
Maine	Yes	Yes	Resident Bidder Best Value Bidder	• **Title 5 M.R.S.A Statute 1825-B (8)** The Director of the Bureau of General Services shall award contracts or purchases to in-state bidders or to bidders offering commodities produced or manufactured in the State if the price, quality, availability and other factors are equivalent. • **Title 5 M.R.S.A. Statute 1825-B (9)** In determining the best value bidder, the Director of the Bureau of General Services

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Maine	Yes	Yes	Best Value Bidder	or any department or agency of the State shall, for the purpose of awarding a contract, add a percent increase on the bid of a non-resident bidder equal to the percent, if any, of the preference give to that bidder in the state in which the bidder resides.
Maryland	Yes	Yes	Resident Bidder	• An agency may give a preference to the resident bidder who is a responsible bidder and submits the lowest responsive bid to a competitive sealed bidding process; and does not conflict with a federal law or grant affecting the procurement contract.
Massachusetts	No	Yes	Resident Bidder	• All things being equal, the State <u>may</u> give a preference to goods and supplies first manufactured and sold in the Commonwealth, and then manufactured and sold domestically. We assign not percent under this statute.
Michigan	Yes	No	Michigan Based Firms Printing Resident Bidder	• A preference is given to products manufactured or services offered by Michigan based firms if all other things are equal and if not inconsistent with federal statute. • **STATE PRINTING LAW, PUBLIC ACT 153 of 1937 (MCL 24.62)** All printing for the State of Michigan, except that which is printed for primary school districts, local government units and legal publications for elective state officers, must be printed in Michigan • A reciprocal preference to a Michigan business against an out-of-state business is allowed for purchases exceeding $100,000 and if not inconsistent with Federal statutes. Under this provision, a Michigan bidder is preferred in the same manner in which the out-of-state bidder would be preferred in its home state. To claim this preference a bidder must <u>certify to being a Michigan business</u> and must authorize the Department of Treasury to release information necessary to verify the entitlement. A business that purposefully or willfully submits a false certification is guilty of a felony, punishable by a fine of not less than $25,000. **(See MCL 18.1268)**
Minnesota	Yes	Yes	All-terrain vehicles Small Businesses	• All all-terrain vehicles purchased by the commissioner (of natural resources) must be manufactured in the state of Minnesota • For specified goods or services, may award up to 6% preference to targeted group small businesses and veteran-owned small

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Minnesota	Yes	Yes	Small Businesses Minnesota Service Providers Paper Stock Printing	businesses, and may award up to 6% to small businesses located in economically disadvantaged area. Applies to Socially Disadvantaged Small Businesses. • Minnesota Dept. of Employment and Economic Development certified providers and Minnesota Dept. of Human Services licensed providers responding to a solicitation for janitorial services, document imaging services, document shredding services, and mail collating, and sorting services are eligible for a 6% preference • Whenever practicable, public entities shall purchase paper which has been made on a paper machine located in Minnesota
Mississippi	No	Yes	Resident Contractors Construction Construction Materials Commodities Grown, Processed or Manufactured Industries for the Blind Resident Contractors	• In the letting of public construction contracts, preference shall be given to resident contractors • In construction of any building, highway, road, bridge, or other public work or improvement by the State or any of its political subdivisions or municipalities, only materials grown, produced, prepared, made and/or manufactured within the State should be used. • Any foreign manufacturing company with a factory in the state and with over 50 employees working in the State shall have preference over any other foreign company where both price and quality are the same. • Whenever economically feasible, each state agency is required to purchase products manufactured or sold by the Mississippi Industries for the Blind • In letting of public contracts, preference shall be given to resident contractors over non-resident contractors.
Missouri	Yes	Yes	Missouri Products and Firms	• **Statute 34.070** – In making purchases, the commissioner of administration or any agent of the state with purchasing power shall give preference to all commodities and tangible personal property manufactured, mined, produced, processed, or grown within the State of Missouri, to all new generation processing entities defined in Section 348.432, except new generation processing entities that own or operate a renewable fuel production facility or that produce renewable fuel, and to all companies doing business as Missouri Firms, corporations or individuals, when quality is equal or better and delivered price

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Missouri	Yes	Yes	Missouri Products and Firms	is the same or less. Such preference may be given whenever competing bids, in their entirety, are comparable. "Commodities" shall include any forest products that has been processed or otherwise had value added to it in this state
			Service Disabled Veterans	• **Statute 34.074.04**—In letting contracts for the performance of any job or services, all agencies, departments, institutions, and other entities of this State and of each political subdivision of this State shall give a 3 point bonus preference to service disabled veteran businesses doing business as a Missouri firm, corporation, or individual, or which maintain a Missouri office or place of business. The goal is not required and the provisions of this subsection shall not apply if there are no (or insufficient) bids or proposals submitted to the public entities listed above.
			Nonprofit Organizations For The Blind	• **Statute 34.165.3** – When making purchases for the State, its governmental agencies or political subdivisions, the commissioner of administration shall give bidding preference consisting of a ten point bonus on bids for products and services manufactured, produced or assembled in qualified nonprofit organizations for the blind.
			Missouri Calcium Initiative	• **Statute 34.375.1** The purchasing agent for any governmental entity that purchases food or beverages to be processed or served in a building or room owned or operated by such governmental entity shall give preference to foods and beverages that contain a higher level of calcium than products of the same type and nutritional quality, and equal to or lower in price than products of the same type and nutritional quality
			Resident Bidder	• **Statute 34.073.1** In letting contracts for the performance of any job or service, preference shall be given to all Missouri resident bidders.
			Coal	• **Statute 34.080.1** State of Missouri institutions preference to coal mined in Missouri.
			United States Products	• **Statute 34.353.1** Purchase or lease only goods or commodities manufactured or produced in the United States.

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Missouri	Yes	Yes	Not-for-profit Organizations	• **Statute 136.055.2** Fee office contracts shall be awarded through a competitive bidding process with priority given to organizations that are exempt from taxation under Section 501(c)(3),(6) or (4) with special consideration to organizations and entities that reinvest at least 75% of net proceeds to charitable organizations.
Montana	Yes	Yes In case of a tie bid, preference must be given to the bidder, if any offering American made products or supplies.	Goods and Construction Vending Facilities Blind Persons	• Reciprocal preference is applied to lowest responsible bidder only for goods and construction contracts equal to other bidder's in state preference. (18-1-102 MCA) • State property for use as a vending facility, preference is given to blind persons.
Nebraska	Yes	Yes	Resident Bidder Resident Disabled Veteran, Enterprise zone Blind Persons	• **Statute 73.101.01** A resident bidder shall be allowed a preference against a non-resident from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidders. Where the lowest responsible bid from a resident bidder is equal in all respects to one from a non-resident bidder from a state which has no preference law, the resident bidder shall be awarded the contract. • **Statute 73.107** When a state contract is to be awarded to the lowest responsible bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder if all other factors are equal. • **Statute 71.8611** Priority shall be given to blind persons with respect to vending facilities in any state owned building or any property owned or controlled by the state.
Nevada	Yes	Yes	Resident Bidder	• **NRS 333.336** (Inverse preference imposed on certain bidders resident outside the State of Nevada) was repealed during 2009 legislative session.

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Nevada	Yes	Yes	Certificate of Eligibility 5%	• **NRS 338.0117 and NRS 338.1446** Preference given to contractor with a State of Nevada Certificate of Eligibility over contractor without a certificate. Preference only applies to bids estimated over $250,000 and used for ranking purposes to determine the lowest bidder
New Hampshire	No	Yes In the event of a tie bid, the tie goes to the instate bidder. If no instate bidders, the winner will be determined by drawn lot	Tie Bid	No other information available.
New Jersey	Yes	No	Resident Bidder	• **N.J.S.A. § 52:32-1.4 and N.J.A.C. 17:12-2.13** Reciprocal law applies to the State for commodities and services. The Director shall apply on a reciprocal basis against an out-of-state bidder any in-state preference which is applied in favor of that bidder by the State or locality in which the bidder maintains its principal place of business.
New Mexico	Yes	Yes	Resident Bidder	• **Statute 13-1-21** New Mexico law provides certain statutory preferences to resident businesses, resident veteran businesses, resident contractors and resident veteran contractors as well as for recycled content goods. These preferences must be applied in regard to invitation for bids and requests for proposals in accordance with statute in determining the lowest bidder or offeror.
New York	Yes	Yes	Principal Place of Business	• Under the Omnibus Procurement Act of 1992 and Amendments of 1994, (now **Section 165.6 a-e of the State Finance Law**) the Office of General Services may deny to a vendor placement on bidders they would otherwise obtain if their principal place of business is located in a jurisdiction that penalizes New York State vendors and if the goods or services offered will be substantially produced or performed outside New York State. These sanctions may be waived when it is determined to be in the best interest of New York State to do so.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
New York	Yes	Yes	Agricultural Products Recycled Product 10% Secondary Product 5%	• Preference applies to State for purchase of food products, the essential components of which are grown, produced or harvested in New York or where the processing facility is located in New York. The Commissioner of General Services assisted by the Commissioner of Agriculture and Markets determine the percentage of each food product or class which must meet these requirements. • Two step policy for recycled products: a) preference is applied for a recycled content product without regard to the product's origin; b) An additional preference may be granted if at least 50% of the secondary materials utilized in manufacture of that product are generated from the waste stream in New York State.
North Carolina	Yes	Yes	Resident Bidder Exemptions Emergencies Non-competitive bidding	• For the purpose only of determining the low bidder on all contracts for equipment, materials, supplies, and services valued over $25,0000, a percent of increase shall be added to a bid of a non-resident bidder that is equal to the percent of increase, if any, that the state in which the bidder is a resident adds to bids from bidders who do not reside in that state • A reciprocal preference shall not be used when procurements are being made under **G.S 143-53(a)(5) and G.S. 143-57.** • **Executive Order #50** – Preference is applied to bids on goods only submitted by North Carolina vendors, if the lowest bid from a resident vendor is within $10,000 or within 5% of the lowest bid the resident bidder may opt to match the lowest price and receive the bid award.
North Dakota	Yes	Yes Tie bid preference must be given to bids or proposals submitted by North Dakota vendors.	General Information Resident Bidder	• Reciprocal preference law applies to the Office of Management and Budget, any other state entity, and the governing body of any political subdivision when purchasing any goods, equipment, and contracting to build or repair any building, structure, road or other real property, and professional services (ref. N.D.C.C. § 44-08-01). • A "resident" North Dakota bidder, offeror, seller, or contractor is one who has maintained a bona fide place of business within North Dakota for at least one year prior to the date on which a contract was awarded (ref. N.D.C.C. § 44-08-02).

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
North Dakota	Yes	Yes If tie remains, preference must be given to approved vendors on State Bidders List	Coal Highway Construction Food Producers and Processors Sustainability Preferable Products Recycled Products Printing	• State agencies and institutions must comply with N.D.C.C. § **48-05-02.1** which describes how to apply preference for bidders supplying coal mined in North Dakota. • N.D.C.C. § **25-16.2** requires contracts for highway construction stakes to be awarded to North Dakota activity work centers. services (ref. N.D.C.C. § **44-08-01**) • During the 2003 legislative session, **Senate Concurrent Resolution No. 4018** was passed which urges all publicly supported entities that purchase food to support North Dakota producers and processors by purchasing food products grown or produces and processed in North Dakota. • N.D.C.C. § **54-44.4-07** encourages the Office of Management and Budget, institutions of higher education, state agencies and institutions to purchase environmentally preferable products. Where practicable, bio based products and soybean based ink should be specified. The Office of Management and Budget, in coordination with State Board of Higher Education, shall develop guidelines for a bio-based procurement program. Requires that where practicable, specifications for purchasing newsprint printing services should specify the use of soybean based ink • N.D.C.C. § **54-44.4-08** requires at least 20% the total volume of paper and paper products purchased for state agencies and institutions contain at least 25% recycled material • N.D.C.C. § **46-02-15** requires that if practicable, all state, county, and other political subdivision public printing, binding and blank book manufacturing, blanks and printed stationery must be awarded to a resident North Dakota bidder (see description of North Dakota Bidder at section above). *See also* N.D.A.C. § 4-12-16-01.

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Ohio	Yes	No	Domestic Products Supplies, Services, Information Technology Resident Bidder 5% Construction Printed Goods Mined Products Border States Veteran's Preference 5%	• First, consider domestic products as defined under federal Buy America laws/rules • The preference only applies to purchases of supplies, services and information technology that use the Invitation to Bid and Reverse Auction processes. Not mandatory for Request for Proposals. • To qualify for the preference, the bidder must be an "Ohio" bidder; 1) offering product produced, raised, grown or manufactured in Ohio or 2) has significant Ohio economic presence - pays taxes, registered with the Ohio Secretary of State and has 10 or more or 75% of workforce located in Ohio. • Reciprocal preferences are given to construction and printed goods • Mined products must be mined in Ohio or in qualifying border states. • Border state bidders are treated on the same level as Ohio bidders provided the border state does not apply a preference toward Ohio bidders. Currently, Indiana (except mined products), Pennsylvania, Kentucky, Michigan, and New York are recognized as border states with the exception of State of Michigan for printing. • A preference applied to all bids, requests for proposals, and reverse auctions. It will not be compounded with the 5% Buy Ohio in state preference.
Oklahoma	Yes	No	Eastern Red Cedar Initiative Sheltered Workshops Correctional Industries Service Disabled Veteran	• Preference to suppliers of wood products made from or products manufactured utilizing materials from trees harvested in Oklahoma if price for the products and materials are not substantially higher than the price for other wood products and materials. 74 O.S. §85.44D • Preference is given to "Oklahoma Sheltered Workshops for the severely handicapped" for certain designated contracts. • Preference is given to "Oklahoma Correctional Industries" for certain designated contracts • In awarding contracts for the performance of any job or service, all agencies, departments, institutions and other entities of the State and each political subdivision of the State shall give a 3 point bonus preference to service disabled veteran businesses doing business as an Oklahoma

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Oklahoma	Yes	Yes	Resident Contractors	firm, corporations of individuals, or which maintain Oklahoma offices or places of business. • Preference given to materials produced in Oklahoma and construction contractors domiciled in Oklahoma for county hospital construction work. 19 O.S. 788
			Construction Labor and Materials	• Provision in contract requiring employment of Oklahoma labor and materials if available and quality meets standards available from out of state suppliers and can be procured at no greater expense than the same quality of labor or material from outside Oklahoma for construction or repair of state institutions pursuant to Section 31 of Article X of the State Constitution. 61 O.S. 9 • Provisions in contract requiring employment of Oklahoma labor and materials if available and quality meets standards available from out of state suppliers and can be procured at no greater expense than the same quality of labor or material from outside Oklahoma for construction or repair of state institutions pursuant to Section 33 of Article X of the State Constitution. 61 O.S. 20
Oregon	Yes	Yes	Printing	• All public printing, including license plates, shall be performed within the State.
			Qualified Rehabilitation Facilities (QRF)	• All State and local contracting agencies shall purchase goods and services of Disabled Individuals with eligible QRF's
			Resident Bidders	• All state and local contracting agencies shall give preference to in state offerors if their offers are the same as nonresident offerors.
			Interstate Preference	• All state and local contracting agencies shall add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in its state of residence.
			Recycle materials	• All State and local contracting agencies shall prefer goods certified to be manufactured from recycled materials.
			Recyclable Food Service Products	• State contracting agencies are required to purchase recyclable or biodegradable food services supplies and food packaging products.
			Goods Purchased to be Recyclable or Reusable	• All State and local contracting agencies shall ensure goods purchased are recyclable or reusable to maximum extent economically feasible.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Oregon	Yes	Yes	Outsourced Services Disadvantaged Minority Groups Disabled Veteran Owned Businesses	• All State and local contracting agencies must demonstrate that procurement of service will cost less than performing service or that performing service is not feasible. • State and local contracting agencies may support affirmative action goals by limiting competition for public contracts to cost $50,000 or less to disadvantaged or minority groups or may give a preference in awarding public contracts to business owned by disabled veterans.
Pennsylvania	Yes	Yes	Resident Bidders Coal Recycled Content Motor Vehicle Procurement	• Reciprocal Law Limitations Act applies to the procurement of supplies in excess of $10,000. It requires the application of a preference to resident bidders against bidders from states that give preference to resident bidders in an equal percentage. • Any heating system installed in a Commonwealth owned facility be fueled by coal produced by Pennsylvania mines or any mixture of synthetic derived, in whole or part, from coal produced in Pennsylvania mines unless the Secretary of General Services exempts the heating system from the Act based upon enumerated exemptions. • The Commonwealth will provide preference to any bidder who meets the minimum recycle content percentage established in the bid. • All government agencies required to purchase only motor vehicles manufactured in North America or a substantial majority of the principal component as assembled into the final product in an assembly plant in North America.
Rhode Island	No	No	No	• No other information available.
South Carolina	No	Yes	South Carolina end products 7% U.S. end product 2% Resident contractor 7% Resident subcontractor 2% or 4%	• A preference to vendors selling South Carolina or United States end products. • To qualify for resident bidder preference, bidder must maintain an office in the state. • To qualify, the resident subcontractor must meet the following requirements at the time of bid submission: 1) have documented commitment from a single proposed first tier subcontractor to perform some portion of the services expressly required by the solicitation, and

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
South Carolina	No	Yes	In state preference does not apply to the following items listed to the right of this column:	2) must directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and total direct labor cost to the subcontractor for individuals to provide those services exceeds, as applicable, either 20% for a 2% preference or 40% of bidder total bid price for a 4% preference. • 1) A single unit of an item with a price in excess of $50,000, 2) A single award with a total potential value in excess of $500,000; 3) Acquisitions of motor vehicles; 4) Construction, supplies or services related to construction; 5) Competitive sealed proposals; and 6) Procurements valued at $10,000 or less.
South Dakota	Yes	Yes	Grade A Milk Processors Only 5% Qualified Agency Resident Business Resident Supplies Services	• **SDCL 5-18A-24** Any milk processor licensed pursuant to § 39-6-7, bidding any milk or milk product under a competitive bid contract shall receive the bid contract if the processor's bid is equal to or within 5% or less of any other bidder who is not a licensed processor • **SDCL 5-18A-25** Preferences to certain resident businesses, qualified agencies and businesses using South Dakota supplies or services. In awarding a contract, if all things are equal including the price and quality, a purchasing agency shall give preference o To a qualified agency if the other equal low bid or proposal was submitted by a business that was not a qualified agency. o To a resident business if the other equal low bid or proposal was submitted by a nonresident business. To a resident manufacturer if the other equal low bid or proposal was submitted by a resident business that is not a manufacturer. o To a resident business whose principal place of business is located in the State of South Dakota, if the other equal low bid or proposal was submitted by a resident business whose principal place of business is not located in the State of South Dakota; o To a non-resident business providing or utilizing supplies or services found in South Dakota, if the other equal low bid

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
South Dakota	Yes	Yes	Transportation Resident Bidder	○ or proposal was submitted by a nonresident business not providing or utilizing supplies or services found in South Dakota. ○ In computing price, the cost of transportation, if any, including delivery, shall be considered. • **5-18A-1 of Statute** A resident bidder shall be allowed a preference on a contract against the bid of any bidder from any other state or foreign province that enforces or has a preference for resident bidders. The preference given to the resident bidder shall be equal to the preference in the other state or foreign province
Tennessee	Yes	Yes	Meat Coal Natural Gas	• **T.C.A. 12-3-809 / 810** All departments, agencies, institutions of state government and public education institutions which purchase meat, meat food products or meat by-products (as defined in § 53-7-202) with state funds shall give preference to producers located within the boundaries of this state when awarding contracts or agreements for the purchase of such meat or meat products, so long as the terms, conditions and quality associated with the in-state producers' proposals are equal to those obtainable from producers located elsewhere. • **T.C.A. 12-3-811** Notwithstanding any provision of law to the contrary, all state agencies, departments, boards, commissions, institutions, institutions of higher education, schools and all other state entities shall purchase coal mined in the State of Tennessee if such coal is available at a delivered price which is equal to or less than coal mined outside the State of Tennessee. • **T.C.A. 12-3-812** Not withstanding any provision of law to the contrary, all state agencies, departments, boards, commissions, institutions, institutions of higher education, schools, and all other state entities shall purchase natural gas produced from wells located in the State of Tennessee if such gas is available at a price which is equal to or less than natural gas produced from wells located outside the State of Tennessee, with transportation cost into account

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Tennessee	Yes	Yes	Resident Bidder Agricultural Products Services	• Goods produced in Tennessee or offered by Tennessee bidders shall equally be given preference if the cost to the state and quality are equal. • Agricultural products grow in Tennessee shall be given first preference and agricultural products offered by Tennessee bidders shall be given second preference, if cost to the State and quality are equal. • All departments and agencies procuring services shall give preference to services offered by a Tennessee bidder if service requirements are met, and cost of service does not exceed cost of similar services not offered by a Tennessee bidder.
Texas	Yes	Yes	Resident Bidder Agricultural Products Texas Agricultural Products United States Consultant	• Texas Statute of the Government Code, Chapter 2252.002, states that if the low bidder is from a state that grants a percent preference to its own in state bidders, the Texas agency must add the same percent of preference to that bidder's price when evaluating the bid. Preferences do not apply in the involvement of federal funds. • Preference in tie bids for goods and agricultural products produced or grown in Texas, or offered by Texas bidders that are of equal cost and quality to other states of the United States. • Preference in tie bids for goods and agricultural products from other states of the United States over foreign goods and agricultural products that are of equal cost and quality. • If other considerations equal, preference is given to a consultant whose principal place of business is in Texas or who will manage the contract wholly from an office in Texas
Utah	Yes	Yes	Resident Bidder	• To get reciprocal preference, the Utah vendor must claim preference in the bid and be within the applicable preference percentage of the lowest responsible out of state bidder who is entitled to a preference in his/her state. If so, the Utah vendor has 72 hours to consent in writing to meet the price of the lowest responsible out of state bidder which has an in state preference law.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Vermont	No	Yes	Resident Bidder	• All other considerations being equal, preference will be given to resident bidders of the State and/or to products raised or manufactured in the state, and then to bidders who have practices that promote clean energy and address climate change (Executive Order 05-16)
Virginia	Yes	Yes In the case of a tie bid preference shall be given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms, or corporations, otherwise, the tie shall be decided by drawing lots.	Resident Bidder Recycled Content Resident Bidder	• Statute 2.2-4324. A. Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a price-matching preference. A like preference shall be allowed to responsive and responsible bidders who are residents of Virginia. If the lowest bidder is a resident contractor of a state with absolute preference, the bid shall not be considered. The Department of General Services shall post and maintain an updated list on its website of all states with an absolute preference for their resident contractors and those states that allow their resident contractors a percentage preference, including the respective percentage amounts. For purposes of compliance with this section, all public bodies may rely upon the accuracy of the information on this website B. Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances here goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content. C. For the proposes of this section, a Virginia person, firm or corporation shall be deemed to be a resident of Virginia if such person, firm or corporation has been organized pursuant to Virginia law or maintains a principal place of business within Virginia

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Virginia	Yes	Yes	Coal Recycled Paper and Paper Products	• **Statute 2.2-4325. Preference for Virginia coal used in state facilities.** In determining the award of any contract for coal to be purchased for use in state facilities, the Department of General Services shall procure using competitive sealed bidding and shall award to the lowest responsible bidder offering coal mined in Virginia so long as its bid price is not more than 4% than the bid price of the low responsive and responsible bidder offering coal mined elsewhere. • **Statute 2.2-4326. Preference for recycled paper and paper products used by state agencies.** A. In determining the award of any contract for paper and paper products to be purchased for use by agencies of the Commonwealth, the Department of General Services shall procure using competitive sealed bidding and shall award to the lowest responsible bidder offering recycled paper and paper products of quality suitable for the purpose intended, so long as the bid price is not more than ten percent greater than the bid price of the lowest responsive and responsible bidder offering a product that does not qualify under subsection B • **B.** For purposes of this section, recycled paper and paper products means any paper or paper products meeting the EPA Recommended Content Standards as defined in 40 C.F.R. Part 247
Washington	Yes	No	Class II Work Programs Department of Corrections Inmate Work	• **RCW 39.26.251** State agencies, the legislature, and departments shall purchase for their use all goods and services required that are produced or provided in whole or in part from class II inmate work programs operated by the Department of Corrections through state contract. • **RCW 39.26.250** Any person, firm, or organization which makes any bid to provide any goods or services to any state agency shall be granted a preference over other bidders if (1) the goods or service have been or will be produced or provided in whole or in part by an inmate work program of the Department of Corrections, and (2) an amount equal to at least 15% of the total bid amount has been paid or will be paid by the person, firm, or organization to inmates as wages. Preference provided

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Washington	Yes	No	Recycled Material Electronic Products Polychlorinated Biphenyls Mercury Compounds	under this section shall be equal to 10% of the total bid amount. • **WAC 200-300-085** Preference shall be given to the extent of allowed by statute to goods containing recycled material as outlined under RCW 39.26.255 provided that the purchasing agency sets forth in the competitive solicitation a minimum percent content of recycled material that must be certified by the producer of the goods to qualify for the preference. • **RCW 39.26.265** Electronic products rated by the Electronic Product Environmental Assessment Tool or carry the Restriction of Hazardous Substances certification label will serve as the basis for applying the electronic product purchasing preference. • **RCW 39.26.280** Preference for products and products in packaging that does not contain polychlorinated biphenyls • **RCW 70.95 MM.060** The Department of Enterprise Services must give priority and preference to the purchase of equipment, supplies, and other products that contain no mercury added compounds or components, unless (a) there is no economically feasible non-mercury added alternative that performs a similar function, or (b) the product containing mercury is designed to reduce electricity consumption by at least 40% and there is no non-mercury or lower mercury alternative available that saves the same or a greater amount of electricity as the exempted product.
Washington DC	Yes	No	Small Business Resident Bidder Resident Business Local Business Enterprise Enterprise Zone Disadvantaged Business	• **District Code 2-218.43** (a) In evaluating bids or proposals, agencies shall award preferences as follows: 1. In the case of proposals, points shall be granted as follows A. Three points for a small business enterprise. B. Five points for a resident-owned business; C. Five points for a longtime resident business; D. Two points for a local business enterprise; E. Two points for a local business enterprise with its principal office located in an enterprise zone; F. Two points for a disadvantaged business enterprise.

State	Reciprocal Law/Statute	The Bid Preference	Preference	Scope of Preference & Conditions
Washington D.C.	Yes	No	Veteran Owned Business Local Manufacturing Business Small Business Resident Owned Longtime Resident Local Business Local Business Enterprise Zone Disadvantaged Business Certified Business Enterprise	G. Two points for a veteran-owned business enterprise; H. Two points for a local manufacturing business enterprise. 2. In the case of bids, a percentage reduction in price shall be granted as follows: A. 3% for a small business enterprise; B. 5% for a resident-owned business; C. 10% for a longtime resident business; D. 2% for a local business enterprise E. 2% for a local business enterprise with its principal office located in an enterprise zone; F. 2% for a disadvantaged business enterprise (b) A certified business enterprise shall be entitled to any or all of the preferences provided in this section, but in no case shall a certified business enterprise be a preference of more than 12 points or a reduction in price of more than 12 percent.
West Virginia	Yes	No	Resident Bidder 2.5% Resident Employment Resident Employment Non-resident Vendor Employer	• West Virginia code,§ 5A-3-37 • From an individual resident vendor who has resided in West Virginia continuously for the 4 years immediately preceding the date the bid was submitted, or • From a partnership, association, corporation resident vendor, or from a corporation resident vendor which has an affiliate or subsidiary which employs a minimum 100 state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for 4 years immediately preceding the date on which the bid was submitted. • From a resident vendor who employs at least 75% of the vendor's employees are residents of West Virginia who have resided in the state continuously of the 2 immediately preceding years. • From a non-resident vendor, which employs a minimum of one hundred (100) state residents or a non-resident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
West Virginia	Yes	No	Non-resident Vendor Employer Veteran Owned 3.5% Small, Women Owned Minority Owned Businesses	within West Virginia and which employs a minimum of 100 state residents, if, for purposes of producing or distributing the commodities or completing the project continuously over the entire term of the project, on average at least 75% of the vendor's employees or the vendor's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the 2 immediately preceding years and the vendor's bid does not exceed the lowest qualified bid from a non-resident vendor by more than 2 1/2% of the latter bid. • From an individual resident vendor who is a veteran of the United States Armed Forces, the Reserves or the National Guard and has resided in West Virginia continuously for the 4 years immediately preceding the date on which the bid is submitted • If any non-resident vendor that is bidding on the purchase of commodities or printing by the director or by a state department which is also certified as a Small, Women-owned or minority-owned business in West Virginia, the non-resident vendor shall be provided the same preference made available to any resident vendor.
Wisconsin	Yes	No	Resident Bidder	• If a vendor is not a Wisconsin producer, distributor, supplier or retailer and the department determines that the state, foreign nation or subdivision thereof in which the vendor is domiciled grants a preference to vendors domiciled in that state, nation or subdivision in making governmental purchases, the department and any agency making purchases under S.16.74 shall give a preference over that vendor to Wisconsin producers, distributors, suppliers and retailers, if any, when awarding the order or contract. The department may enter into agreements with states, foreign nations and subdivisions thereof, for the purpose of implementing this subdivision.

State	Reciprocal Law/Statute	Tie Bid Preference	Preference	Scope of Preference & Conditions
Wyoming	Yes	Yes	Resident Construction Subcontractor 5% Wyoming producer and manufacturer Printing 10%	• Preference for construction if not more than 20% of the work is subcontracted to out-of-state firms • Preference up to 5% applies to State and political subdivisions for all other goods and services manufactured or produced or supplied by a Wyoming resident capable of serving the same • For printing, preference is granted if 75% of the work is done in state

MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

COUNCILMEMBER NANCY NAVARRO

DISTRICT 4

CHAIR, GOVERNMENT OPERATIONS AND FISCAL POLICY COMMITTEE

EDUCATION AND CULTURE COMMITTEE

MEMORANDUM

December 6, 2019

TO: Marc Elrich, County Executive

FROM: Nancy Navarro, Councilmember

SUBJECT: Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program - Established

The County Attorney's Office and Council staff have raised several questions concerning Bill 25-19 that should be answered before the Government Operations and Fiscal Policy Committee reviews the Bill. Please provide written answers to the following questions:

1. The County Attorney raised several legal issues with the Bill and cautioned that the legislative record must "clearly identify a significant governmental purpose to be served by the legislation and explain how the proposed program is closely related to that significant purpose."

   Do you believe the legislative record satisfies this concern? If so, please provide the supporting data for your conclusion. If not, please describe what information is available that would support the validity of this Bill.

2. Section 1-402 of the Md Local Government Code creates a reciprocal local business preference for State contracts. This law also provides authority for a local jurisdiction to provide a reciprocal local business preference against a bidder from a State that has a local business preference.

   Does the County Attorney believe this State law would preempt the local business preference in Bill 25-19?

3. The Office of Procurement provided Council staff with data showing that only 37% of the certified MFD vendors registered to do business with the County have a local zip code. Therefore, at least

STELLA H. WERNER COUNCIL OFFICE BUILDING • ROCKVILLE, MARYLAND 20850
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63% of the certified MFD vendors in our system would be disadvantaged by the 10% local business preference when bidding on a County contract against a local non-minority owned business.

How would Bill 25-19 impact racial equity and social justice in the award of County contracts?

4. Are there any other local jurisdictions in the Washington-Baltimore area that have a local business price preference law for government contracts awarded on competitive bids other than the District of Columbia? If so, which jurisdictions?

5. Please explain how you determined that 10% is the appropriate local business preference for County contracts? Please provide any supporting data you relied on for this determination.

6. We understand that the reciprocal local preference law enacted by the Council in Bill 49-14 has not been applied since it took effect on January 1, 2016. Why not?

7. Procurement provided Council staff with data showing that 33% of the businesses registered with the County have a local zip code. Are local businesses underrepresented in County contracts? What is the percentage of dollars awarded by the County to local County businesses as a prime contractor or subcontractor in the last several years?

8. Bill 25-19 would trigger a reciprocal local business preference law in another jurisdiction (such as Maryland and Virginia) against a bid in that jurisdiction by a County based business. What data do you have on bids by a County based business in other jurisdictions?

Your answers to these questions will help the GO Committee evaluate Bill 25-19 and make an informed decision. We will reschedule the GO Committee worksession on Bill 25-19 soon after we receive your written answers. Please copy Bob Drummer on your answers so he can get them into the staff report for the GO Committee.

cc: Andrew Kleine, Chief Administrative Officer, Office of the County Executive
Marc Hansen, County Attorney, Office of the County Attorney
Ash Shetty, Director, Office of Procurement
Sidney Katz, Councilmember, County Council
Andrew Friedson, Councilmember, County Council
Marlene Michaelson, Executive Director, County Council
Robert Drummer, Senior Legislative Attorney, County Council

OFFICE OF PROCUREMENT

Marc Elrich
County Executive

Avinash G. Shetty
Director

TO: Councilmember Nancy Navarro, Chair,
Government Operations and Fiscal Policy Committee

FROM: Ash Shetty, Director, Office of Procurement

DATE: January 24, 2020

SUBJECT: Expedited Bill 25-19, Contracts and Procurement – Local Business Preference Program

On behalf of the County Executive, I am responding to the questions you sent regarding the local business preference program.

1. The County Attorney raised several legal issues with the Bill and cautioned that the legislative record must "clearly identify a significant governmental purpose to be served by the legislation and explain how the proposed program is closely related to that significant purpose."

Do you believe the legislative record satisfies this concern? If so, please provide the supporting data for your conclusion. If not, please describe what information is available that would support the validity of this Bill.

RESPONSE:

The available data establishes that over the last decade, Montgomery County has been lagging behind neighboring jurisdictions in the areas of business establishment, business retention, job creation, and wages. See, for example, the following reports attached hereto:

- **"Montgomery County Economic Profile" prepared by CountyStat;**
- **"Washington Economy Watch – Vol. III, No. 6" prepared by The Stephen S. Fuller Institute.**

Just recently, the Washington Post published an article with the following statistics: "In the first 10 months of 2019, Northern Virginia gained an average of 19,500 jobs from a year earlier, compared to 5,700 jobs in the District and just 200 in suburban Maryland, according to preliminary data from the federal Bureau of Labor Statistics.

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www.montgomerycountymd.gov

montgomerycountymd.gov/311 311 240-773-3556 TTY

Those figures are expected to be revised, but Northern Virginia is estimated to get 71 percent of the new jobs in the period, compared to 15 percent in the District and 14 percent in suburban Maryland, according to Jeannette Chapman, deputy director of George Mason University's Stephen S. Fuller Institute for Research on the Washington Region's Economic Future." https://www.washingtonpost.com/local/maryland-news/northern-virginias-economic-growth-risks-leaving-maryland-suburbs-behind/2020/01/04/9c6c7126-1ef5-11ea-b4c1-fd0d91b60d9e_story.html

Action is needed to reverse this trend and incentivize businesses to locate in the County, remain in the County, and provide high-paying, stable jobs in the County.

Together with Councilmember Katz, I have hosted several community forums designed to receive feedback from our business community, in part to explore the concerns raised by local business and to brainstorm possible solutions. Attendees identified several challenges they encounter as business owners in the County, including the costs of complying with State and County laws and regulations.

The data referenced in the above publications clearly establishes that the County has an economic need to improve our business environment, which in turn will enhance our residents' quality of life and shore up our tax base.

Bill 25-19 represents a step towards that improvement, by seeking to incentivize businesses to form and remain in Montgomery County, and who in turn will spend their revenue here in our community.

There is a widely-accepted economic theory known as "the local multiplier effect." This theory is the precursor to the popular "buy local" campaigns. The theory is explained in great detail in the 2012 book "The New Geography of Jobs" by economist Enrico Moretti. A 2010 paper by Mr. Moretti, "Local Multipliers" is attached hereto. See also New Economics Foundation "Public Spending for Public Benefit," which can be found at: https://neweconomics.org/uploads/files/bafccecadede5da071_okm6b68v1.pdf

The beneficial economic impact of "buying local" has also been documented through numerous case studies. I have attached hereto case studies from Portland, Maine and San Francisco, California. Additional studies can be found at: https://ilsr.org/key-studies-why-local-matters/.

2. Section 1-402 of the Md Local Government Code creates a reciprocal local business preference for State contracts. This law also provides authority for a local jurisdiction to provide a reciprocal local business preference against a bidder from a State that has a local business preference.

Does the County Attorney believe this State law would preempt the local business preference in Bill 25-19?

RESPONSE:

See Memorandum from the Office of the County Attorney, attached hereto.

3. The Office of Procurement provided Council staff with data showing that only 37% of the certified MFD vendors registered to do business with the County have a local zip code. Therefore, at least 67% [sic] of the certified MFD vendors in our system would be disadvantaged by the 10% local business preference when bidding on a County contract against a local non-minority owned business.

How would Bill 25-19 impact racial equity and social justice in the award of County contracts?

RESPONSE:

I disagree with the premise that Bill 25-19 would "disadvantage" any MFD vendors. As a Councilmember, I supported Bill 48-14 that provides MFD businesses with preference points for proposals. Bill 25-19 does not alter that statute. All MFD vendors will continue to receive 10% preference points. Bill 25-19 provides an additional benefit to local MFD businesses, effectively providing a local MFD vendor with 20% preference points. As you know, the County also has in place an MFD subcontracting program designed to support growth and access to additional opportunities.

4. Are there any other local jurisdictions in the Washington-Baltimore area that have a local business price preference law for government contracts awarded on competitive bids other than the District of Columbia? If so, which jurisdictions?

RESPONSE:

The City of Baltimore has a Small Local Business Enterprise (SLBE) preference program. It provides a 10% preference in its solicitations. Further details regarding Baltimore City's preference application can be found here: https://baltimore.legistar.com/View.ashx?M=F&ID=4741554&GUID=526FFE2A-537C-4268-8B2A-62206104123F.

Additionally, the Washington Metropolitan Area Transit Authority (WMATA) also applies a local business preference of 5% for bids.

5. Please explain how you determined that 10% is the appropriate local business preference for County contracts? Please provide any supporting data that you relied on for this determination.

RESPONSE:

The local preference point of 10% was derived from a combination of regional benchmarking and maintaining consistency with the County's existing MFD preference in proposals. The preference percentages regionally include the following: DC - up to 12%,

Baltimore City – 10% and Prince George's County – up to 15%. The County's existing MFD preference points for proposals is 10%. This percentage allows the County to weigh socioeconomic program considerations while maintaining a competitive environment.

6. We understand that the reciprocal local preference law enacted by the Council in Bill 49-14 has not been applied since it took effect on January 1, 2016. Why not?

RESPONSE:

As a Councilmember, I supported Bill 49-14, now codified as §11B-9(j) of the County Code. As County Executive, I have learned that it presents some significant practical challenges in implementation.

The reciprocal local preference law, which applies only to competitive bids, is not limited to MVA-area jurisdictions, nor does it apply only to a state preference law. As we have seen, various purchasing preference programs are in place at all levels of government, including towns, cities, counties, and states. A vendor from Chicago, Illinois, for example, may benefit from preference programs enacted by the City of Chicago, Cook County, and the State of Illinois. These laws are subject to change at any time. Furthermore, as we can see from the District of Columbia's program, the number of preference points awarded under some local preference programs may vary based on factors such as length of residency. The question may be further complicated when a bidder has offices in multiple states and/or has subsidiaries operating under parent companies.

Therefore, in order to proactively apply the reciprocal preference of Bill 49-14, we would need to halt every bidding process and conduct potentially extensive legal research on any current local preference programs potentially applicable to a non-County lowest bidder and, in some cases, determine the appropriate number of percentage points. This would require resources that, frankly, the County does not have.

Therefore, in order to avoid potentially uneven proactive application of the reciprocal preference law, the Office of Procurement has established a procedure wherein each solicitation requires the non-lowest County bidder to invoke the reciprocal preference and inform the Office of Procurement about the non-County lowest bidder's home jurisdictions' local preferences. To date, the Office of Procurement has not received any such invocations from County bidders.

7. Procurement provided Council staff with data showing that 33% of the businesses registered with the County have a local zip code. Are local businesses underrepresented in County contracts? What is the percentage of dollars awarded by the County to local County businesses as a prime contractor or subcontractor in the last several years?

RESPONSE:

As the County Executive, I am committed to supporting programs that benefit Montgomery County businesses and continue to find ways to increase opportunities and access to the County's contracting dollars. It is important that companies not only feel, but also see the

County as business friendly. This bill is evidence that the County is taking business concerns seriously and taking timely and meaningful action.

Regarding spending, in FY19, 27% of dollars were awarded to local businesses (vendors with MC zip codes) as primary contractors. Currently, County (prime) vendors are not required to report local subcontractor data for contracts under $10 Million, therefore that information is not readily available.

8. Bill 25-19 would trigger a local reciprocal business preference law in another jurisdiction (such as Maryland and Virginia) against a bid in that jurisdiction by a County based business. What data do you have on bids by a County based business in other jurisdictions?

RESPONSE:

The County does not track any data regarding County-based businesses bids in other jurisdictions. Since the announcement of proposed Bill 25-19, Neither my Office nor the Office of Procurement has received any feedback from any County-based business who is concerned about this potential effect.

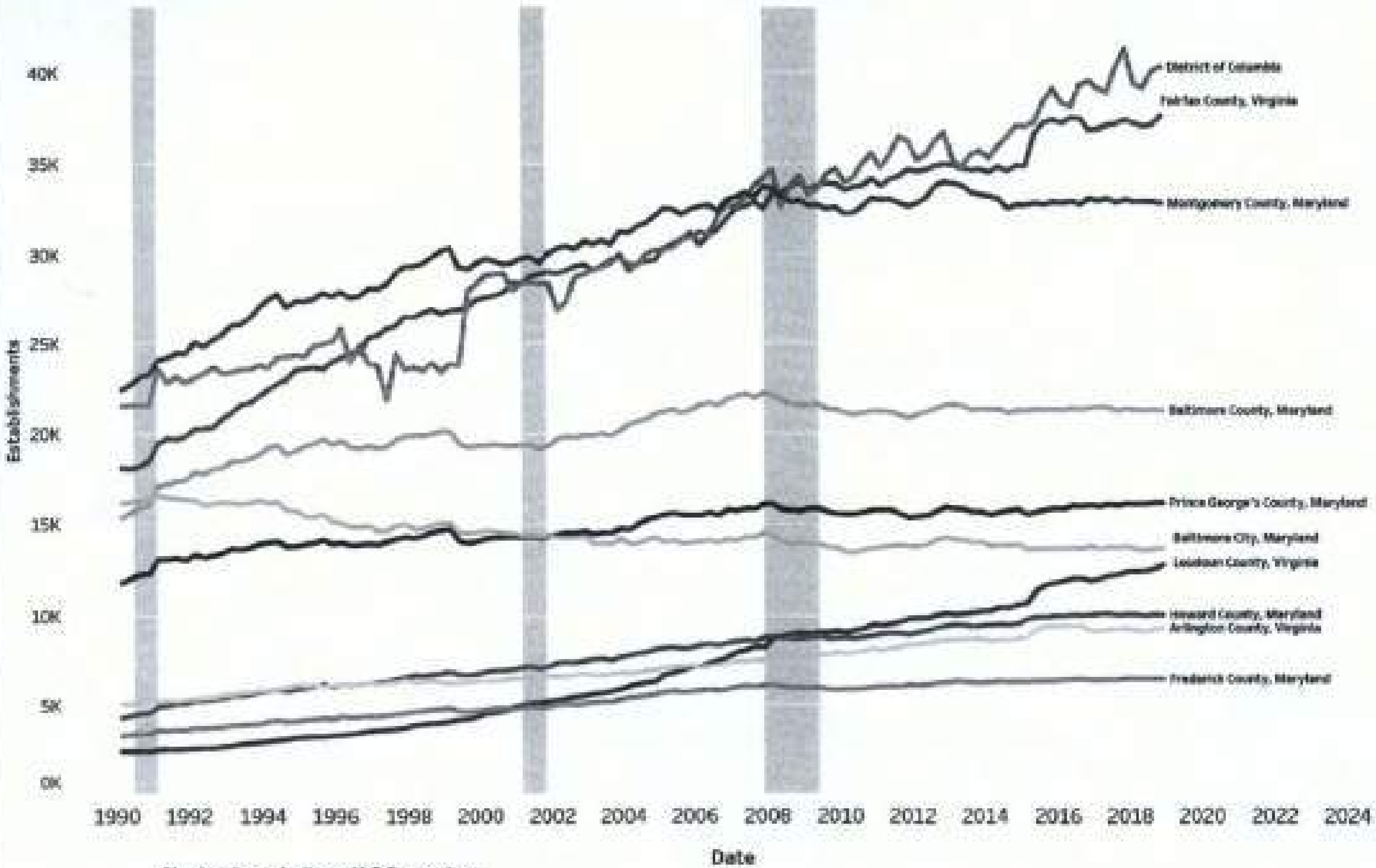
MC Economic Profile

data-driven performance • strategic governance • government transparency • culture of accountability

Indicator: Number of Establishments

CountyStat

Number of Business Establishment 1990-2018



Shaded Areas Indicate U.S Recessions

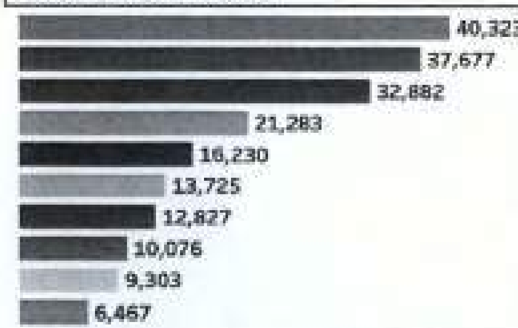
Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

An establishment is commonly understood as a single economic unit, such as a farm, a mine, a factory, or a store, that produces goods or services. Establishments are typically at one physical location and engaged in one, or predominantly one, type of economic activity for which a single industrial classification may be applied. An establishment is in contrast to a firm, or a company, which is a business and may consist of one or more establishments, where each establishment may participate in a different predominant economic activity

Source: U.S. Bureau of Labor Statistics Quarterly Census of Employment and Wages (QCEW)

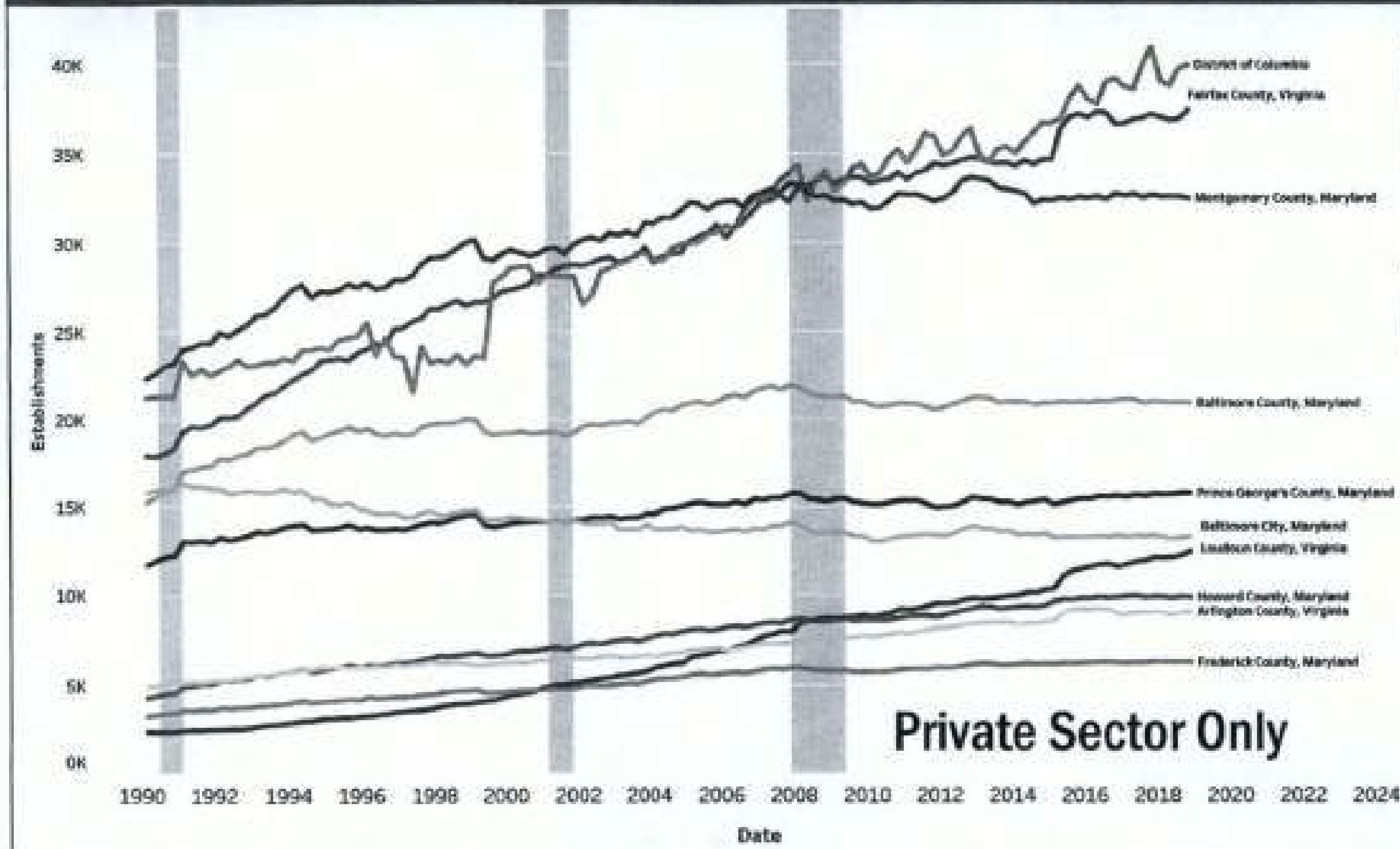


82

Indicator: Number of Establishments (Private Sector)

CountyStat

Number of Business Establishment 1990-2018



Shaded Areas indicate U.S Recessions

Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

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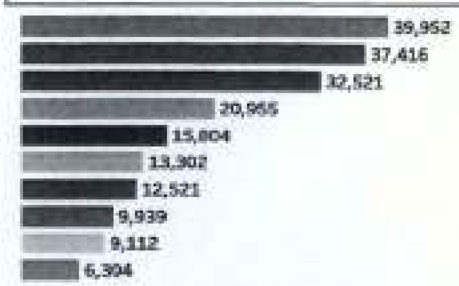
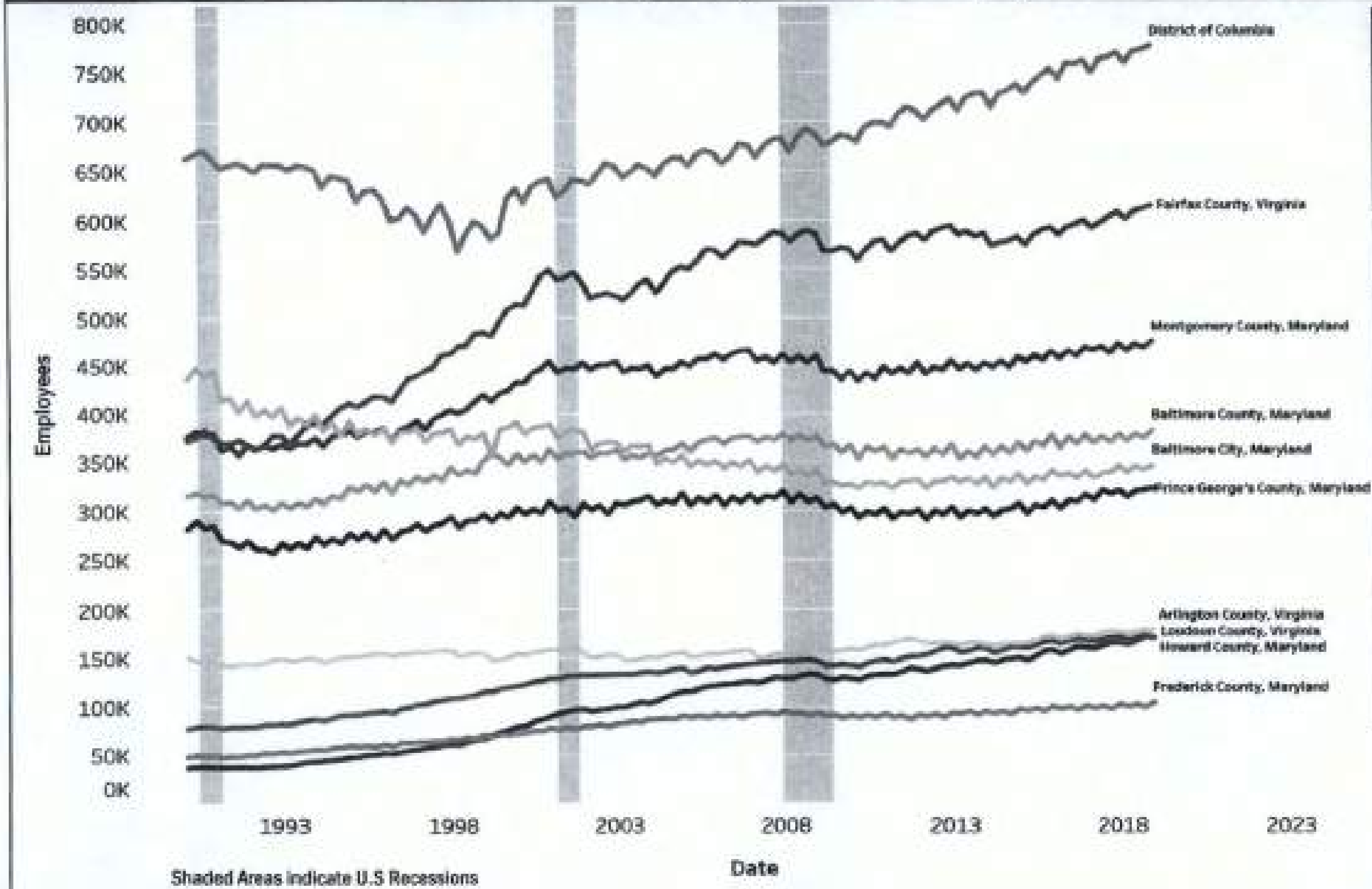


Number of Employees

CountyStat

Quarterly Number of Employees1990-2018



Shaded Areas Indicate U.S Recessions

Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

QCEW wages data represents filled jobs, whether full or part time, and temporary or permanent, by place of work. The quarterly reports include the establishment's monthly employment levels for the pay periods that include the 12th of the month.

Source: U.S. Bureau of Labor Statistics :Quarterly Census of Employment and Wages (QCEW

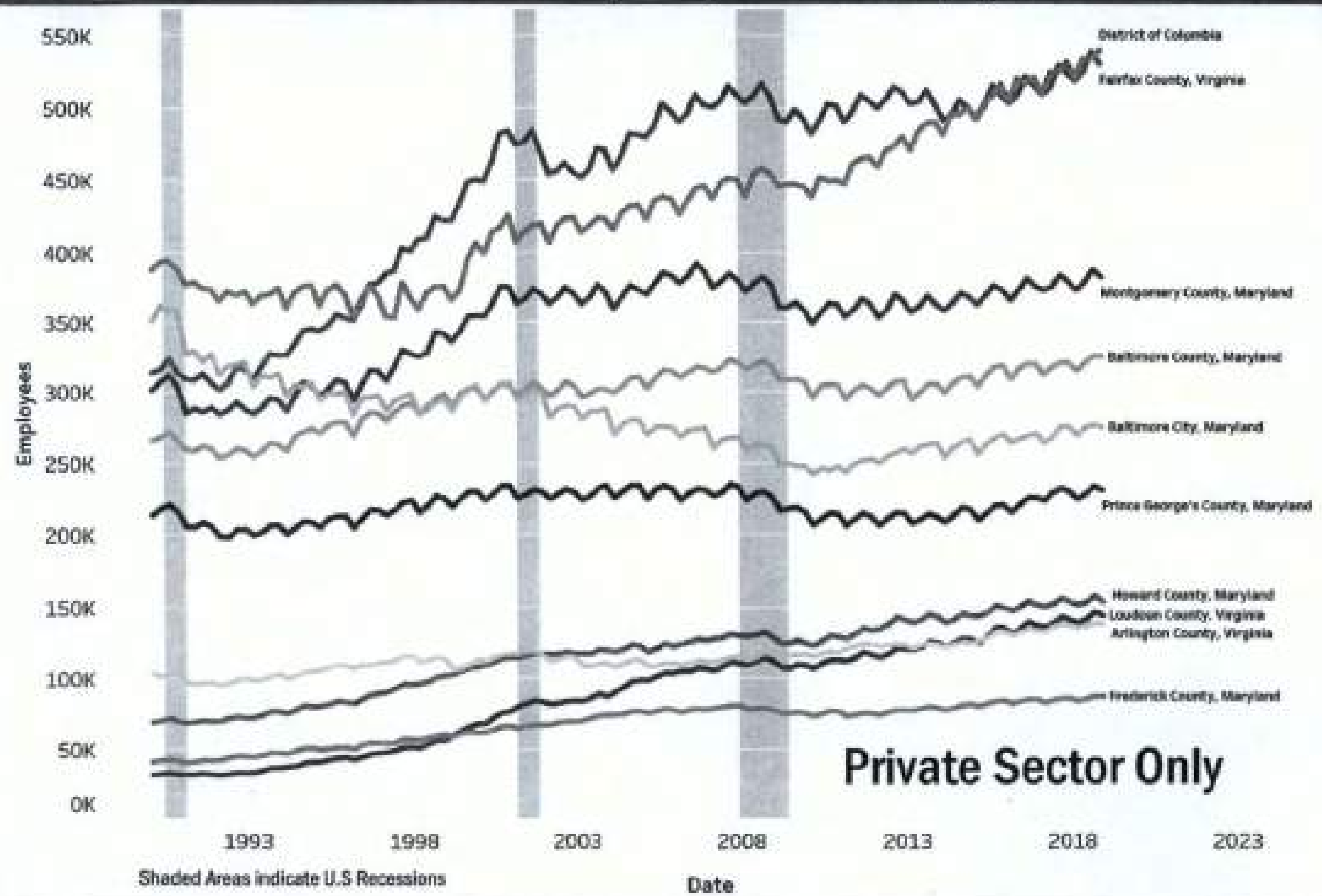
	Montgomery County, Maryland	District of Columbia	Fairfax County, Virginia
Federal Government	47,496	197,007	24,446
Local Government	41,856	4,494	40,349
Private	380,823	534,225	538,037
State Government	1,258	36,415	9,617
Total Covered	471,432	771,314	612,449

48

Number of Employees (Private Sector)

CountyStat

Quarterly Number of Employees1990-2018



Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

QCEW wages data represents filled jobs, whether full or part time, and temporary or permanent, by place of work. The quarterly reports include the establishment's monthly employment levels for the pay periods that include the 12th of the month.

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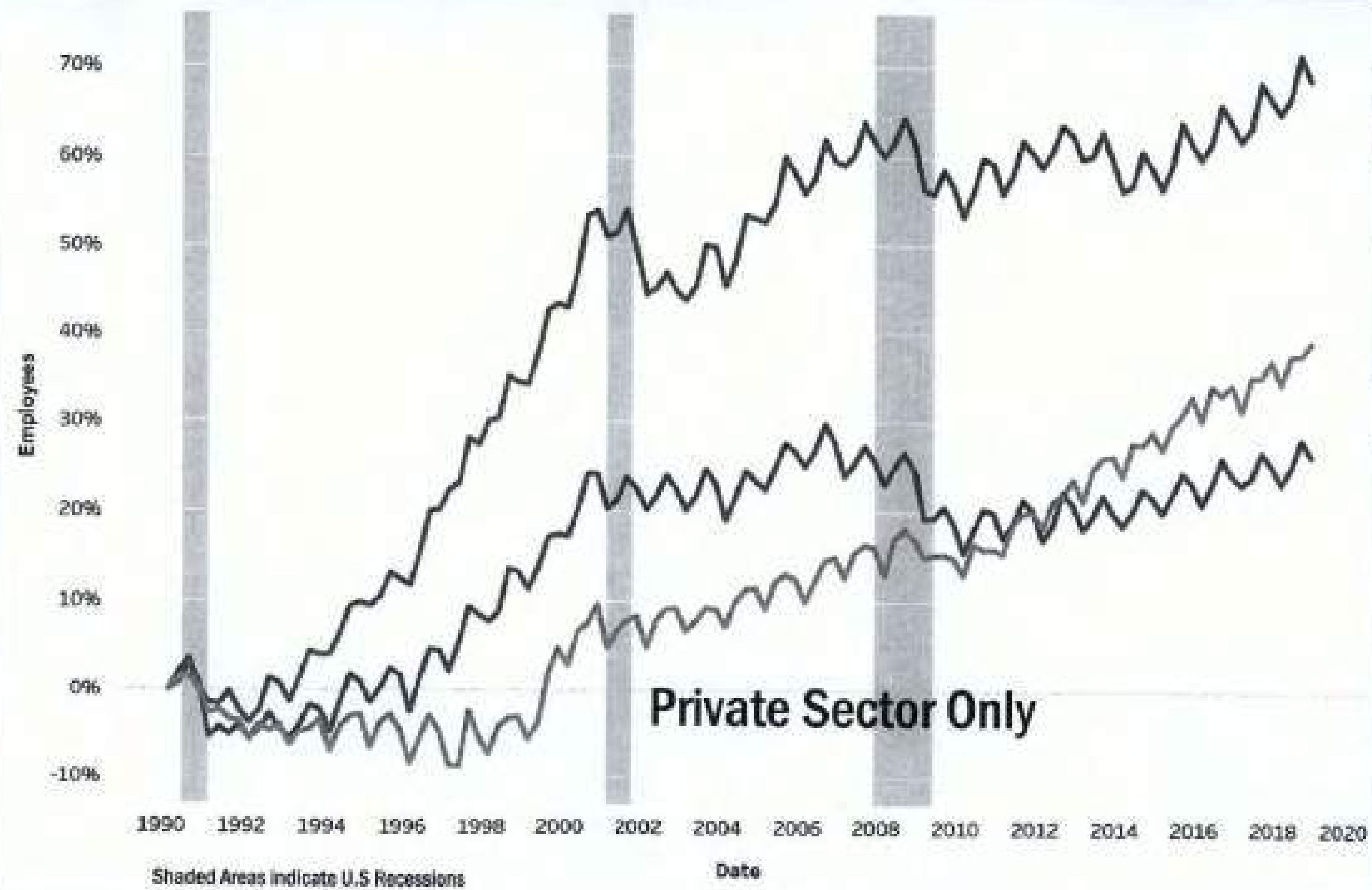
Federal Government	47,496	197,007	24,446
Local Government	41,856	4,094	48,663
Private	380,823	534,225	530,037
State Government	1,258	30,415	9,617
Total Covered	471,432	771,324	612,449

85

Number of Employees: Private Sector Only

CountyStat

% Growth since 1990



2018 Employees

Montgomery County, Maryland	District of Columbia	Fairfax County, Virginia
26%	39%	68%

Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

QCEW wages data represents filled jobs, whether full or part time, and temporary or permanent, by place of work. The quarterly reports include the establishment's monthly employment levels for the pay periods that include the 12th of the month.

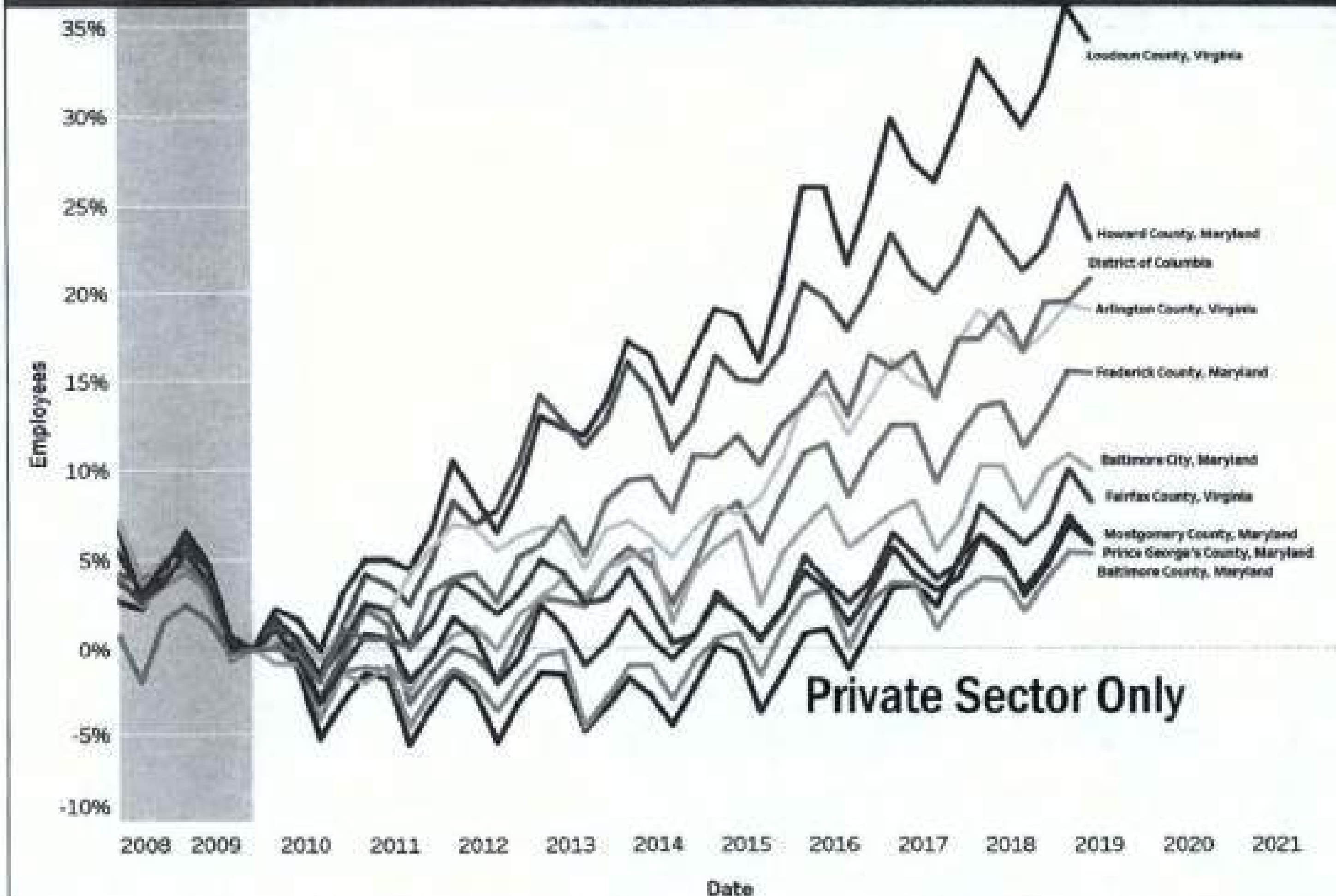
Source: U.S. Bureau of Labor Statistics :Quarterly Census of Employment and Wages (QCEW

98

Number of Employees: Private Sector Only

CountyStat

% Growth in Private Sector Jobs since March 2010



Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

QCEW wages data represents filled jobs, whether full or part time, and temporary or permanent, by place of work. The quarterly reports include the establishment's monthly employment levels for the pay periods that include the 12th of the month.

Source: U.S. Bureau of Labor Statistics :Quarterly Census of Employment and Wages (QCEW

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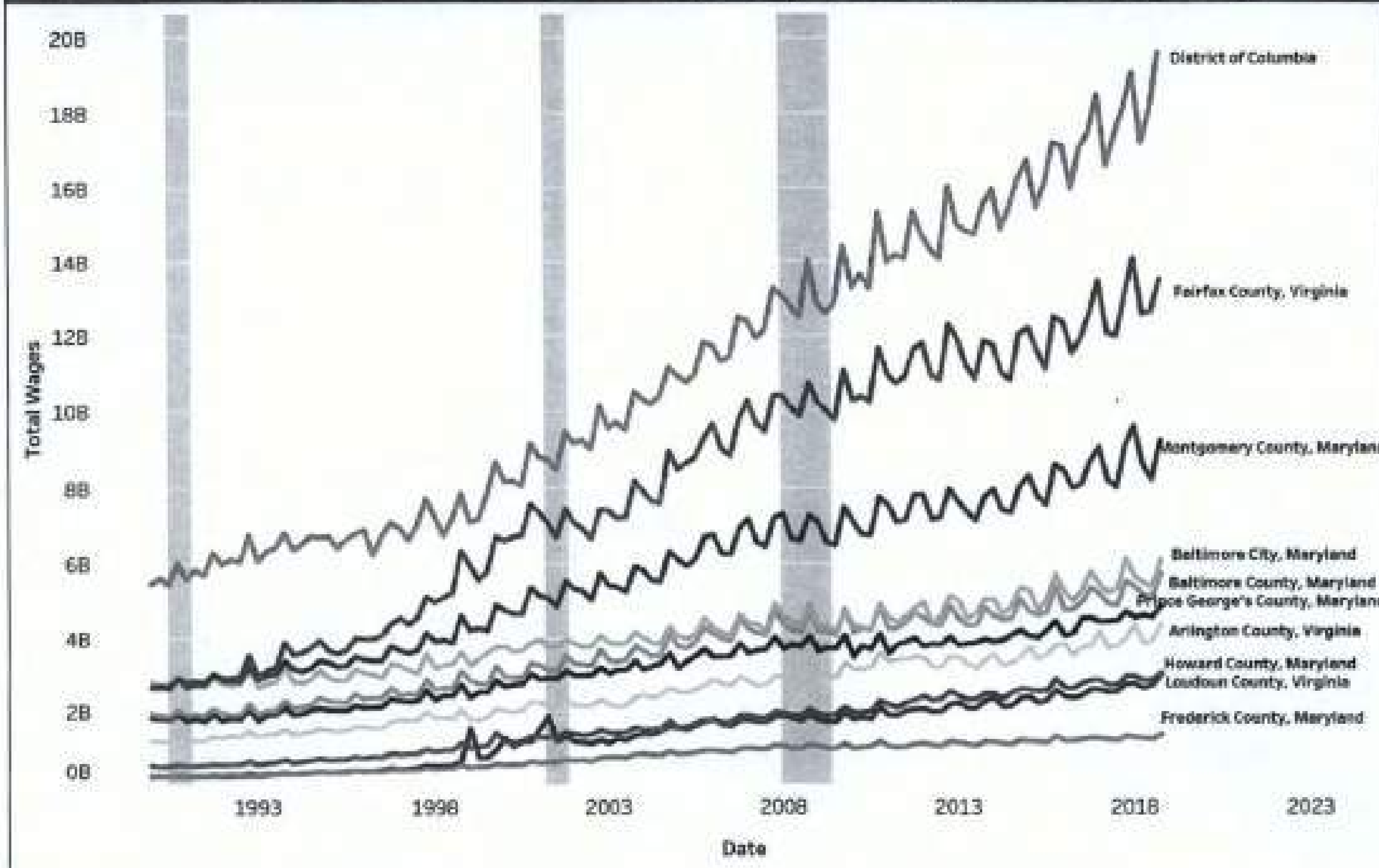
Quarterly Wages Earned

CountyStat

Quarterly Total Wages from 1990-2018



Shaded Areas Indicate U.S Recessions

Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

QCEW wages data represent the total compensation paid during the calendar quarter, regardless of when the services were performed. In most states, covered employers report total compensation paid during the calendar quarter, regardless of when the services were performed. A few state laws, however, specify that wages be reported for or be based on the period during which services are performed rather than the period during which compensation is paid. Under most state laws or regulations, wages include bonuses, stock options, severance pay, the cash value of meals and lodging, tips and other gratuities. In some states, wages also include employer contributions to certain deferred compensation plans, such as 401(k) plans.

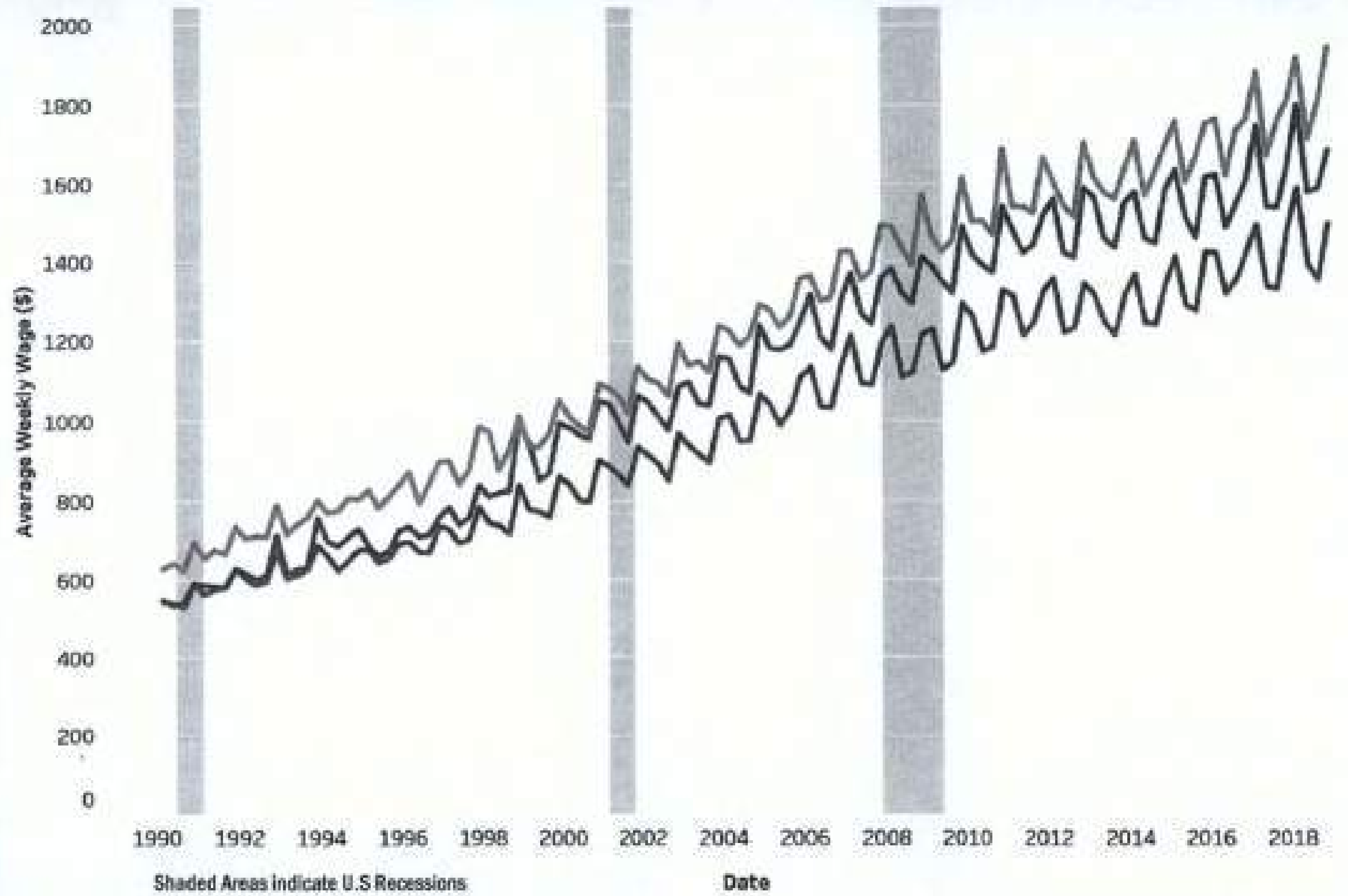
Source: U.S. Bureau of Labor Statistics :Quarterly Census of Employment and Wages (QCEW

88

Average Weekly Pay

CountyStat

Quarterly Average Weekly Pay from 1990-2018



2018 Average Weekly Pay

Montgomery County, Maryland	District of Columbia	Fairfax County, Virginia
$1,457	$1,845	$1,661

Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

QCEW wages data represent the total compensation paid during the calendar quarter, regardless of when the services were performed. In most states, covered employers report total compensation paid during the calendar quarter, regardless of when the services were performed. A few state laws, however, specify that wages be reported for or be based on the period during which services are performed rather than the period during which compensation is paid. Under most state laws or regulations, wages include bonuses, stock options, severance pay, the cash value of meals and lodging, tips and other gratuities. In some states, wages also include employer contributions to certain deferred compensation plans, such as 401(k) plans.

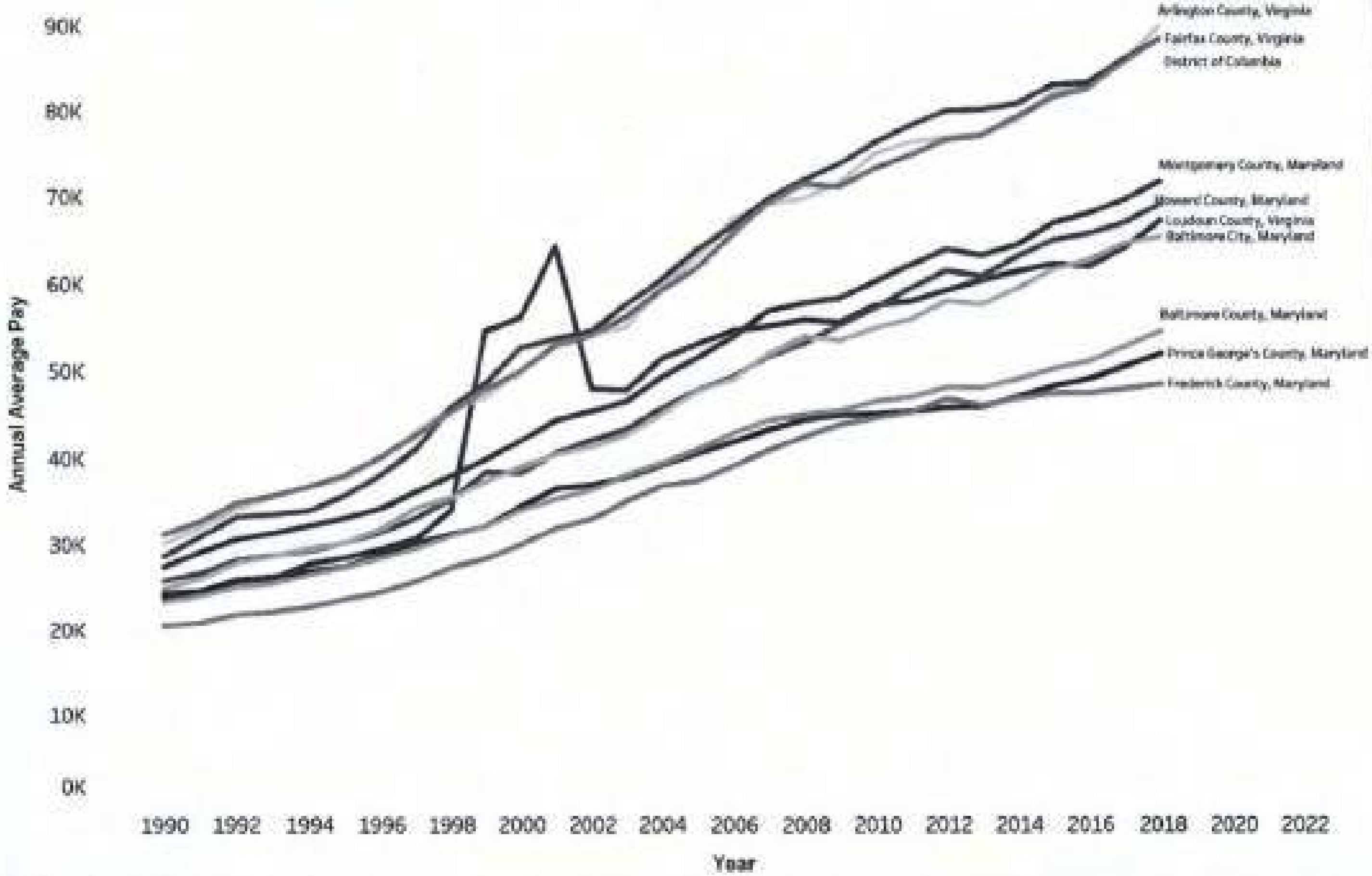
Source: U.S. Bureau of Labor Statistics :Quarterly Census of Employment and Wages (QCEW

(88)

Average Annual Pay

CountyStat

Annual Average Pay from 1990-2018



Source/Notes

QCEW wages data represent the total compensation paid during the calendar quarter, regardless of when the services were performed. In most states, covered employers report total compensation paid during the calendar quarter, regardless of when the services were performed. A few state laws, however, specify that wages be reported for or be based on the period during which services are performed rather than the period during which compensation is paid. Under most state laws or regulations, wages include bonuses, stock options, severance pay, the cash value of meals and lodging, tips and other gratuities. In some states, wages also include employer contributions to certain deferred compensation plans, such as 401(k) plans.

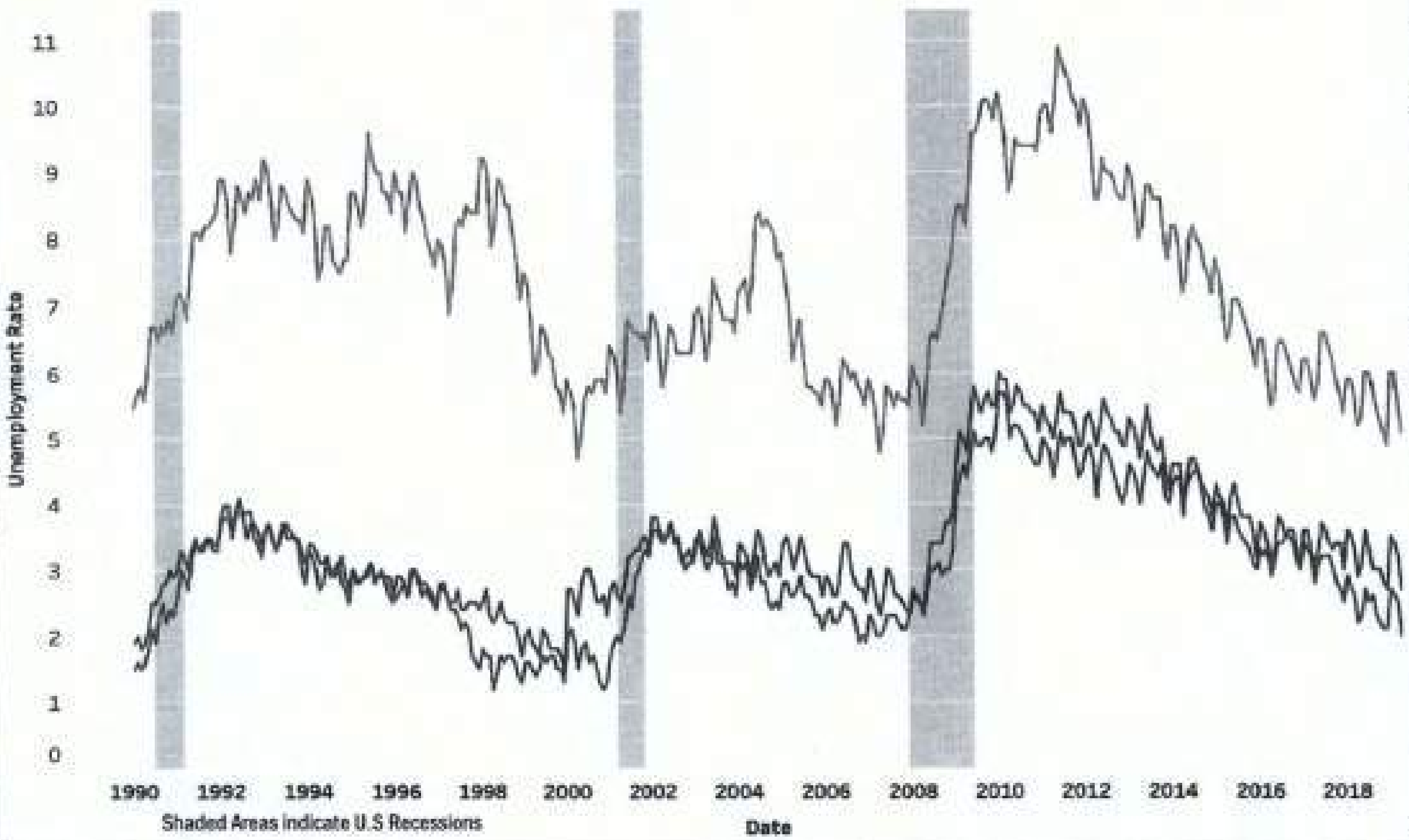
Source: U.S. Bureau of Labor Statistics :Quarterly Census of Employment and Wages (QCEW

90

Monthly Unemployment Rate

CountyStat

Monthly Unemployment Rate from January 1990- May 2019



2018 Average Unemployment Rate

Montgomery County, Maryland	District of Columbia	Fairfax County, Virginia
3.15%	5.5%	2.43%

Legend

- Montgomery County, Maryland
- District of Columbia
- Fairfax County, Virginia

Source/Notes

Unemployment is defined by the Bureau of Labor Statistics as people who do not have a job, have actively looked for work in the past four weeks, and are currently available for work. Also, people who were temporarily laid off and were waiting to be called back to that job are included in the unemployment statistics.

Source: U.S. Bureau of Labor Statistics :Occupational Employment Statistics from the Current Population Survey

(16)

The STEPHEN S. FULLER INSTITUTE
for Research on the Washington Region's Economic Future

SCHAR School of Policy and Government
GEORGE MASON UNIVERSITY

Washington Economy Watch

Vol. III, No. 6
June 2019

The Stephen S. Fuller Institute
for Research on the Washington Region's Economic Future
Schar School of Policy and Government
George Mason University

The Washington Economy Watch is a monthly report issued by The Stephen S. Fuller Institute that is intended to inform its readers regarding the current and near-term performance of the Washington region's economy. The Leading and Coincident Indices were first reported in February 1991 and have been calculated each month since that first release and reflect an underlying data base that dates from 1978 covering five complete business cycles in addition to the current cycle that began in mid-2009.

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Washington Economy Watch

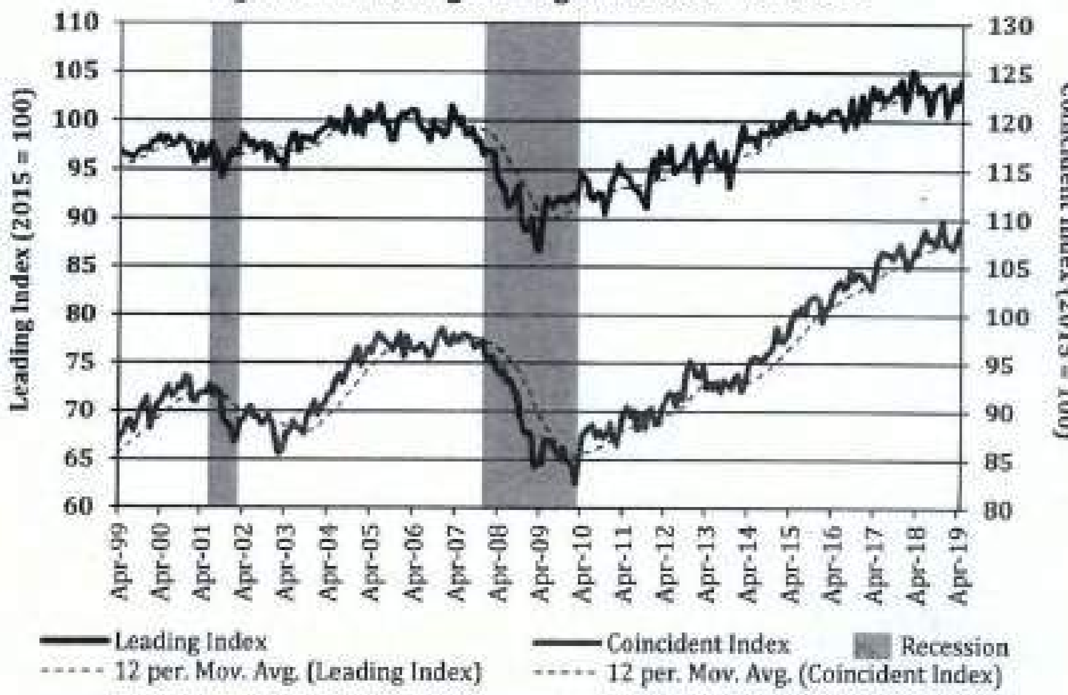
Vol. III, No. 6

June 2019

The Washington Region's Economy Gained Traction in April Reversing First Quarter Weaknesses

The Washington region's Coincident and Leading Indices both bounced back in April from their weak first quarter performances: the Coincident Index accelerated in April after registering its slowest growth in five years in March and the Leading Index turned positive in April reversing its downward trend dating back to July 2018. Seven of the two Indices' eight component indicators contributed to this overall positive performance. Still, this reversal represents just one month's performance and follows a slowing trend that may not be finished. Job growth in April remained well below forecast and May jobs numbers, released June 21st, showed this slower growth trend continuing. With the U.S. economy slowing, global trade tensions continuing, oil prices rising, and the FY 2020 federal budget impasse far from resolution, this year's economic performance remains uncertain.

Figure 1. Washington Region Economic Indices



Source: The Stephen S. Fuller Institute at the Schar School, GMU

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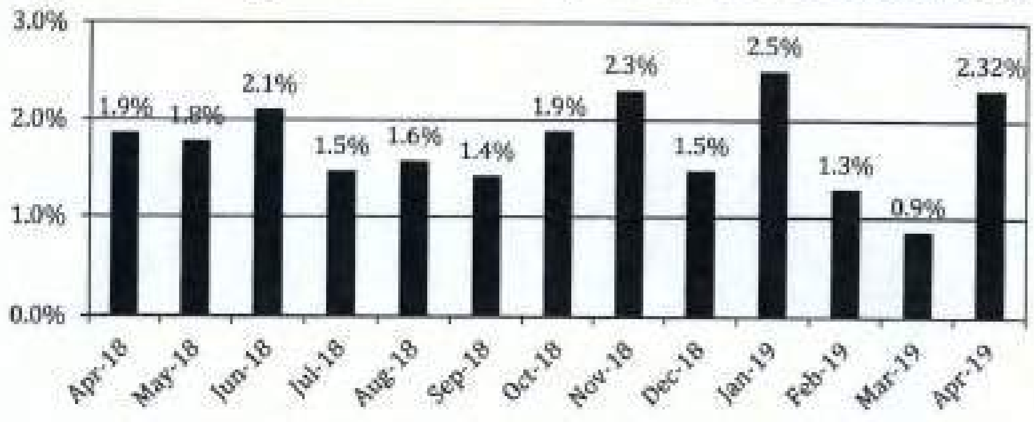
The **Washington Coincident Index**, which represents the current state of the metropolitan area economy, increased for a second consecutive month, increasing 1.28 percent in April, on a month-to-month basis, building on its gain of 0.7 percent in March after having declined in the three preceding months. These gains reflect continuing recovery from the impacts of the 35-day partial federal shutdown and the general seasonal strengthening of the region's economy. The most significant performance change was reflected in the month-to-month change in consumer confidence that was down 12.0 percent in March and gained 13.1 percent in April.

On a monthly over-the-year basis, April's Coincident Index registered an increase of 2.32 percent from April 2018, its second strongest monthly over-the-year performance in the last year. This increase extended the Index's upward trend to 61 consecutive months, dating from April 2014. The Coincident Index's acceleration from March's weak 0.9 percent increase can be attributed to sharp increase in consumer confidence accompanied by strong gains in nondurable goods retail sales, both reversing their weak performances in March.

In April, all four of the Index's four components were positive on a monthly over-the-year basis:

- *Wage and salary employment* in the Washington region increased 0.9% between April 2018 and April 2019;
- *Non-durable goods retail sales* were up 4.8% from April 2018 gaining for a 26th consecutive month on a monthly over-the-year basis;
- *Domestic passenger volume at Reagan National and Dulles Airports* increased 3.1% from April 2018; and,
- *Consumer confidence (in the present)* increased by 10.2% from April 2018.

Figure 2. Washington Coincident Index, Monthly Over-the-Year Changes



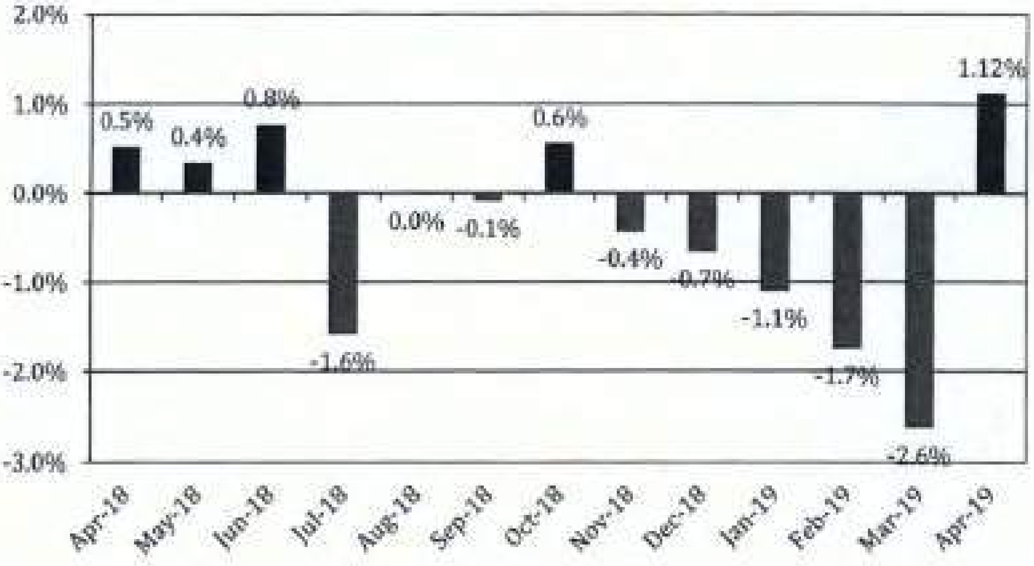
Source: The Stephen S. Fuller Institute at the Schar School, GMU

The **Washington Leading Index**, which is designed to forecast the performance of the metropolitan area economy six to eight months in advance, increased by 1.12 percent in April on a monthly over-the-year basis; this was only its second increase since June 2018. The Leading Index's decline had accelerated over the previous five months raising concerns regarding the region's economic performance going forward into 2020. While April's Index gain tempers this concern, until a positive trend is sustained achieving this year's projected gain remains in doubt.

In April, three of the Leading Index's four components contributed to its increase. This performance contrasts with these components' performances in March and February when all of four components made negative contributions.

- *Consumer expectations (consumer confidence six months hence)* increased 12.2% from April 2018 after declining for three consecutive months;
- *Total residential building permits* increased 66.1% in April reversing two monthly over-the-year declines; and,
- *Durable goods retail sales* were up 3.6% from their April 2018 level after declining 0.2% in both March and February; while,
- *Initial claims for unemployment insurance* increased 51.2%, worsening for the eleventh consecutive month.

Figure 3. Washington Leading Index, Monthly Over-the-Year Changes



Source: The Stephen S. Fuller Institute at the Schar School, GMU

Current Performance

The Washington region's economy has sustained its expansion (recovery) from the negative impacts of the 2014 Sequester for 61 consecutive months; that is, the Washington region's Coincident Index, which is designed to measure the region's current economic performance, has increased each month since April 2014 (on a monthly over-the-year basis) through April 2019. The Coincident Index has tracked the Washington region's recovery from the economy's Sequester induced decline, its acceleration through 2018 and its slowdown during this year's 1st quarter.

Several weaknesses have emerged. Primary among them were the slowdown in the region's job growth and weakening of consumer confidence. With April's Coincident Index increasing to 2.3 percent from March's 0.9 percent (the slowest growth rate since March 2014), it would appear that what had been holding the region's economy back has been corrected. Consumers appear more confident, as confidence (in the present) increased 10.2 percent in April after declining 3.7 percent in March. This decline in consumer confidence could be blamed on the 35-day partial-federal shutdown or perhaps growing concerns about border security, a looming trade war with China or other uncertainties that emerged during the first quarter.

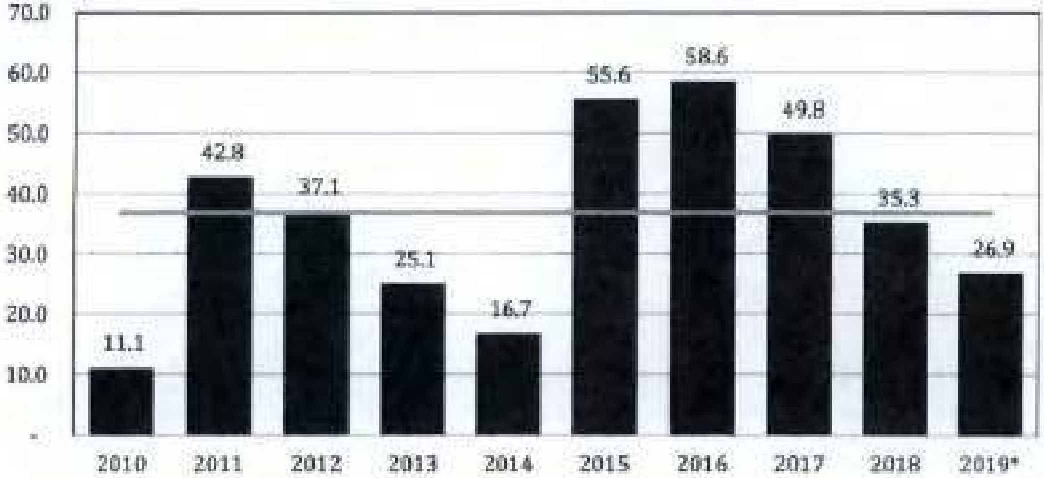
Consumer spending is an important driver of the local and national economies. When consumer confidence dips, so does retail spending as it did in March, nondurable retail sales slowed and durable goods retail sales declined. With consumer confidence increasing in April, both durable and nondurable goods retail sales also registered strong gains. If April's growth in consumer confidence continues, consumer spending is likely to continue to grow providing further stimulus to the economy and helping to extend its expansion.

Job growth with its associated gains in personal earning remains the key to growing consumer spending. The Washington region's job growth performance has slowed considerably since its peak in 2016. Job gains in 2017 remained strong but were down 15.0 percent from their 2016 total and this slowdown in job growth continued in 2018 with job gains were down 29.1 percent from 2017. Job growth in 2019, through five months, show this trend continuing with the annualize gain (based on five-months performance) averaging 26,900 jobs; down 23.7 percent from the number of jobs added in 2018. This annualized job increase through May was pulled down from April's annualized gain of 28,200; in May the region's gain from May 2018 is estimated at 25,000 jobs. These historic job growth trends for the Washington region are presented in Figure 4.

Besides slower job growth since 2016, the distribution of this job growth across the Washington region's sub-state areas has also changed. Job growth has favored Northern Virginia for more than fifty years but these differences have widened in recent years. During the 2015-2017 period, Northern Virginia accounted for 52.2 percent of the region's job gains, the District of Columbia accounted for 23.7 percent and Suburban Maryland's share was 24.1 percent. In 2018, these job growth percentages shifted even more to Northern Virginia's advantage: 71.1%, 20.4% and 8.5%, respectively. This job growth pattern has become even more unbalanced in 2019. Suburban Maryland has lost jobs in four of the year' first five months—job growth has declined and equaled 8.6 percent of the region's net gain through May and job growth in the District has slowed representing 16.2 percent of the region's gain. Job growth in Northern Virginia, through five months, is accounting for 92.4 percent of the region's estimated job gains.

This growing imbalance in the distribution of the region's economic growth, as measured by its generation of new jobs, raises a range of concerns. Important among these is the region's ability to compete economically with other large metropolitan regions when a large portion of it is structurally unable to support economic growth. This unbalanced growth pattern could also reshape commuting patterns and housing markets, and deepen the inequities in the quality of life available across the region.

Figure 4. Job Change in the Washington Region, 2010-2019* (in thousands)



Source: U.S. Bureau of Labor Statistics; The Stephen S. Fuller Institute at the Schar School, GMU *Average through May

The U.S. Economy's Outlook in 2019

The performance of the Washington region's economy is also being affected by the performance of U.S. economy. As the growth of the region's economy has become more strongly tied to the performance of its non-federal dependent businesses and organizations, national and global economic trends and conditions will either support or constrain the region's growth going forward.

The national business cycle turns 10-years old at mid-year and its uneven performance is being closely monitored and widely interpreted. The good news is that the U.S. economy continues to expand. The year started off with a strong 3.1

percent 1st quarter GDP increase. While employment growth has been uneven this year, it remains well above levels consistent with an aging business cycle, and unemployment holding at a 50-year low at 3.6 percent and still could go lower over the summer. Wage growth and job growth have fueled consumer spending without generating inflationary pressures and lower energy costs have been a positive factor in both lowering inflationary pressures and providing consumers with some additional disposable income, while also bolstering consumer confidence. Consumer spending rose in April and May after slowing at the end of 2018.

The interest rate environment remains favorable with 30-year fixed rate mortgages holding below 4 percent, down almost a full point from a year ago. And, the Federal Reserve Board's announcement last March that it was taking a pause in its planned sequence of rate increases, which had at least three more ¼ point increases planned, was received favorably by investors. With the Fed's announcement on June 19th that it was holding rates steady and that it would do whatever was necessary to sustain the business cycle, it has become clear to many Fed watchers that its next move, possibly as early as July, will be to lower the Federal Funds rate by ¼ point.

Some of what is concerning the Fed and other observers includes:

- A projected slowdown in GDP growth in the second quarter to 1.5% from 3.1% in the first quarter;
- IHS Markit's June manufacturing Purchasing Managers' Index slipped to its lowest level since late 2009, to just above the threshold between expansion and contraction;
- Weaker global economic performance, especially for China and the EU;
- Escalating trade conflicts with major trading partners;
- The Morgan Stanley Business Conditions Index fell in June to its lowest level since December 2008; and,
- The possible federal budget and U.S. debt-ceiling impasses leading to a federal shutdown October 1st.

The fact remains that the national economy is slowing and, after growing 2.9 percent in 2018, it is now on track to grow 2.5 percent in 2019 (IHS, June 2019). Other forecasters have the GDP growth rate down to 2.1 to 2.3 percent. This slowdown is projected to continue in 2020 with GDP growing 1.8 percent, falling below trend, and remaining at below-trend rates into the foreseeable future. To sustain GDP growth over several more years, even at these slower rates, will require resolution of a long list of threats that could disrupt the cycle. Already, there is growing acceptance that the record expansion could end in 2020. On June 17th, JP

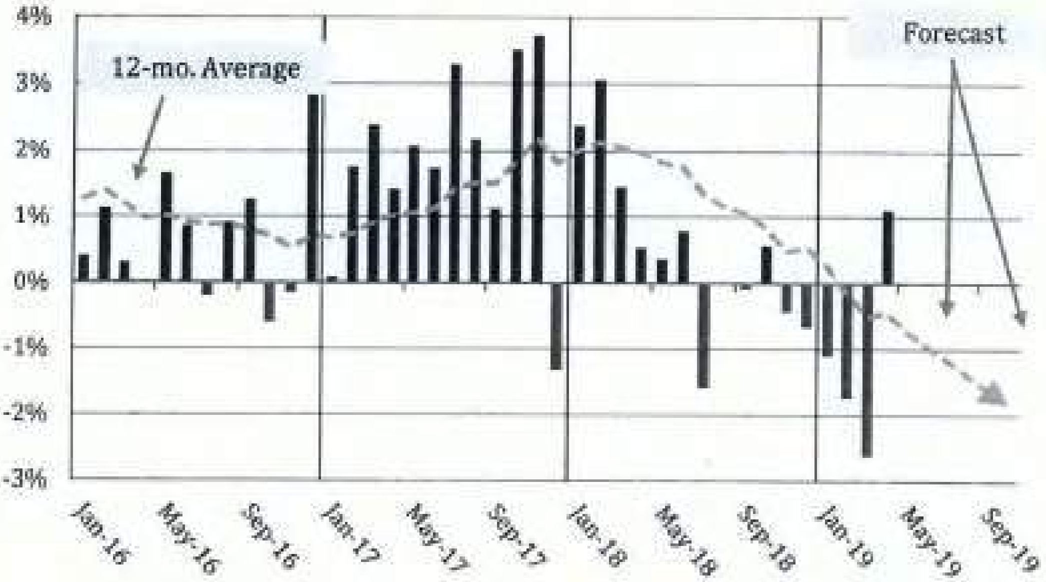
Morgan Chase predicted that there is a 45 percent chance that the U.S. economy will enter into a recession in 2020, up from 20 percent chance at the beginning of 2018.

Near-Term Outlook

The Washington Leading Index has had a negative trajectory for a full year. This decline has become broader and deeper through the year's first quarter. Based on this trend, it would have been easy to conclude that the region's economy was headed into a period of slower GRP growth or worse, a recession (six or more consecutive months of GRP decline).

With its performance in April, the Washington Leading Index has registered a strong monthly over-the-year gain, which if sustained over the second and third quarters, will indicate that the negative forces undermining the region's economic performance over the second half of 2018 and first quarter of 2019 have abated. Most worrisome over the near term is the growing potential for a federal shutdown in October, not a partial-federal shutdown in January when the economy performance is constrained by seasonal factors but a full shutdown in October, a prime month for economic growth. Should a federal shutdown occur, it could erase the other gains that the region's economy had secured during the first nine months of the year. The Stephen S. Fuller Institute will continue to carefully watch and report on these trends until these threats are resolved.

Figure 5. Washington Region Leading Index
Monthly Over-the-Year Percent Change



Source: The Stephen S. Fuller Institute at the Schar School, GMU

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Washington Area Economic Indicators
Current and Previous Months

Economic Indicator	Estimates			Percent Change	
	Apr-19 Prelim.	Mar-19 Final	Apr-19 Final	Mar-19 to Apr-19	Apr-19 to Apr-19
Washington Area Business Cycle Indicators					
Coincident Index (2015 = 100)	109.0	107.7	106.6	1.28%	2.32%
Leading Index (2015 = 100)	104.1	102.2	103.0	1.86%	1.12%
Washington Area Coincident Index Components					
Total Wage & Salary Employment ('000)[a]	3,330.2	3,309.4	3,300.4	0.63%	0.90%
Consumer Confidence (South Atlantic)[a]	180.7	159.8	164.0	13.08%	10.18%
Domestic Airport Passengers ('000)[b]	2,209.8	2,169.8	2,142.4	1.84%	3.14%
Nondurable Goods Retail Sales ($000,000)[c]	3,326.7	3,324.4	3,173.6	0.07%	4.82%
Washington Area Leading Index Components					
Total Residential Building Permits[a]	2,622.0	1,807.0	1,579.0	45.10%	66.05%
Consumer Expectations (South Atlantic)[a]	124.6	104.1	111.1	19.69%	12.15%
Initial Unemployment Claims[b]	2,059.7	1,936.8	1,362.6	5.76%	51.15%
Durable Goods Retail Sales ($000,000)[c]	3,775.8	3,812.2	3,642.9	-0.95%	3.65%
Washington Area Labor Force[a]					
Total Labor Force ('000)	3,414.1	3,422.9	3,384.0	-0.26%	0.89%
Employed Labor Force ('000)	3,316.6	3,309.7	3,280.2	0.21%	1.11%
Unemployed Labor Force ('000)	97.5	113.2	103.8	-13.91%	-6.12%
Unemployment Rate	2.9%	3.3%	3.1%	—	--
Washington Area Wage and Salary Employment[a]					
Total ('000)	3,330.2	3,309.4	3,300.4	0.63%	0.90%
Construction ('000)	158.9	156.5	158.9	1.53%	0.00%
Manufacturing ('000)	54.7	55.0	55.1	-0.55%	0.73%
Transportation & Public Utilities ('000)	68.4	68.6	67.5	-0.29%	1.33%
Wholesale & Retail Trade ('000)	329.8	328.9	334.9	0.27%	-1.52%
Services ('000)	2,008.9	1,992.4	1,976.5	0.83%	1.64%
Total Government ('000)	709.5	708.0	707.5	0.21%	0.28%
Federal Government ('000)	363.0	361.2	363.9	0.50%	-0.25%

[a]Unadjusted data

[b]Seasonally adjusted data

[c]Seasonally adjusted constant (1996) dollars

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American Economic Review: Papers & Proceedings 100 (May 2010): 1–7
http://www.aeaweb.org/articles.php?doi=10.1257/aer.100.2.1

Local Multipliers

By Enrico Moretti*

Every time a local economy generates a new job by attracting a new business, additional jobs might also be created, mainly through increased demand for local goods and services. This positive effect on employment is partially offset by general equilibrium effects induced by changes in local wages and prices of local services. In this paper, I estimate the long term employment multiplier at the local level. Specifically, I quantify the long-term change in the number of jobs in a city's tradable and nontradable sectors generated by an exogenous increase in the number of jobs in the tradable sector, allowing for the endogenous reallocation of factors and adjustment of prices.

I find that for each additional job in manufacturing in a given city, 1.6 jobs are created in the *nontradable sector* in the same city. As the number of workers and the equilibrium wage increase in a city, the demand for local goods and services increases. This effect is significantly larger for skilled jobs, because they command higher earnings. Adding one additional skilled job in the tradable sector generates 2.5 jobs in local goods and services. The corresponding figure for unskilled jobs is one. The multiplier also varies across industries. Industry-specific multipliers indicate that high tech industries have the largest multiplier.

A simple framework suggests that the local multiplier for the *tradable sector* should be smaller than the one for the nontradable sector, and possibly even negative. This is because the increase in labor costs generated by the initial labor demand shock hurts local producers of tradables. This negative effect may be in part offset by agglomeration externalities, if they exist, and an increase in the demand for intermediate inputs, if supply chains are localized. Empirically, I find that adding one additional job in one part of the tradable sector has no significant effect on employment in other parts of the tradable sector.

The magnitude of local multipliers is important for regional economic development policies. State and local governments spend considerable amounts of taxpayer money on incentives to attract new businesses to their jurisdictions. Such location based incentives are pervasive in manufacturing. However, the efficiency of these policies and their actual effects on employment are not fully understood, because there is little systematic evidence on the effects of successfully attracting a new firm on other parts of the local economy. The estimates in this paper help inform this debate.[1]

Moreover, assuming that the objective of local economic development policies is to maximize local employment, it is important to know where subsidies should be directed. The multiplier is likely to vary across industries and skill groups. There is little existing evidence on which industries and skill groups have the largest multiplier and therefore generate the largest number of additional jobs. My estimates shed some light on this question.

It should be noted, however, that the presence of large multipliers is not, in itself, a market failure and therefore does not necessarily justify government intervention. Local subsidies may be efficiency enhancing in the presence of agglomeration externalities. However, a multiplier larger than one does not necessarily imply the existence of agglomeration economies. For example, the multiplier effect that operates through increases in the product demand for local goods and services is a pecuniary externality and does not constitute a market failure. On the other hand, the finding of a nonnegative employment effect for tradables is consistent with (although not proof of) the existence of agglomeration economies.

The magnitude of local multipliers may also be relevant for the literature on nationwide multipliers. The exact magnitude of multipliers is

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[1] See also Greenstone and Moretti (2004), and Greenstone, Hornbeck, and Moretti (forthcoming).

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a crucial element in formulating countercyclical stimulus policies. For example, the Obama administration's ex ante estimates of the effect of the 2009 American Recovery and Reinvestment Plan depended crucially on the magnitude of the multiplier used in the simulations (Romer and Bernstein 2009). Existing estimates of multipliers based on national time-series hinge upon very strong identifying assumptions. My estimates of local multipliers provide bounds for national multipliers.

I. Conceptual Framework

Assume that each city is a competitive economy that uses labor to produce a vector of nationally traded goods, $x_1, x_2, x_3, \ldots, x_K$—whose price is set—and a vector of nontraded goods, $z_1, z_2, \ldots, z_H$—whose price is determined locally. Labor is mobile across sectors within a city so that marginal product and wages are equalized within a city. Local labor supply is upward sloping, and its slope depends on the distribution of residents' tastes for leisure and the degree of labor mobility across cities. Higher geographical mobility implies a higher elasticity of labor supply. In the extreme, perfect mobility would imply an infinitely elastic local supply of labor. Local housing supply is upward sloping, and its slope depends on geography and land use regulations.

Consider the case of a permanent increase in labor demand in tradable industry x_1 in city c. This increase may be due to the successful attraction of a new firm (see for examples the cases documented in Greenstone and Moretti 2004) or an increase in the product demand faced by existing firms. The direct effect of this shock is an increase in employment in industry x_1. But this shock to sector x_1 may also affect local employment in the rest of the tradable sector $x_2, x_3, \ldots, x_K$ and in the nontradable sector. The shock is also likely to have general equilibrium effects on local prices: the wage of *all* workers in the city increases (unless local labor supply is infinitely elastic) and the cost of housing also increases (unless housing supply is infinitely elastic).

Multiplier for the Nontradable Sector.—The city budget constraint increases, both because there are more local jobs and because wages are higher. The increase in the city budget constraint results in an increase in the local demand for nontradables $z_1, z_2, \ldots, z_H$. Employment in industries like restaurants, real estate, cleaning services, legal services, construction, medical services, retail, personal services, etc. grows because the city has more workers and wages are higher. These new jobs are split between existing residents and new residents who move from somewhere else, depending on the degree of geographical mobility. The magnitude of the multiplier effect depends on three factors. First, it depends on consumer preferences for nontradables and the technology in the nontradable sector. More labor intensive technologies result in a larger multiplier. Second, it depends on the type of new jobs in the tradable sector. Skilled jobs should have a larger multiplier than unskilled jobs, because they pay higher earnings and therefore are likely to generate a larger increase in the demand for local services.

Third, there are offsetting general equilibrium effects on wages and prices, which ultimately depend on the elasticities of local labor and housing supply. The citywide increase in labor costs generated by the shock to x_1 causes a decline in the supply of local services.[2] This decline partially—but not fully—undoes the effect of the increase in demand for local services. Effectively, the addition of jobs in x_1 partially crowds out jobs in other industries. If labor supply is locally very elastic, this crowding out is more limited and the increase in labor costs is small, making the multiplier larger.[3]

Multiplier for the Tradable Sector.—The shock to industry x_1 may also affect employment in *tradable* industries $x_2, x_3, \ldots, x_K$, although the direction of the effect is a priori unclear. This effect is governed by three different forces. First, and most important, the citywide increase in labor costs hurts employment in $x_2, x_3, \ldots, x_K$. Because these are tradable industries, the increase in production costs lowers their competitiveness. Unlike the case of nontradable goods,

[2] This decline is further exacerbated by the increase in the cost of land caused by the increase in population.

[3] In the extreme case where local labor supply elasticity is infinite, nominal wages in the city do increase, but only to compensate workers for the higher cost of housing, so that real wages remain constant. In this case, the decline in the supply of nontradables is limited, and the increase in the demand for local services is driven only by the increase in number of workers in the city.

the price of tradable goods is set on the national market and cannot adjust to local economic conditions. In the long run, some of the production in these industries is likely to be shifted to different cities. Second, the increase in production of x_1 may increase the local demand for intermediate goods and services. This effect depends on the geography of the industry supply chain. While many industries are geographically clustered, the magnitude of this effect is likely to be quantitatively limited if the market for $x_2, x_3, \ldots, x_N$ is truly national.[4] Third, if agglomeration economies are important, the increase in production in sector x_1 may result in more local agglomeration (see, for example, Greenstone, Hornbeck, and Moretti forthcoming).[5]

State and local governments spend considerable public resources to finance regional economic development policies. To estimate the economic impact of these policies, state and local governments typically use estimates of local multipliers based on local Input-Output tables. This simple framework shows that Input-Output tables are unlikely to produce meaningful estimates of local multipliers. First, they completely miss the employment effect for nontradables. Second, they miss the job losses in the tradable sector caused by increases in labor costs and any of the jobs gains caused by agglomeration economies.

Relationship with National Multipliers.— The multiplier for the nontradable sector measured locally is an upper bound for the national multiplier. The reason is that due to geographical mobility, labor supply is arguably more elastic at the local level than at the national level. Higher elasticity implies that less crowding out takes place at the local level than at the national level. In the extreme, when labor supply elasticity equals zero, any increase in the number of jobs in a sector comes at the expense of another sector, so the multiplier must equal one. The multiplier for the tradable sector measured locally is a lower bound for the national multiplier. By definition, the market for tradables is national, and much of the additional local demand is likely to benefit other cities. Additionally, the negative effects of higher labor costs are more significant locally than nationally.

II. Empirical Estimates

Using data from the 1980, 1990, and 2000 Census of Population, I estimate variants of the following models.

$$(1) \qquad \Delta N^{NT}_{ct} = \alpha + \beta\, \Delta N^{T}_{ct} + \gamma d_t + \epsilon_{ct}$$

$$(2) \qquad \Delta N^{T1}_{ct} = \alpha' + \beta' \,\Delta N^{T2}_{ct} + \gamma' d_t + \epsilon'_{ct}$$

where ΔN^{T}_{ct} and ΔN^{NT}_{ct} are the change over time in the log number of jobs in city c in the tradable and nontradable sector, respectively. ΔN^{T1}_{ct} is the change in the log number of jobs in a randomly selected part of the tradable sector and ΔN^{T2}_{ct} is the change in the log number of jobs in the rest of the tradable sector. The sample includes two observations per city, corresponding to the periods 1980–1990 and 1990–2000. d_t is an indicator for the second period. Standard errors are clustered at the city level. In practice, ΔN^{T}_{ct} is measured using changes in manufacturing employment, while ΔN^{NT}_{ct} includes all other industries excluding agriculture, mining, government and the military.

To isolate exogenous shifts in the demand for labor in the manufacturing sector, I use as an instrument the weighted average of nationwide employment growth by 77 narrowly defined industries within manufacturing, with weights reflecting the city-specific employment share in those industries at the beginning of the period. For the 1980–1990 period, the instrument is $\sum_j w_{jc}\, \Delta N^{T}_{j}$ where w_{jc} is the share of manufacturing jobs in industry j in city c in 1980, and ΔN^{T}_{j} is the nationwide change in employment between 1980 and 1990 in industry j among all manufacturing industries. Consider, for example, two cities that have the same share of manufacturing jobs in 1980, but a different industry mix within manufacturing. If employment in a given industry increases (decreases) nationally, the city where that industry employs a larger share of the labor force experiences a positive (negative) shock to the labor demand in manufacturing.

[4] Consider, for example, the automotive industry. While some of the car parts used in establishments located in Detroit may be produced in Detroit, most of the parts are likely to come from other states and from abroad.

[5] A shock to the nontradable sector has similar implications. The predictions for employment in the tradable sector are more negative, if an increase in nontradable jobs generates limited agglomeration spillovers for tradable industries.

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TABLE 1—LOCAL MULTIPLIERS FOR TRADABLES AND NONTRADABLES

	Elasticity OLS	Elasticity IV	Additional jobs for each new job
Model 1			
Effect of tradable on nontradable	0.554 (0.036)	0.335 (0.055) [8.71]	1.59 (0.26)
Model 2			
Effect of tradable durable on nontradable	0.283 (0.029)	0.005 (0.139) [3.21, 5.52]	0.75 (1.73)
Effect of tradable nondurable on nontradable	0.295 (0.034)	0.250 (0.072) [6.55, 2.57]	1.89 (0.54)
Model 3			
Effect of tradable on other tradable	0.546 (0.065)	0.130 (0.150) [9.1]	0.26 (0.25)

Notes: Standard errors clustered by city in parentheses. First-stage *F*-values in brackets.

The previous section indicates that an exogenous increase in employment in a tradable industry should result in an increase in local employment in the nontradable sector. The first row in Table 1 shows estimates of β. The OLS and IV elasticities are 0.55 and 0.33, respectively. The latter indicates that a ten percent increase in the number of manufacturing jobs in a city is associated with a 3.3 percent increase in employment in local goods and services. Since there are almost five nontradable jobs for each tradable job, the IV estimate implies that for each additional job in manufacturing in a given city, 1.59 jobs are created in the nontradable sector in the same city (column 3). When I split the manufacturing sector into durable and nondurable goods, I find a significantly larger elasticity for the latter (Model 2). A finer subdivision of the manufacturing sector into more narrowly defined industry groups is also possible.[6] Among the industries for which IV estimates are identified, the high tech sector—here approximated by Machinery and Computing Equipment, Electrical Machinery and Professional Equipment—generates the largest number of additional nontradable jobs: 4.9.

The theoretical framework above indicates that the employment effect on the tradable sector should be quantitatively smaller than the effect on the nontradable sector, and possibly even negative, unless agglomeration spillovers are large or the supply of intermediate inputs is highly localized. To test this prediction, I randomly divide the 77 manufacturing industries in two groups. Using a version of the shift-share instrument that is group-specific, I then estimate β in equation 2. Consistent with the theory, Model 3 in Table 1 indicates that the estimated elasticity appears economically low and not statistically different from zero. Employment increases in parts of the tradable sector seem to have no discernible effect on other parts of the tradable sector.

In columns 1 to 3 of Table 2, the effect of adding skilled manufacturing jobs is allowed to differ from the effect of adding unskilled manufacturing jobs. Here I define skilled workers as those with some college or more, and unskilled workers as those with high school or less. Using a version of the shift share instrument that is skill-specific, I find that the elasticity is significantly larger for skilled labor. Column 3 indicates that one additional skilled job in the tradable sector generates 2.52 additional jobs in the nontradable sector. The corresponding figure for unskilled jobs is 1.04. While the estimates are not very precise, they are consistent with the fact that skilled jobs pay higher earnings than unskilled jobs and therefore generate more demand for local goods and services.

In columns 4 to 9, I estimate a model of the form $\Delta N_{c,t}^{NT} = \alpha + \beta^S \Delta N_{c,t}^{S,T} + \beta^U \Delta N_{c,t}^{U,T} + \gamma d_t + \epsilon_{c,t}$, where the superscripts S and U denote skilled and unskilled jobs, respectively,

[6] In this case, I use a version of the shift share instrument that is sector-specific. Identification comes from the fact that there are multiple industries within each industry group. Empirically, IV estimates are not identified for all groups.

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TABLE 3—LOCAL MULTIPLIERS BY SKILL LEVEL

	Dependent variable								
	All nontradable			Nontradable—skilled			Nontradable—unskilled		
Independent variable	Elast. OLS (1)	Elast. IV (2)	Addtl. jobs (3)	Elast. OLS (4)	Elast. IV (5)	Addtl. jobs (6)	Elast. OLS (7)	Elast. IV (8)	Addtl. jobs (9)
Tradable skilled	0.287 (0.157)	0.257 (0.157)	2.52 (1.54)	0.426 (0.344)	0.206 (0.761)	2.1[illegible] (1.72)	0.104 (0.159)	0.030 (0.172)	1.246 (1.08)
Tradable unskilled	0.292 (0.033)	0.115 (0.104)	1.44 (0.99)	0.125 (0.043)	0.161 (0.153)	0.85 (1.23)	0.518 (0.097)	0.367 (0.117)	3.34 (1.06)

and $K = \{S, U\}$. Columns 6 and 9 indicate that adding a skilled job in the tradable sector generates two skilled jobs and no unskilled job in the nontradable sector, while adding an unskilled job in the tradable sector generates 3.3 unskilled jobs and no skilled job in the nontradable sector. In interpreting these estimates, one should keep in mind the general equilibrium effect on relative wages. An increase in the demand for skilled workers in the tradable sector, for example, will affect relative wages because it raises the wage of skilled workers in both sectors as well as the wage of unskilled workers because of imperfect substitution.

Finally, I estimate separate elasticities for each industry within the nontradable sector. This amounts to re-estimating equation 1 using the industry-specific change in employment as the dependent variable. I find that employment increases in the tradable sector have the largest percent effect on employment in construction, wholesale trade and personal services.

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Local Employment Multipliers in U.S. cities

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Abstract

This paper shows that within a regional economy, employment in the nontradable sector benefits from attracting jobs in the tradable sector. I rework Moretti's study of U.S. cities (AER 2010) and find that one new job in a given city's tradable sector will result into 1.02 new jobs in the nontradable sector in the same city. I show that Moretti overestimated the size of this local multiplier by 0.57, because he made five perfunctory assumptions that had a major impact on his results. Subsequently I show that Moretti's assertion that skilled tradable jobs have a larger multiplier than unskilled tradable jobs is not supported by the data. The evidence provided by Moretti was only significant due to an endogeneity effect.

Keywords: Local labour market, multiplier, tradable, nontradable

1 Introduction

> "The motor of a city-region's economy is the tradable sector; it provides the jobs that come in and anchor labour as well as income to a place, on the basis of which the home market is built. However big the locally serving sector might appear at any given moment in time, it will always shrink if the tradable jobs go away, as cities such as Detroit know all too well."(Storper, 2013)

The regional interdependency described in the quote above have been studied extensively using regional input-output modelling and base theory (Mathur and Rosen, 1974; Isserman, 1975). Moretti (2010) breaks with this tradition by applying Bartik's Shift-Share approach (1991) to a reduced form analysis of the local employment multiplier of the tradable sector on the nontradable sector. Moretti estimates a significant multiplier of 1.6[1] for United States Metropolitan areas and an even higher multiplier of 2.5 when only considering skilled jobs.

Variations of Moretti's method have already been applied in subsequent studies of Sweden, Italy and the United Kingdom (Moretti and Thulin, 2013; de Blasio and Menon, 2011; Faggio and Overman, 2014) and studies of Brazil and Europe are on their way. These estimates of local multipliers give insight in the possible impact of regional policy and already influence politicians. For example Moretti and Thulin (2013) has been cited by the Swedish government.

The significant multipliers demonstrated by Moretti are very valuable, but because they are so influential it is important to make these estimates as accurate as possible. In this paper I show five ways[2] to improve the accuracy and robustness of Moretti's estimates and I compare my improved estimates to an exact replication of Moretti's original study.

I show that one new job in a given city's tradable sector will result into 1.02 new jobs in the nontradable sector in the same city. So I confirm there is a significant local multiplier effect, but I also show Moretti overestimates this effect by about one third. Subsequently I show that Moretti's assertion that skilled tradable jobs have a larger multiplier than unskilled tradable jobs is not supported by the data he uses, but is instead based on some mistakes and endogeneity of the instrument he uses.

2 Conceptual Framework

In this paper I use the exact same conceptual framework as Moretti (2010, 2011); Moretti and Thulin (2013). Because these papers already discuss this framework in detail, I will only provide a brief outline here.

[1] This would be considered a multiplier of 2.6 in the input-output literature. An inflow of 100 jobs in the tradable sector induces an additional 160 jobs in the nontradable sector, so the total employment increase is 260.

[2] Some of which are also (partially) used in Faggio and Overman for their analysis of the U.K.

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Each region is a competitive economy where tradable and nontradable goods are produced. Nontradable goods and services are only consumed within the region, therefore the prices of these goods are determined locally. Tradable goods and services can also be consumed in other regions, either nationally or internationally. Therefore the prices of these goods are considered fixed from the perspective of the regional economy. The production of tradable goods can move to another region when for example rent or wages become too high. Most manufacturing goods will be tradable and services such as barbers, restaurants and dry cleaners are nontradable. In practice I only include manufacturing sectors as tradable and almost all other sectors as nontradable.

Labour is mobile within each city and wages in all sectors are determined locally. The labour supply is upward sloping and labour mobility between regions depends on the housing supply.

When a local economy attracts a new manufacturing firm or an existing manufacturing firm expands this increases the number of jobs in the tradable sector. This is a direct increase in the number of jobs in the region. These extra workers will spend part of their income on local goods and services, or nontradable goods. The size of this spending increase depends on the workers' wages and preferences. The non tradable sector may also supply intermediate goods and services to the tradable sector so that an increase in employment in the tradable sector directly increases demand. Depending on which specific non-traded goods are demanded and their respective technologies there will be an increase in labour demand in the nontradable sector. Assuming the elasticity of the local labour supply is neither zero nor infinite, the increased demand for labour in the nontradable sector will increase both wages and employment in the nontradable sector. The latter is the local employment multiplier effect of jobs in the tradable sector on jobs in the nontradable sector.

The increase in labour demand in some tradable sub-sector also has an effect on the rest of the tradable sector. Demand for labour (and land) increases, which will increase factor prices. Since tradable firms are price takers, when wages and other factor prices go up less efficient firms might close down and move to a cheaper region or hire fewer workers. Therefore the increase in jobs in a tradable sub-sector has a negative effect on the rest of the tradable sector.

When a new firm locates in a region there can also be agglomeration effects such as a positive spillover (Greenstone et al., 2008) to the incumbent firms in the region. Improved technologies can create efficiency benefits and therefore increase labour demand and wages. Depending on which effect is greater, the crowding out effect or the spillover effect, the multiplier of extra jobs in one tradable sub-sector on other jobs in the tradable sector could go either way, but it is expected to be smaller than the multiplier on the nontradable sector.

3 Empirical method

The goal of this paper is to determine the long run effect of labour demand shocks in the tradable sector on employment in the nontradable sector in the same region. The point of departure for my empirical method is the method found in Moretti (2010). From here I make five improvements and the resulting method is described in detail in Section 3.1. I will compare this improved method to the method originally used by Moretti (2010) in Section 3.2 and demonstrate why the five changes I make are improvements. Finally I discuss an alternative method used in Moretti and Thulin (2013) in Section 3.3.

3.1 Improved analysis of local employment multipliers

I will determine the relationship between changes over time in the number of workers in the tradable sector in a region and the number of workers in the non-tradable sector in a region by two-step weighted pooled least squares regression using panel data. I will use the change over time in the log of the number of workers in the tradable sector between period $t-s$ and period t in a region c, $\Delta N^{T}_{c,t}$ as the independent variable and the change over time in the log number of workers in the nontradable sector in a region, $\Delta N^{NT}_{c,t}$ as the dependent variable. Apart from this I will add an intercept α and dummy variables d_t for every time-period apart from the first. This results into

$$\Delta N^{NT}_{c,t} = \alpha + \beta \Delta N^{T}_{c,t} + \gamma' d_t + \Delta \varepsilon_{c,t}. \qquad (1)$$

All unobservable region-specific fixed effects are cancelled out due to the differencing and only the truly random component $\Delta \varepsilon_{c,t}$ remains. Using least-squares regression, the intercept and the time dummy variables will capture any general booms and recessions that occur in a specific interval and all other co-movement between jobs in the tradable and the nontradable sector are captured by the elasticity β.

There will be three types of co-movement captured by β: the causal effect of extra jobs in the tradable sector on employment in the nontradable sector; the effect of employment in the nontradable sector on the tradable sector; and effects due to omitted variables, for example effective local government can increase employment in both sectors.

3.1.1 Instrumental Variable

Since I am only interested in the causal effect of a change in the number of jobs in the tradable sector on the number of jobs in the nontradable sector I need a way to filter out the other two unwanted co-movements captured by β when using weighted pooled LS. To achieve this I will use an instrumental variable derived from the well-established shift-share approach introduced by Bartik (1991) and I will use this instrument to do a weighted 2SLS analysis.

The instrument,

$$\Delta N^{I}_{c,t} = \sum_{j \in T} \left\{ \frac{N_{j,c,t-s}}{N^{T}_{c,t-s}} \left[\ln \left(\sum_{c' \neq c} N_{j,c',t} \right) \right. \right.$$

$$
-\ln\left(\sum_{c'\in C,\, c'\neq c} N_{j,c',t-s}\right)\Bigg]\Bigg\}. \tag{2}
$$

is based on the lagged size of each industry in the region and the combined growth of each industry in all other regions. In expression (2) $N_{j,c,t}$ is the number of workers in industry j of city c at time t. T is the set of all tradable industries, C is the set of all cities and $N^T_{c,t} = \sum_{j\in T} N_{j,c,t}$.

Consider for example the production of computer hardware. If there is a productivity shock in computer hardware in China, there will be more exports to the U.S. and the demand for computer hardware produced in the U.S. will decline. This decline will be measured by

$$
\Delta N_{j,t-s} = \ln\left(\sum_{c'\in C} N_{j,c',t}\right) - \ln\left(\sum_{c'\in C} N_{j,c',t-s}\right) \tag{3}
$$

which approximates the average national percentage growth in industry j between period $t-s$ and period t.

It is likely that a region with a large share of employment in the production of computer hardware will be affected more by this shock than regions with a smaller share. Multiplying the share of tradable jobs in region c that are part of industry j at time $t-s$, $N_{j,c,t-s}/N^T_{c,t-s}$, with (3) and summing over all tradable industries results in the instrument described by (2).

Under the assumption that the national changes in employment are exogenous to a specific region, a weighted 2SLS regression with this instrument will identify the effect of an increase in jobs in the tradable sector on employment in the nontradable sector, avoiding the problems caused by endogeneity and omitted variables seen in the OLS regression.

3.1.2 Regression Weights

Since ΔN^T_c and ΔN^{NT}_c are both measures of relative change, regions with only a few workers would have the same effect on the regression as very large regions with many workers in an unweighted regression. To correct for this I use weighted LS, where the weight of each observation is given by the total number of workers employed in the tradable and nontradable sector at the start of the interval

$$
w_{c,t} = N^T_{c,t-s} + N^{NT}_{c,t-s} \tag{4}
$$

3.1.3 Interpretation

The estimated value of β represents an elasticity between jobs in the tradable sector and jobs in the nontradable sector. For example when $\beta = 0.3$, a 10% increase in the number of jobs in the tradable sector will result into a 3% increase in the number of jobs in the nontradable sector. In order to express the multiplier in an absolute number of jobs I need the relative size of the nontradable sector to the tradable sector. I calculate this by adding up the number of workers in the nontradable sector in each region at the start of each interval and dividing this by the number of workers in the tradable sector. The relative size is therefore given by

$$r = \frac{\sum_{t \in S \setminus t_1} N_t^{NT}}{\sum_{t \in S \setminus t_1} N_t^{T}}, \tag{5}$$

where S is the set of all periods, t_1 is the first period and N_t^{NT} is the total number of workers in the nontradable sector in period $t-s$ over all cities observed in both period $t-s$ and period t. N_t^T is defined in an analogous fashion. Equation (5) is consistent with the way the individual regression weights are defined as the sum of all weights used is equal to the sum of the numerator and the denominator

$$\sum_{S \setminus t_1} \sum_{C_t} w_{ct} = \sum_{S \setminus t_1} N_t^T + \sum_{S \setminus t_1} N_t^{NT}, \tag{6}$$

where C_t is the set of all cities observed in both period $t-s$ and period t. One additional job in the tradable sector will result into $r\beta$ extra jobs in the nontradable sector.

3.2 Critiques on Moretti

Moretti was kind enough to provide me with the the Stata-files he used to estimate the local multiplier effect of the entire tradable sector on the entire nontradable sector. This allowed me to exactly reproduce his estimate of 1.59 and to reverse engineer all assumption he made to get this estimate. Some of these assumptions are not completely consistent with method described in Moretti (2010) in which he published this result. To prevent any confusion I will refer to method and assumptions necessary to get the exact estimate of 1.59 as "Moretti's method" and I will discuss any discrepancies with his paper in Section 5.1.

Using Moretti's method as a starting point I will discuss the changes I made to get a more accurate estimate of the local employment multiplier. I found five ways to make his estimation of the local multiplier more accurate and more robust:

- I remove industries from the analysis that are not observed in every period,
- I do not treat mining and agriculture as nontradable industries;
- I use a more exogenous shift-share instrument;
- I weigh both time intervals in the dataset equally;
- I provide a more accurate estimate for the relative size of the nontradable sector to the tradable sector.

In this section I will illustrate why every change improves the reliability of the estimation. The combination of these five changes results into the method described in the previous section and is the basis of my own analysis

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3.2.1 Exogenous shift-share instrument

Moretti (2010) uses the sum of all metropolitan areas, including the own city, to determine the shift-share instrument

$$\Delta \tilde{N}^T_{c,t} = \sum_{s \in T} \left\{ \frac{N_{s,c,t-x}}{N^T_{c,t-x}} \left[\ln\left(\sum_{c' \in C} N_{s,c',t} \right) - \ln\left(\sum_{c' \in C} N_{s,c',t-x} \right) \right] \right\}. \quad (7)$$

An instrument is necessary, because there is an endogeneity problem when directly using $\Delta N^T_{c,t}$. The major drawback of this instrument is that $\Delta N^T_{c,t}$ itself is included in the construction of $\Delta \tilde{N}^T_{c,t}$. Because $\Delta N^T_{c,t}$ consists of the combination of the growth of all tradable sectors in region c, and $\Delta \tilde{N}^T_{c,t}$ includes the growth of each tradable sub-sector in all regions. So this instrument violates the assumed exogeneity. Therefore I use equation (2) instead. This excludes the change in the own city when calculating the overall growth out of concern that the changes in the region may drive the national changes.

3.2.2 Correct relative sector size

After $\hat{\gamma}$ - the elasticity between jobs in the tradable and the nontradable sector - is estimated, the local multiplier can be calculated with the relative size between these two sectors. Moretti considers the average size of the tradable and nontradable sector in 1990 over all cities that were observed in the 1980-1990 interval, to find a relative size of

$$r = \frac{\sum_{C_{1990}} N^{NT}_{c,1990}}{\sum_{C_{1990}} N^{T}_{c,1990}} = 1.74. \quad (8)$$

Whilst this method might result in a reasonable estimate of the relative size between the tradable and the nontradable sector when considered over all three periods, we estimate the size of the multiplier based on the growth from 1980-1990 and from 1990-2000, but not from 2000 onwards. Since the relative size of the tradable (in this case manufacturing) sector has decreased over time as shown in Table 1, Moretti's method leads to an underestimation of the size of the tradable sector. Additionally this definition is inconsistent with his definition of the weights used for individual observations in the regression.

Therefore I use the size of the tradable and the nontradable sector at the start of each interval for all cities to determine the relative size of the sectors. Cities that are observed in both intervals will be included twice, once with their size in 1980 and once with their size in 1990. I define the relative size this way in (5) and find

$$r = \frac{\sum_{C_{1980}} N^{NT}_{c,1980} + \sum_{C_{1990}} N^{NT}_{c,1990}}{\sum_{C_{1980}} N^{T}_{c,1980} + \sum_{C_{1990}} N^{T}_{c,1990}} = 1.02. \quad (9)$$

3.2.3 Weigh time intervals equally

Moretti weights all observations, those over the interval 1980-1990 and those over the interval 1990-2000, by their size in 1990 in his regression analysis. This can be expressed as

$$w_{c,t} = N^{T}_{c,1990} + N^{NT}_{c,1990} \tag{10}$$

but this is problematic for cities observed in 1980 as shown in the following example.

Consider a true local multiplier of 1 and a city in 1980 with 100 workers in the tradable sector and 500 workers in nontradable sector. If this cities attracts 10 tradable jobs between 1980 and 1990, the multiplier will create 10 additional jobs in the nontradable sector. Using (10) the weight of the city is 620, whilst if the same changes where observed from 1990 to 2000, the weight would be 600. This is inconsistent, because observations of the interval 1980-1990 are overweighted.

In both cases the estimation result is $\hat{\beta} = 0.2$. If we calculate the relative size of the nontradable sector to the tradable sector consistent to the defined weight, this results into $r = 4.6$ for this observation in 1980-1990 and $r = 5$ for the same observation in 1990-2000. It is clear that only the latter will result into a correct estimate of the true multiplier $\left(r\hat{\beta} - 1\right)$. Therefore I will use the combined size of the tradable and the nontradable sector in a city at the beginning of the interval to determine the regression weight as shown in (4).

3.2.4 Remove unbalanced industries

The industries of 1980 and 2000 are recoded to the three-digit industry codes of 1990. This results in some industries that are not observed at all in 1980 or 2000 according to the 1990 industry codes. Moretti includes all industries, but industries that weren't observed in 1980 would appear to have increased infinitely. To prevent this I choose to remove all industries that do not have at least one employed worker observed in each time period. This results in the removal of 6 tradable industries and 16 nontradable industries.

3.2.5 Exclude mining and agriculture

Moretti defines the tradable sector as all manufacturing industries and the nontradable sector as agriculture, forestry, and fisheries, mining; construction; transportation, communications, and other public utilities; wholesale trade; retail trade; finance, insurance, and real estate; business and repair services; personal services; entertainment and recreation services; and professional and related services. I change this by choosing not to treat agriculture and mining as nontradable industries. Mining is not a nontradable industry, because the product of this industry can be sold over the entire country and abroad. I also don't treat mining as a tradable industry, because firms cannot relocate to a region with lower wages as firms need to be near the resources found in the ground.

These arguments for treating mining as neither tradable nor nontradable also hold for agriculture, albeit less strict.

3.3 Alternative Method: Direct Difference

Instead of using the change in the log of the number of jobs and a regression weight, it is also possible to do the analysis directly with the change in the number of jobs in each sector, $\Delta N^T_{c,t}$ and $\Delta N^{NT}_{c,t}$. This exact method is used in the analysis of Sweden by Moretti and Thulin (2013). In this case the OLS regression is given by

$$\Delta N^{NT}_{c,t} = \alpha + \beta \Delta N^T_{c,t} + \gamma d_t + \varepsilon_{c,t} \tag{11}$$

and no weights are necessary. The parameter β directly represents the effect of the local multiplier. One additional job in the tradable sector will result into β extra jobs in the nontradable sector. The instrument becomes

$$\Delta \hat{N}^T_{c,t} = \sum_{j \in T} (N_{j,c,t-1} \cdot \Delta N_{j,-c,t}) \tag{12}$$

because the lagged size of an industry is used instead of the lagged share. There is no literature on which method is preferable, so I will consider both for my analysis. This direct difference method does appear to be a cleaner approach.

4 Data

For my analysis of U.S. cities I use the exact same dataset as Moretti (2010). I use the United States Census Data provided by IPUMS USA (Ruggles et al., 2010). This census data provides a 1-in-20 national random sample of the population for 1980, 1990 and 2000. The sample of 1980 is unweighted and the sample of 1990 and 2000 are weighted. For each individual it contains the metropolitan area his household lived in, his employment status, his wage and the industry he worked in.

It is important to note that the populations of many MSA's are only partially identified in the census data, and in many cases, the unidentified portion is considerably large. The reason for incomplete coverage is that the source data for these samples include no specific information about metro areas. The most detailed geographic information available is for 1980 county groups or for 1990 or 2000 PUMAs, areas which occasionally straddle official metro area boundaries. If any portion of a straddling areas population resided outside a single metro area, the METAREA variable uses a conservative assignment strategy and identifies no metro area for all residents of the straddling area.

The number of cities included in the dataset increases over time, therefore the panel dataset is unbalanced, but this should not have any averse effects on the analysis.

The industries of 1980 and 2000 are recoded to the three-digit industry codes of 1990. This results in some industries that are not observed at all in 1980 or

2000 according to the 1990 industry codes. This is a problem for my estimation as it is based on relative change, and this would sometimes imply an infinite change. To prevent this I choose to remove all industries that do not have at least one employed worker observed in each time period. This results in the removal of 8 tradable industries and 16 nontradable industries.

For my analysis I select all employed workers and aggregate those living in the same metropolitan area and working in the same industry. I aggregate them based on the weight attributed to each individual and for every observed year. The results of this aggregation is captured by N_{jct}, the number of workers in industry j of city c at time t. I consider 74 tradable industries and 119 nontradable industries. Overall I observe 245 cities, 226 of those I observe in the period 1980-1990 and 238 of those I observe in the period 1990-2000.

Tab. 1: Employment share in metropolitan areas by industry group

	Census Year		
Industry	1980	1990	2000
Tradables	**22.6%**	**17.1%**	**14.6%**
Manufacturing	22.6%	17.1%	14.6%
Nontradables	**75.5%**	**80.9%**	**83.7%**
Construction	5.9%	6.5%	6.9%
Transportation, communications, and other public utilities	8.0%	7.9%	7.9%
Wholesale trade	5.0%	4.9%	3.6%
Retail trade	17.3%	17.5%	17.5%
Finance, insurance, and real estate	7.4%	8.4%	7.7%
Business and repair services	4.3%	5.6%	7.0%
Personal services	3.3%	3.4%	3.4%
Entertainment and recreation services	1.2%	1.6%	1.6%
Professional and related services	22.9%	25.1%	28.1%
Other industries	**2.0%**	**2.0%**	**1.7%**
Agriculture, forestry, and fisheries	1.4%	1.6%	1.4%
Mining	0.6%	0.4%	0.2%
Total number of workers (x1000)	64,193	76,997	93,943
Relative size nontradable to tradable	3.340	4.717	5.742

5 Local Multiplier in U.S. Cities

This section discusses four estimates of local employment multiplier in U.S. cities. To start, all results labelled "Moretti" are cited directly from Moretti (2010). The number of observations and R-squared value are missing in this case, because Moretti did not report these.

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In Section 5.1 I try to replicate these results as closely as possible using the Stata-files Moretti provided me with. Since these files only cover the estimation of the total effect of the tradable sector on the nontradable sector all other replications required additional assumptions from me. This is sometimes reflected in a replication result that differs somewhat from Moretti's own report. All replication results are labelled "Replication".

Section 5.2 is the main part of this paper. Here I show the results of my improved estimation technique and compare them to Moretti's estimates. My results follow from the method described in Section 3.1 and are labelled "Van Dijk".

In Section 5.3 I apply the method used in Moretti and Thulin (2013) to the data used in Moretti (2010). This yields some unlikely results, labelled as "Linear".

I extend my analysis to income effects in Section 5.4, where I try to find support for the framework used and consider the welfare effect of an expanding tradable sector. Finally I discuss the effect of the unemployment rate on the size of the local multiplier in a preview of future research in Section 5.5.

5.1 Replication

I was able to exactly reproduce Moretti's estimate that for each additional job in the tradable sector in a metropolitan statistical area, 1.59 jobs are created in the nontradable sector in the same area. I would like to thank Moretti for providing me with the Stata file he used for his analysis. Using this file I was able to reverse engineer the assumption he made, to come to this exact replication as shown in Table 6.

5.1.1 Discrepancies between the method used and the paper

I did discover three discrepancies between the method Moretti describes in his paper and the method he actually used.[9] First, he states "*the sample includes two observations per city, corresponding to the periods 1980-1990 and 1990-2000*", but he also includes cities observed in just one interval. Second, he states "*ΔN^T_c is measured using changes in manufacturing employment, while ΔN^{NT}_c includes all other industries excluding agriculture, mining, government and the military*", whilst he does include agriculture and mining as nontradable industries. Third, he states he uses "*the weighted average of nationwide employment growth by 77 narrowly defined industries within manufacturing*", but in fact he uses 62 industries within manufacturing in the 1980-1990 period and 74 industries within manufacturing in the 1990-2000 period.

[9] In this paper I will refer to Moretti's method as the method he used to come to the multiplier of 1.59 he reports, instead of the method he describes himself in his paper.

5.1.2 Durable and nondurable tradable goods

I do not have the original files for Moretti's other estimates, so I will modify the method used for the first estimate in accordance with the description in his paper. But before I do this, I will note a discrepancy in Moretti's analysis of durable manufacturing goods. The local multiplier expressed in "Additional jobs for each new job" is calculated by multiplying the estimated elasticity between two sectors with the relative size of both sectors as described in Section 3.

Moretti does not report the relative size he uses, but this can be calculated from the reported elasticity and multiplier. His estimate of the effect of employment in durable tradable goods on employment in nontradable goods implies the latter sector is 0.73/0.006 ≈ 122 times larger. This seems excessive. Alternatively the relative size used can be derived from the standard error reported for both the elasticity and the multiplier, which should have the same ratio. But in this case the standard errors imply the nontradable sector is 1.73/0.138 ≈ 13 times larger than the durable manufacturing sector. An estimate that seems more reasonable. If I apply this ratio to the estimated multiplier I find an elasticity of 0.058, so it seems reasonable the reported estimate of 0.006 is a decimal error.

When I replicate his analysis using the IPUMS definition of durable and nondurable goods I find similar OLS estimates and a nontradable sector that is about 13 times larger as the durable tradable sector. This seems consistent with my prediction, but I find an estimated multiplier between durable manufacturing and nontradables of 0.03. This is only half of the value I supposed Moretti meant, so there is still a discrepancy I cannot explain. Therefore I leave the distinction between durable and nondurable manufacturing at this, but the estimated values can be found in Table 2.

5.1.3 Local multiplier of tradables on other tradables

Moretti estimates the effect of tradables on other tradables by randomly splitting the 82 tradable sub-sectors in two parts and finds a multiplier of 0.26. From this he concluded the multiplier between tradables is smaller, consistent with his framework. He does not report which groups he used, but it seems like he only used one specific set. I was not able to reproduce this set, so instead I randomly divided the tradable sub sector into two groups of 41 sub-sectors. I did this ten times and calculated the multiplier for each division. As shown in Table 3 I find an average multiplier of 0.85, which is a more robust predictor of the effect within the tradable sector. It is larger than the value found by Moretti, but still smaller than the multiplier of the tradable sector on the nontradable sector and therefore consistent with the framework used by both Moretti and me.

5.1.4 Skilled and unskilled jobs

Moretti differentiates between skilled jobs, those fulfilled by workers with at least some college education, and unskilled jobs, fulfilled by those with a high school

Tab. 2: Local Multiplier effect of durable and nondurable tradables on nontradables

	Moretti[a]	Replication	Van Dijk
Effect of tradable durable on nontradable			
Elasticity OLS	0.283	0.283***	0.263***
	(0.030)	(0.039)	(0.034)
Elasticity IV	0.006	0.027	0.048
	(0.138)	(0.172)	(0.225)
Additional jobs for each new job	0.73	0.342	0.509
	(1.73)	(1.535)	(2.385)
Effect of tradable nondurable on nontradable			
Elasticity OLS	0.290	0.291***	0.279***
	(0.024)	(0.024)	(0.026)
Elasticity IV	0.250	0.261***	0.195**
	(0.072)	(0.060)	(0.079)
Additional jobs for each new job	1.89	2.134***	1.263**
	(0.54)	(0.453)	(0.511)
Observations		464	464
Adj. R-squared		0.590	0.489
First-stage statistic[b]		14.67	7.52

Note: Robust standard errors clustered by msa reported in parentheses.

[a] The significance level, number of observations, R squared and F-statistic were not reported by Moretti

[b] I report the Cragg-Donald Wald F statistic because the Kleibergen-Paap rk Wald F statistic is zero

* Significance at the 10% level.

** Significance at the 5% level.

*** Significance at the 1% level.

Tab. 3. Local Multiplier effect of tradables on other tradables

	Moretti[a]	Replication[b]	Van Dijk[b]
Elasticity OLS	0.546	0.756	0.801
	(0.069)	(0.022)	(0.013)
Elasticity IV	0.176	0.704	0.730
	(0.156)	(0.033)	(0.039)
Additional Jobs for each new job	0.26	0.813	0.855
	(0.23)	0.039	(0.046)
Observations		464	464
Adj. R-squared		0.555	0.657
First-stage statistic[c]		62.12	29.44

Note: Robust standard errors clustered by msa reported in parentheses.
[a] The significance level, number of observations, R-squared and F-statistic were not reported by Moretti.
[b] Based on the average of ten random divisions of the tradable sector
[c] The Kleibergen-Paap rk Wald F statistic
[*] Significance at the 10% level
[**] Significance at the 5% level
[***] Significance at the 1% level

diploma or less.[4] I applied this definition to the census measure of educational attainment, including everyone up to "Regular high school diploma" as unskilled and everyone starting from "Some college, but less than 1 year" as skilled.[5] I was able to accurately reproduce all estimated elasticities, except for the elasticity between new jobs for skilled workers in the tradable sector and unskilled workers in the nontradable sector, as can be seen in Table 7. I do not know what Moretti did, to get such a different result for this estimate.

Since Moretti does not report the relative size between sectors he uses to convert his estimated elasticities to multipliers I calculated the relative size implied by his estimates and their standard errors and reported them in Table 4. When the relative size between parts of the tradable sector and the nontradable sector are known and these part adds up to the entire tradable sector I use this information to calculate another estimate of the relative size between the tradable and the nontradable sector. If everything goes well these estimates should all be very similar. From this table it becomes apparent there is something inconsistent about the relative sizes used when splitting the nontradable sector into a skilled and an unskilled part.

The elasticity between "All nontradable and Tradable skilled", "Nontradable skilled and Tradable skilled" and "Nontradable unskilled and Tradable

[4] The median level of education for the sample lies one level higher at "1 year of college", therefore it could make sense to split between skilled and unskilled here, resulting into two groups of more equal size.

[5] This leaves out "GED or alternative credential", but no one employed in a MSA was included in this category.

skilled" are all multiplied with the relative size between "Nontradable and Tradable skilled" to determine the employment multiplier size. Since "Nontradable skilled" and "Nontradable unskilled" are both by design about half the size of the entire nontradable sector, this leads to a doubling of the estimated multiplier. This has been corrected in my replication and causes a large downwards correction in the estimated size of the multiplier.

Tab. 4: Estimated relative size between sectors

	Moretti	Replication	Van Dijk
Nontradable to tradable	4.74	4.74	4.02
Nontradable to tradable (durable + nondurable)	4.70	4.74	4.02
Nontradable to tradable (skilled + unskilled)	4.71	4.74	4.02
Nontradable (skilled + unskilled) to tradable (skilled + unskilled)	9.41	4.74	4.02
Nontradable to tradable skilled	9.81	9.79	9.61
Nontradable (skilled + unskilled) to tradable skilled	10.58	8.75	9.61
Nontradable to tradable unskilled	9.36	9.18	6.80
Nontradable (skilled + unskilled) to tradable unskilled	19.13	9.18	6.80
Nontradable to tradable durable	12.54 *	19.60	10.99
Nontradable to tradable nondurable	7.53	7.60	6.47
Nontradable skilled to tradable skilled	9.77	5.66	5.18
Nontradable unskilled to tradable skilled	9.92	4.13	4.65
Nontradable skilled to tradable unskilled	9.05	5.30	3.65
Nontradable unskilled to tradable unskilled	9.06	3.87	3.16

* Only based on the relative standard errors, because of the perverse sign in the estimated elasticity

5.2 Improved estimation

After reverse engineering Moretti's assumption I found several ways to make his estimation of the local multiplier more accurate and more robust. As explained in Section 3.2 I made five improvements to Moretti's method:

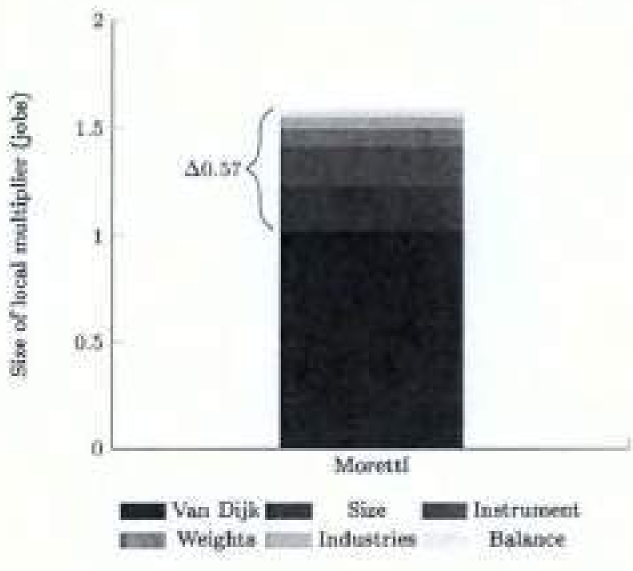
- I remove industries from the analysis that are not observed in every period (balance);
- I do not treat mining and agriculture as nontradable industries (industries);
- I use a more exogenous shift-share instrument (instrument);
- I weigh both time intervals in the dataset equally (weights);
- I provide a more accurate estimate for the relative size of the nontradable sector to the tradable sector (size).

The modified estimation of the local multiplier is 1.02. The average effect of each individual modification is given in Table 5. Coincidentally the average effect for all five changes adds up to the total difference between Moretti's and my estimate of the local multiplier (0.57). Therefore I can easily demonstrate

Tab. 5: Effect of proposed changes on the estimated size of the local multiplier

	Effect on multiplier estimated by Moretti
Exogenous shift-share instrument	-0.19
Correct relative sector size	-0.21
Weigh time intervals equally	-0.08
Remove unbalanced industries	-0.04
Exclude mining and agriculture	-0.06
Total	-0.57

Fig. 1: Effect of proposed changes on size local multiplier



Tab. 6. Local Multiplier effect of tradables on nontradables

	Moretti[a]	Replication	Van Dijk	Linear[b]
Elasticity OLS	0.544	0.554***	0.536***	-0.879
	(0.036)	(0.030)	(0.028)	(0.975)
Elasticity IV	0.335	0.336***	0.253***	-2.768***
	(0.055)	(0.056)	(0.082)	(0.677)
Additional jobs for each new job	1.59	1.591***	1.017***	-2.768***
	(0.26)	(0.263)	(0.328)	(0.677)
Observations		464	464	464
Adj. R-squared		0.611	0.490	-0.139
First-stage statistic[c]		68.56	24.14	25.77

Note: Robust standard errors clustered by msa reported in parentheses.
[a] The significance level, number of observations, R-squared and F statistic were not reported by Moretti.
[b] The linear estimate is not an elasticity, but a direct estimate of the multiplier size.
[c] The Kleibergen-Paap rk Wald F statistic
* Significance at the 10% level.
** Significance at the 5% level.
*** Significance at the 1% level.

the impact of each change graphically as shown in Figure 1 on the preceding page.

The weighted LS panel estimation of the elasticity between $\Delta N_{c,t}^{NT}$ and $\Delta N_{c,t}^{T}$ is $\hat{\beta}_{LS} = 0.54$. This strong relationship can also be seen in Figure 2a on page 20. $\hat{\beta}_{LS}$ is an overestimation of the true elasticity β as it includes effects due to the endogeneity of $\Delta N_{c,t}^{T}$ and effects due to omitted variables. A weighted 2SLS panel estimation corrects for these effects. The instrument $\Delta \hat{N}_{c,t}^{T}$ is strong and there is a clear correlation with the independent variable as shown in Figure 2c. The exogenous independent variable $\Delta N_{c,t}^{T}$ is predicted with $\Delta \hat{N}_{c,t}^{T}$ and $\Delta N_{c,t-1}^{T}$. A scatter plot of these predicted values against $\Delta N_{c,t}^{NT}$ is shown in Figure 2e. The weighted 2SLS estimate of the elasticity between $\Delta N_{c,t}^{NT}$ and $\Delta N_{c,t}^{T}$ is $\hat{\beta}_{2SLS} = 0.25$. The nontradable sector is 4.02 times larger than the tradable sector. Multiplying the relative size with the elasticity results into the estimated local long-term employment multiplier of 1.02 extra jobs in the nontradable sector for each job created in the tradable sector in the same city. See Table 6 for an overview of these results and a comparison with the other methods used. In Section 3.2 I showed that the five changes I made are improvements and that therefore Moretti's estimate is an overestimation.

A problem that remains in my analysis is that the tradable sector consists only of manufacturing and all services are included as nontradable. So when a tradable industry, that also includes services, booms, the increase in employment in this service sector would be incorrectly attributed to a local multiplier effect. Jensen et al. (2005) used geographical clustering to determine which industries

Tab. 7: Estimated Local Multiplier by Skill Level

	Dependent variable								
	All nontradable			Nontradable skilled			Nontradable unskilled		
	Mor.	Repl.	v.Dijk	Mor.	Repl.	v.Dijk	Mor.	Repl.	v.Dijk
Independent variable - Tradable skilled									
OLS	0.267	0.302***	0.291***	0.420	0.434***	0.412***	0.109	0.139***	0.133***
	(0.037)	(0.035)	(0.038)	(0.044)	(0.046)	(0.050)	(0.039)	(0.036)	(0.037)
IV	0.257	0.256	0.1[illegible]	0.208	0.199	-0.075	0.090	0.096	0.159
	(0.137)	(0.168)	(0.079)	(0.176)	(0.197)	(0.311)	(0.172)	(0.190)	(0.330)
Add. jobs	2.22	2.499	1.571	5.08	1.128	-0.395	0.296	0.395	0.723
	(1.58)	(1.647)	(2.910)	(1.72)	(1.087)	(1.636)	(1.85)	(0.783)	(1.730)
Independent variable - Tradable unskilled									
OLS	0.292	0.276***	0.278***	0.123	0.102**	0.105**	0.513	0.497***	0.474***
	(0.033)	(0.035)	(0.031)	(0.042)	(0.438)	(0.042)	(0.037)	(0.042)	(0.038)
IV	0.115	0.119	0.079	-0.010	-0.012	0.007	0.357	0.340***	0.322
	(0.109)	(0.107)	(0.237)	(0.135)	(0.102)	(0.310)	(0.217)	(0.313)	(0.258)
Add. jobs	1.04	1.099	0.539	-0.39	-0.053	0.200	3.84	1.308***	0.702
	(0.99)	(1.073)	(1.479)	(1.21)	(0.501)	(0.990)	(1.06)	(0.445)	(0.513)
Obs.		464	464		464	464		464	464
Adj. R^2		0.633	0.500		0.568	0.259		0.642	0.596
F^1		19.35	7.65		19.65	7.523		15.79	6.48

Note: Robust standard errors clustered by [illegible] in parentheses.
[a] The significance level, number of observations, R-squared and F-statistic were not reported by Moretti.
[1] I report the Cragg-Donald Wald F statistic because the Kleibergen-Paap rk Wald F statistic is zero.
* Significance at the 10% level.
** Significance at the 5% level.
*** Significance at the 1% level.

are domestically tradable. This could be applied to determine which services are tradable and what manufacturing is nontradable and refine my analysis. In fact Faggio and Overman (2014) apply this method in their analysis of tradables and nontradables in the U.K.

5.2.1 Skilled and unskilled jobs

I have also applied my improved method to the analysis of the difference in multiplier between skilled and unskilled jobs. As shown in Table 7 the estimated size of the effect of tradable jobs, both skilled and unskilled, on nontradable jobs is greatly reduced by this improved analysis. Any possible significance disappears. The difference between the multiplier effect of skilled and unskilled tradable jobs Moretti suggests could still exist, but it is not supported by the U.S. census data.

I will not discuss the effect on the estimates when the nontradable sector is split between skilled and unskilled jobs, because the size of these multipliers dependent on a gross overestimation of the size of the nontradable sector. For those interested I did include these and all other improved estimates in Tables 2, 3, 6 and 7.

5.3 Alternative analysis

Finally I test the robustness of the results above by estimating the local employment multiplier again, this time using the direct difference regression method as described in Section 3.3 and used in Moretti and Thulin (2013).[6] This method is more straight forward and could therefore be considered more reliable. When the estimated multiplier is robust, both estimations should yield similar results. But in fact it results into a very large negative multiplier of -2.77.[7] This could indicate the estimated multiplier is strongly dependent on the method of estimation.

It is unlikely that this estimated multiplier of -2.77 is correct as it implies that every new job in the tradable sector crowds out almost three jobs in the nontradable sector. It is important to realise that, if jobs in the tradable sector were competing directly with jobs in the nontradable sector, this would imply a negative local multiplier. But even if the labour supply was fixed a new job in the tradable sector would only make one less worker available for the nontradable sector, implying a lower bound to the local multiplier of -1.

A possible explanation for this result is the effect of outliers. This can be seen in all stages of the analysis as shown in Figure 2b, Figure 2d and Figure 2f. As a comparison these outliers don't have this effect when using log differences as shown in the scatter plots of Figure 2a, 2c and 2e. This could explain why Moretti used log differences for the U.S., but it is unclear whether this problem is unique to the U.S. data. Using the log difference analysis on the Swedish data used in Moretti and Thulin (2013) would be an interesting comparison.

5.4 Income effects

In the framework in section 2 I assumed that local labour supply is not perfectly elastic, so there should also be an effect of employment in the tradable sector on wages in the nontradable sector. To test this I determined the median wage in the nontradable sector in every period in every msa from the U.S. census data. Column "Wage" in Table 8 reports the result of regressing the log change of the median wage in the nontradable sector on the log change in employment in the tradable sector. I find that when employment in the tradable sector in a city increases by 10%, the median wage in the nontradable sector increases by around 4%. This confirms the prediction made based on the framework.

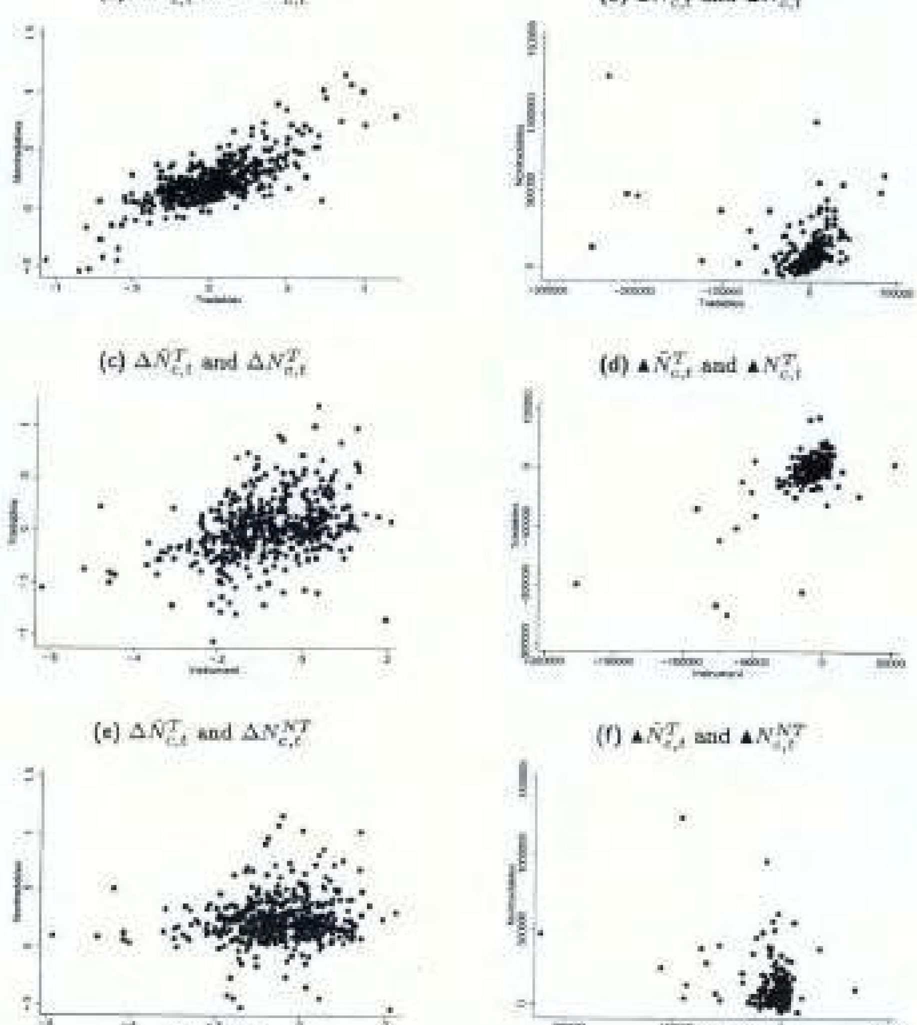
I have shown attracting jobs in the tradable sector increases employment and wages in the nontradable sector. This suggests that attracting tradable jobs is unambiguously beneficial for everyone involved in the city. But when I correct the median wage for the House Price Index[8] of every msa, I can estimate the effect on the real wage. Column "Real wage" in Table 8 shows there is no significant effect of employment in the tradable sector on the real wage in the

[6] Moretti and Thulin include the U.S. results in their paper on Sweden, but they do not redo the analyses of the U.S. with the method they used for Sweden.

[7] I exclude agriculture and mining, but this has only a minor effect.

[8] The HPI is a broad measure of the movement of single-family house prices provided by the Federal Housing Finance Agency.

Fig. 2: Scatter plots of the multiplier estimation



(a) $\Delta N^{T}_{c,t}$ and $\Delta N^{NT}_{c,t}$

(b) $\blacktriangle N^{T}_{c,t}$ and $\blacktriangle N^{NT}_{c,t}$

(c) $\Delta \tilde{N}^{T}_{c,t}$ and $\Delta N^{T}_{c,t}$

(d) $\blacktriangle \tilde{N}^{T}_{c,t}$ and $\blacktriangle N^{T}_{c,t}$

(e) $\Delta \tilde{N}^{T}_{c,t}$ and $\Delta N^{NT}_{c,t}$

(f) $\blacktriangle \tilde{N}^{T}_{c,t}$ and $\blacktriangle N^{NT}_{c,t}$

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Tab. 8: Local Multiplier effect of jobs in the tradable sector on the median (real) wage in the nontradable sector

Effect of tradable jobs on	Wage	Real wage
Elasticity OLS	0.069***	-0.006
	(0.023)	(0.045)
Elasticity IV	0.392***	0.092
	(0.111)	(0.128)
Observations	464	149
Adj. R-squared	0.393	0.210
First-stage statistic[a]	34.11	6.303

Note: Robust standard errors clustered by msa reported in parentheses.
[a] The Kleibergen-Paap rk Wald F statistic.
* Significance at the 10% level.
** Significance at the 5% level.
*** Significance at the 1% level.

nontradable sector. In other work, available on request, I show the jobs created in the nontradable sector are fulfilled by persons who migrate from other regions, not by the incumbent population. Combining these two findings suggests incumbent workers in the nontradable sector do not experience a positive effect on their real wage and incumbent unemployed do not find a job in the nontradable sector. Therefore the implications for the welfare of the incumbent population of a city, due to the effect of the tradable sector on the nontradable sector, are ambiguous at best.

5.5 Unemployment

In future work, available on request, I analyse the effect of the unemployment rate on the size of the local multiplier and the impact of the local multiplier on migration. Cities with a high unemployment rate are likely to have a big local employment multiplier. This is very useful as regions with a high unemployment rate tend to experience less growth. This could be an argument for the government to attract tradable jobs to low growth regions. These regions need an employment increase the most and would experience the largest local multiplier. On the other hand even if competing for a tradable firm is beneficial for a city, this might not be beneficial for the country as a whole.

6 Discussion and Conclusion

The Swedish government has cited the study by Moretti and Thulin (2013) in their local employment policy and Moretti uses his estimated multiplier of 1.59 repeatedly in his book "The New Geography of Jobs" to argue the importance of the tradable sector. My analysis shows this is an overestimation due to an endogenous instrument and four perfunctory assumptions. I estimated that for each job in manufacturing a U.S. city attracts, 1.02 jobs are created in the nontradable sector in the same city. Policy based on Moretti's estimates should be reconsidered in light of these new estimates.

When I apply the linear method used in Moretti and Thulin (2013) to the U.S. census data used in Moretti (2010) I find a local employment multiplier of -2.75. This could indicate a lack of robustness of the original estimate or outliers having a greater effect in the latter estimation.

Moretti suggests skilled tradable jobs have a greater multiplier effect than unskilled tradable jobs, but the statistical evidence for this disappears when an exogenous instrument is used. Some of Moretti's estimates were already inflated by multiplying the estimated elasticity with the incorrect relative size of industries. Still this paper supports that the tradable sector is the backbone of a regional economy.

Policy-makers should also be aware of the migration and welfare effect that follows from the local multiplier effect. The extra jobs created in the nontradable sector by the local multiplier effect will not directly benefit their own constituents. The new jobs in the nontradable sector are not fulfilled by unemployed that were already living in the same city, but by outsiders, and the effect on the real wage in the nontradable sector is ambiguous. Therefore it remains to be seen if policy to attract tradable firms to boost local employment is welfare improving.

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Going Local

Quantifying the Economic Impacts of Buying from Locally Owned Businesses in Portland, Maine

Amar Patel / Garrett Martin

MECEP
Maine
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Policy

IDEAS FOR SHARED PROSPERITY

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The Maine Center for Economic Policy was established in 1994 with the mission to promote a sustainable and equitable economy through analyzing and proposing solutions for Maine's economic and fiscal challenges. By doing so we seek to build an economy that allows all Maine people to achieve personal security and the greatest opportunity to reach their full potential. More information, including a list of board members and other research, can be found at www.mecep.org.

The Portland Independent Business and Community Alliance, which runs the Portland Buy Local campaign, is a five-year-old nonprofit organization with a membership of over 370 local, independent businesses. PIBCA contracted with MECEP to complete this study as an independent contractor. PIBCA's mission is to support locally owned, independent businesses in Portland, to maintain our unique community character, provide continuing opportunities for entrepreneurs, build community economic strength, and prevent the displacement of community-based businesses by national and global chains. More information, including a directory of members, can be found at www.portlandbuylocal.org.

About the Authors

Amar Patel began work on this project as an intern at MECEP during the summer of 2011. As a junior at Bowdoin College he continued research on this project as part of an independent study under the supervision of John Fitzgerald, Bowdoin's William D. Shipman Professor of Economics. Amar comes from a family of small business owners and moved to the United States from India at age 4.

Garrett Martin is the Executive Director at MECEP. He received a B.A. in International Studies from the University of North Carolina at Chapel Hill and a Master's degree in Public Affairs from Princeton University. As an Adjunct Faculty member at the University of Southern Maine, he taught a graduate level course in community economic development. He currently serves on the Community Development Advisory Committee of the Federal Reserve Bank of Boston.

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Introduction & Summary

The Maine Center for Economic Policy (MECEP) was retained by the Portland Independent Business and Community Alliance to collect and analyze data related to the economic impact of businesses in Portland, Maine. The primary purpose of the study was to quantify the impact of locally owned businesses compared to national chains on the local economy. MECEP's analysis found that in general every $100 spent at locally owned businesses generates an additional $58 in local impact. By comparison, $100 spent at a representative national chain store generates $33 in local impact. Stated differently, MECEP found that money spent at local businesses generates as much as a 76% greater return to the local economy than money spent at national chains. These findings are consistent with similar studies conducted in other states and can vary by business type.[1]

MECEP's findings indicate that shifting consumer spending to locally owned businesses will stimulate increased economic activity. Based on 2007 retail sales figures, shifting 10% of consumer spending in Cumberland County from national chains to locally owned businesses would result in an additional $127 million in economic activity with 874 new jobs generating over $35 million in wages.

Background

Cities and towns throughout the United States are struggling to maintain strong local economies. Traditional economic development approaches tend to focus on business recruitment and retention, promoting entrepreneurship, or increasing education and skills among workers. More recently, these approaches have been modified to focus on recruitment, retention, and skill development within specific industry sectors or "clusters" and identifying new or "value-added" business opportunities that build on existing business activity.

Traditional economic development approaches focus on one piece of the economic development puzzle – pursuing economic activity (often at the expense of neighboring states, regions, or towns) that leads to an inflow of dollars and jobs. Another key piece that receives less attention is maximizing the impact of dollars that flow into a community by identifying ways to retain and recycle those dollars to support increased and sustained economic activity. Effectively, the primary focus has been on trying to fill the bath tub while neglecting to plug the drain.

Against this backdrop, an increasing number of communities are seeking ways to "plug the drain" and limit the dollars that leak out of their local economy. Efforts to promote local agriculture and encourage consumers to buy from locally owned businesses are examples of this. Because local farmers and locally owned businesses retain their profits in the community and are more likely to purchase business inputs and professional services from local sources, fewer dollars leak out of the local economy.[2]

Like many small towns and cities, consumers in Portland, Maine, can increasingly choose to spend their money online, at national chains, or at locally owned businesses. They can purchase clothing or hardware at locally owned stores or at national chains. They can eat at chain restaurants or locally owned restaurants. They can fill their prescriptions at a local pharmacy or at one affiliated with a national chain. Such decisions multiplied across all consumers have a myriad of consequences economic and otherwise. In this study, MECEP focuses on economic impacts by assessing how much of a dollar spent at locally owned businesses re-circulates in the local economy versus a representative national chain in Portland.

Residents of Greater Portland can choose to spend their money online, at national chains or at locally owned businesses. Such decisions multiplied across all consumers in the region have a myriad of consequences economic and otherwise. In this study, MECEP focuses on economic impacts by assessing how much of a dollar spent at locally owned businesses re-circulates in the local economy versus a dollar spent at a representative national chain in Portland.

Study Methodology

Traditional economic development approaches have focused on trying to fill the bath tub while neglecting to plug the drain. An increasing number of communities are now seeking ways to "plug the drain" and limit the dollars that leak out of their local economy. Efforts to encourage consumers to buy from locally owned businesses are an example. Because local businesses retain their profits in the community and are more likely to purchase business inputs and professional services from local sources, fewer dollars leak out of the local economy.

For the purpose of this study, MECEP defined a locally owned business as follows:

A business that is privately held and the owner or the majority of the owners are Maine residents and live within 50 miles of Portland at least half of the year. This includes employee and cooperatively owned businesses, as well as nonprofits, but not government units. The business must be registered in Maine with no corporate headquarters outside of the state. Independent means the owner or owners have full decision-making authority over the business, and the business has no more than 10 outlets, with the majority located in Maine.

MECEP distributed confidential electronic surveys to over 350 members of the Portland Independent Business and Community Alliance (PIBCA). Twenty-eight (28) businesses completed the surveys giving detailed information on key components that influence their local economic impact, including wages, profits, cost of goods, and charitable contributions.[2] Survey respondents represented a range of sectors including retail, service, restaurant, pharmacy, and banking.

MECEP also needed to obtain comparable data for a national chain store. MECEP selected Dollar Tree and conducted an in-depth examination of corporate filings to obtain estimates for the three Portland locations. While Dollar Tree is not as well-recognized as other national chains such as Wal-Mart and Target, MECEP selected it as a comparison point because its average store size, employment, and output is more in line with that of a locally owned business. It is important to note that MECEP's findings do not differ significantly from those studies that have included larger national chains and multiple chain stores as comparison points particularly when controlling for impact per square foot of store space.

MECEP then used IMPLAN software to model local economic impact using the survey and Dollar Tree data. This allowed MECEP to calculate the three core components of economic impact. These include:

- **Direct effects:** What happens in the local economy when the business being studied purchases inputs, goods, and services from other firms, pays its employees, returns profits to owners, or contributes to charitable causes?
- **Indirect effects:** What happens in the local economy when supplying firms buy their own inputs, pay employees, return profits to local owners, or contribute to charitable causes?
- **Induced effects:** What happens in the local economy when workers and owners at both the business being studied and supplying firms buy local goods and services?

The direct effect is based on survey results and corporate filings. The IMPLAN software uses annually collected federal data to estimate indirect and induced effects adjusted to reflect the dynamics and predictable leakage of the local economy, in this case Portland and surrounding communities. The total effect is therefore the combined result of direct effects plus indirect effects and induced effects. The final product of the analysis is a multiplier, which is simply the ratio of the total effect to the direct effect. For example, a multiplier of 1.5 would indicate that every $1 spent by consumers generates a total of $1.50 or an additional $0.50 in local economic activity.

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Results and Discussion

MECEP's analysis found that in general every $100 spent at locally owned businesses generates an additional $58 in local impact, $25 more than comparable spending at a national chain.

MECEP found that, on average, 65% of the business expenses among the survey respondents are paid to local goods and service producers. This includes not only employee salaries and wages, but also the cost of goods sold, repair and maintenance, advertising, vehicle, utility, equipment, supply, professional service, and other expenses. Table 1 illustrates where respondents procured their goods and services.

Table 1: Business Expenditures by Locally Owned Businesses in Greater Portland

	Paid to individual or business located in...		
Expense	Greater Portland	Elsewhere in Maine	Out of State
Goods	27.6%	13.7%	58.8%
Salary and Wages	69.6%	27.3%	3.1%
Repairs and Maintenance	88.9%	7.7%	3.4%
Advertising	60.1%	30.1%	9.9%
Employee Benefit Programs	70.5%	26.5%	3.0%
Vehicle Costs	77.0%	20.0%	3.0%
Utilities	52.9%	40.6%	6.5%
Equipment and Supplies	41.6%	33.9%	24.5%
Professional Services	81.1%	16.5%	2.5%
Other Operating Expenses	60.0%	0.0%	40.1%
Insurance	44.0%	10.9%	45.1%
Charitable Contributions	48.0%	51.5%	0.6%

Source: MECEP analysis of business surveys. Note percentages may not equal 100% due to rounding.

It is difficult to approximate a similar breakdown for a national chain, but publicly available documents provide some insight. As mentioned previously, the key components of economic impact are wages, profits, cost of goods and services, and charitable contributions. Most of the wages from a national chain likely stay within the local economy because that is where most employees live. National chains require little in the way of local professional services, such as accounting and printing, which are usually handled at the national level. In the case of the Dollar Tree profits are remitted to the headquarters in Virginia. Based on the Dollar Tree's business model, only 40% of goods sold are manufactured in the United States; virtually all of these are produced outside of Maine. Finally, as reported on their website, charitable contributions are only in the communities surrounding their corporate headquarter and distribution centers.

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Table 2 depicts the three core components of economic impact based on MECEP's analysis of survey and national chain data using the IMPLAN software and supporting data for Portland, Maine.

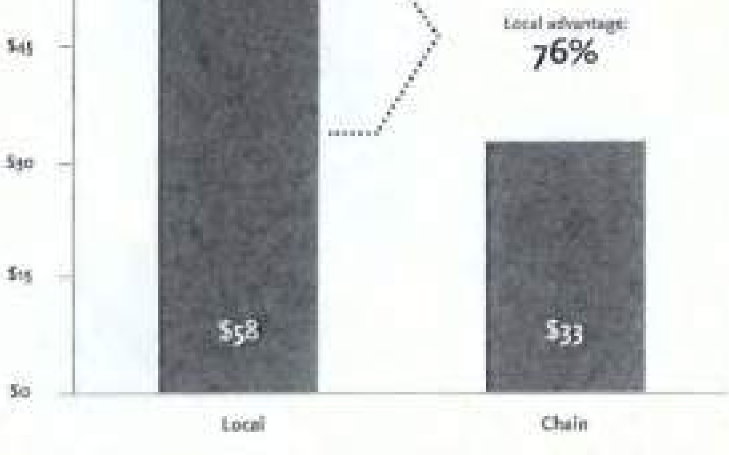
Table 2: Core Components of Economic Impact for Businesses in Portland, Maine

Ownership	Direct effects	Indirect effects	Induced effects[4]	Total[5]
Local	1.00	0.35	0.23	**1.58**
National chain	1.00	0.10	0.24	**1.34**

Source: MECEP analysis of business surveys, IMPLAN, Dollar Tree 10-K for 2010.

Based on the analysis depicted in Table 2, MECEP found that in general every $100 spent at a local business generates an additional $58.03 in local impact. By comparison, $100 spent at a representative national chain store generates $33.43 in local impact. Stated differently, MECEP found that spending at local businesses generates as much as a 76% greater return to the local economy. These findings are depicted in Chart 1 below.

Chart 1: Additional Impact on Portland's Economy per $100 in Consumer Spending by Business Ownership



Source: MECEP analysis of business surveys, IMPLAN, Dollar Tree 10-K for 2010.

MECEP's analysis indicates that on a dollar-for-dollar basis the local economic impact of national chains is significantly less than that of locally owned businesses.

The results of this analysis indicate that reducing economic leakage through changes in consumer spending patterns can add up to sizeable economic benefits for the region and offer an important opportunity for economic growth. Based on 2007 retail sales figures, shifting 10% of consumer spending from national chains to locally owned businesses would result in an additional $127 million in economic activity in Greater Portland with 874 new jobs generating over $35 million in wages.[6]

Previous studies of the economic impacts of local businesses in other locales by Civic Economics have produced similar findings. Their 2004 study of retail economics in Andersonville, Illinois, examined the economic impacts of ten local firms, compared to ten competing national chains, on a neighborhood's economy. Their analysis of revenue and expense information provided by the ten firms concluded that spending $100 at locally owned businesses generates an additional $68 in local economic activity. By comparison, spending $100 at national chains generates an additional $43.

A similar 2008 study in Grand Rapids, Michigan examined revenue and expense data from four lines of goods and services: pharmacies, grocery stores, full-service restaurants, and banks. On average, there was a local economic advantage of 50% from consumer spending at locally owned businesses versus national chains. Although slightly less than the advantage in Andersonville, the two reports offer similar conclusions: buying from local firms provides significant benefits for a local economy.

Several factors may influence MECEP's findings. First, unlike the Andersonville or Grand Rapids studies, MECEP compared information for businesses from a range of sectors to a single chain in the retail sector. This has the potential to increase or decrease the local advantage. For example,

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in the Andersonville study, Civic Economics developed sector specific comparisons and segregated their sample accordingly. They found that local restaurants generate 27% more economic activity per $100 in revenue than national chain restaurants, local retail establishments generate 63% more economic activity compared to their national counterparts, and local services generate 90% more economic activity. In terms of revenues, the Portland sample is heavily weighted by restaurants and retail establishments. While cost limitations did not allow for sector specific comparisons, the potential for bias based on a disproportionate share of service businesses (where the local premium appears to be greatest) in the sample is minimal.

Second, while MECEP obtained completed surveys from 28 businesses, the largest 3 businesses based on revenues had the potential to skew the overall findings. With this in mind, MECEP analyzed the data with and without these businesses and found no significant difference in the overall results.

Finally, selecting a larger chain such as Target or Wal-Mart or a chain in a different business sector would likely result in different levels of direct, indirect, and induced effects. MECEP's selection of Dollar Tree as the comparison chain was based solely on the fact that its size, employment, and output were most similar to the businesses surveyed. MECEP acknowledges that future work of this kind could be strengthened by the addition of multiple comparison points. However, as indicated previously, even when this has been done in other locations, the results are consistent with the findings of this study.

In terms of overall economic impact, the multiplier effect of buying from locally owned businesses could be diminished somewhat if goods and services from national chains are available at comparable quality and lower prices. This would mean that area consumers are left with more money to spend on goods and services from other businesses regardless of ownership. While proponents of national chains likely overstate these benefits, the fact remains that in terms of overall economic impact, buying from locally owned businesses reduces leakage and contributes to increased local economic activity.

Conclusion

Consumers purchase goods and services from a variety places for a variety of reasons. Increased consumption from locally owned businesses can stimulate greater economic activity. In the case of Greater Portland, every $100 a consumer spends at locally owned businesses can generate as much as $58 in additional local economic impact, $25 more than comparable spending at a national chain. Based on 2007 retail sales figures, shifting 10% of consumer spending to locally owned businesses would result in an additional $127 million in economic activity in Greater Portland with 874 new jobs generating over $35 million in wages.

See "The Andersonville Study of Retail Economics" at www.civiceconomics.com/AndersonvilleStudy.pdf; "Local Works: Examining the Impact of Local Business on the West Michigan Economy" at www.civiceconomics.com/GR_Local_Works_Complete.pdf and "Thinking Outside the Box" at www.civiceconomics.com/ThinkingOutsidetheBox.pdf.

Other arguments for supporting local farmers and buying from locally owned businesses focus on improving community vitality and quality of life, not just economic outcomes. For example, local business owners are more likely to contribute to the social, civic, and cultural fabric of the community than business owners who are not based in the community. MECEP did not seek to evaluate these arguments in this study focusing instead on the economic impacts of buying from local businesses.

Another 72 businesses began the survey but did not complete it.

The induced effect multiplier may be understated for locally owned businesses and overstated for the Dollar Tree in our model. MECEP relied on survey data to calculate the share of wages (70%) paid to residents of Cumberland County. Because MECEP did not have access to such information for Dollar Tree, we assumed that 100% of employee wages are paid to local residents.

Due to rounding of induced and indirect effects, Table 2 indicates a total impact of 1.32 for the national chain. The actual number without rounding is 1.3343. For local stores the number without rounding is 1.5805.

Based on 2007 retail sales figures from U.S. Census and MECEP analysis using IMPLAN software.

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The Economic Impact of Buying Local

How Local Sales Impact San Diego County's Economy

BEACON ECONOMICS

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Introduction

Economists believe in open markets and free trade—where buyers are allowed to seek out the best quality product or service at the best price. Yet open markets do not mean that buyers shouldn't have a local bias. Indeed as the following report shows, buyers should consider the many benefits of keeping their purchase decisions close to home if the offer is close enough. The reason? Spending locally can stimulate the economy in the region—bringing the benefit of extra business to the buyer.

Furthermore, buying local means that local governments retain the sales tax generated by their residents' spending, which then supports local infrastructure projects and community police and fire departments, rather than seeing it leak out to other neighboring cities. Yet by no means do we support preventing competition and protecting local inefficient businesses. The goal in this report is simply to provide a heightened understanding of the economic process, where a "Think Local First" approach to making purchases can be mutually beneficial to consumers, government entities, and businesses.

In the following sections, we will measure the benefits to local economies associated with local taxable sales in three cities throughout San Diego County —the cities of San Diego, Escondido, and Poway. The benefits we will measure are:

- the tax revenues collected by local governments, and
- the economic impact of these purchases to San Diego County.

We will determine how much local purchases contribute to each City's general fund and how much they contribute to the County's transportation fund. Supporting these funds is important as they support a higher quality of life throughout San Diego County. The economic impacts derived from local purchases will be measured by the number of jobs supported, the annual wages supported, and further tax revenues generated to local and state governments. An important concept for consumers to consider is that a purchase of a good or service not only benefits the specific industry related to the purchase; the ripple effects created by such purchase extend to various industries, in many cases the same industry in which the consumer is employed.

Buying Local Creates Local Benefits

The benefits to buying local instead of outside of one's home region as considered in this report can be divided into three parts. First to consider is the tax revenues received by local governments. While opinions may vary on tax policy, the fact is that taxes are collected by local governments and used to provide local services. When goods or services are purchased within San Diego County, local governments reap the rewards. To estimate the amount of tax revenues collected by local governments, applying the local sales tax rates captures these fiscal benefits. In the cities of San Diego, Escondido, and Poway, 0.75% of taxable sales are designated to the respective city's general fund and 0.25% of taxable sales are designated to the San Diego County transportation fund.

The revenues generated by sales taxes within cities are a major portion of each city's operational budget. For example sales and use tax revenues totaled $174.4 million, $18.7 million, and $7.8 million in the Cities of San Diego, Escondido, and Poway, respectively, during the 2010-2011 fiscal year][1]. In the City of San Diego, the revenues generated by sales and use taxes could support the net expenditures of:

- 100% of the Fire Department,
- 100% of streets, highways, storm drains maintenance, and all other transportation related expenses,
- or 50% of the Police Department. Sales and Use tax revenues could also support these expenditures in the City of Escondido (100%, 100%, or 60%) and the City of Poway (100%, 86%, or 87%).

Tax Revenues for Cities in San Diego County 2010-2011 Fiscal Year

City	Sales and Use	General	Total	Sales and Use as Share of General	Sales and Use as Share of Total
	$ Millions			%	
San Diego	174.4	807.5	2326.9	21.6	7.5
Escondido	18.7	58.6	194.3	31.8	9.6
Poway	7.8	28.4	125.5	27.5	6.2
Carlsbad	19.3	117.7	212.8	16.4	9.1
Chula Vista	20.0	94.8	232.5	21.1	8.6
Coronado	1.9	33.8	55.5	5.5	3.3
Del Mar	1.2	13.9	26.2	8.4	4.5
El Cajon	22.3	53.6	88.5	41.6	25.2
Encinitas	7.7	48.6	97.6	15.8	7.9
Imperial Beach	0.6	22.4	35.6	2.7	1.7
La Mesa	15.1	31.6	56.1	47.9	27.0
Lemon Grove	2.7	8.8	12.0	31.1	22.8
National City	16.9	31.9	50.1	53.0	33.8
Oceanside	17.2	94.0	240.1	18.2	7.1
San Marcos	9.6	39.5	71.0	24.2	13.5
Santee	5.9	23.8	37.2	24.6	15.7
Solana Beach	2.1	11.8	20.8	17.9	10.1
Vista	15.5	44.3	101.3	35.0	15.3

Source: California State Controller's Office

A second benefit to buying local is the economic impact created when consumers buy from local businesses. The effect that local purchases have on an economy is multiplied as consumption stimulates the supply-chain of production. Here's why: When a dollar is spent locally, the consumer received his or her dollar's worth of satisfaction and the producer receives a dollar of revenue. This is referred to as the direct impact. But then the business uses that dollar of revenue to purchase intermediate goods and pay laborers, which is known as the indirect impact. Lastly the labor costs create an induced impact as laborers are also consumers and thus spend their earnings back into the local econ-

[1]California State Controller Cities Annual Report

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omy to the extent that they are also residents of the same region or city. Throughout the remainder of this report, the combined indirect effects and induced effects will be referred to simply as secondary effects.

A third benefit worth considering is the additional tax revenues created by the secondary effects. These tax revenues are collected by local and state governments and include:

- employee compensation which generates income taxes;
- indirect business taxes including such items as business licenses;
- household expenditures induced by increased earnings;
- and corporate tax revenues.

Combined, these represent additional benefits that the local economy can harness by the increased economic activity associated with the local purchase of goods or services. In other words, in addition to the tax revenues generated by the local sales themselves, the additional economic activity that these purchases engender throughout the rest of the economy translate into even more revenues for state and local governments above and beyond the direct tax effects noted herein.

To estimate the economic impact and additional tax revenues, we used Version 3 of the IMPLAN modeling system. The IMPLAN modeling system is an input-output model that can be used to estimate the short-run impact of changes in the economy through the use of multipliers. Essentially, every transaction in San Diego County has a multiplier effect that creates an additional economic impact for the County above and beyond the direct spending itself.

Impact studies operate under the basic assumption that any increase in spending has three effects: First, there is a direct effect on that industry itself. For example, shopping at a local convenience store in San Diego will require the convenience store to stock additional items using its own labor and resources. Second, there is a chain of indirect effects on all the industries whose outputs are used by the industry under observation. For the convenience store, the indirect effects would include the demand and employment that is stimulated at firms that provide goods and services to the convenience store, such as lending institutions, security companies, truck drivers and wholesalers who provide the goods sold. Third, there are induced effects that arise when employment increases and household spending patterns are expanded. These induced effects arise because both the convenience store and its suppliers will pay out wages to their employees associated with local purchases, and those wages will then be spent back into the local economy on household items such as food, gas, cars, and housing.

In the section below, we will show how buying local, as measured through taxable sales, in the cities of San Diego, Escondido, and Poway impact the local economy. Our main focus will be on tax revenues and employment, which is represented by the number of full-time equivalent jobs across industries that are supported in connection to the economic activity, local spending, and wages.

Economic Impact of Local Purchases

City of San Diego

In 2011, taxable sales in the City of San Diego totaled to $19.5 billion, or about $14,82S per capita. As measured by the California Board of Equalization, the top five categories were Food Services and Drinking Places (14.8% of taxable sales), Motor Vehicle and Parts Dealers (9.7%), Gasoline Stations (9.5%), Clothing and Clothing Accessories Stores (8.2%), and General Merchandise Stores (8.1%). While all types of local spending contribute to the local economy, we'll focus on the economic and fiscal benefits generated by spending in these top categories more thoroughly.

Taxable sales from Food Services and Drinking Places (the City's bars, nightclubs, and restaurants), which totaled $2.889 billion in 2011, generated $231.1 million in sales tax revenues for the State, County, and City. Of these tax revenues, $21.7 million were allocated directly to the city's general fund revenues while another $7.2 million were allocated to the county's transportation fund revenues.

Spending by businesses and consumers in this category directly supported 40,093 jobs and $988.0 million in wages. The secondary effects (effects on restaurant and bar suppliers and spending by related workers) supported an additional 11,082 jobs and $576.6 million in wages. The jobs supported by secondary effects extend beyond the Food Services and Drinking Places sector. For example, spending at Food Services and Drinking Places supported 1,205 jobs in the real estate services sector. As businesses rent and lease more commercial real estate and employees use their wages to purchases real estate or rent, the demand for employees in the real estate services sector increases. The secondary effects also create an additional $377.6 million in state and local tax revenues.

Economic Impact of Taxable Sales in the City of San Diego for Major Categories

	Food Serv. and Drinking Places	Motor Vehicle and Parts Dealers	Gasoline Stations	Clothing & Accessories Stores	General Merch. Stores
Total Spending ($ M)	2,889.0	1,884.1	1,850.6	1,608.4	1,571.1
Sales Tax Revenues ($ M)	231.1	150.7	148.0	128.7	125.7
Local General Fund Rev. ($ M)	21.7	14.1	13.9	12.1	11.8
County Transp. Fund Rev. ($ M)	7.2	4.7	4.6	4.0	3.9
Direct Jobs Supported	40,092	19,870	9,870	17,700	23,018
Indirect Jobs Supported	4,658	2,417	2,896	2,836	2,745
Induced Jobs Supported	6,423	6,283	3,761	3,429	4,289
Addit. State & Local Tax Rev. ($ M)	337.6	405.0	353.3	312.1	324.4

Source: IMPLAN; Calculations by Beacon Economics

The next largest category of taxable sales was Motor Vehicle and Parts Dealers, which totaled $1.884 billion in 2011. Consumption from this category generated $150.7 million in sales tax revenues —of which $14.1 million were allocated directly to the city's general fund revenues. Another $4.7 million was allocated to the county's transportation fund revenues.

The direct effects from spending in this category directly support 19,870 jobs and $1.1 million in wages. However, these local purchases stimulated an even larger impact after accounting for the secondary effects, which supported an additional 8,700 jobs and $436.5 million in wages. Many of these jobs, much like the previous example, were in the Real Estate (889 jobs) and the Food Services and Drinking Places (822 jobs) sectors, as will be a common theme as these two sectors are heavily impacted by taxable sales. The secondary effects also generated an additional $405.0 million in state and local tax revenues.

Taxable sales from the next three largest categories —Gasoline Stations, Clothing and Clothing Accessories Stores, and General Merchandise Stores —totaled $3.179 billion in 2011. Sales at these businesses generated $402.4 million in sales tax revenues, of which $37.7 million went directly towards the city's general fund revenues and $12.6 million went towards the county's transportation fund revenues.

The direct effects from spending in this category directly support 50,587 jobs and $1.755 billion in wages, with most jobs directly within the three sectors. Meanwhile, the secondary effects supported an additional 19,956 jobs and $1.032 billion in wages. Jobs supported through the secondary effects were again largely in the real estate sector (2,425 jobs), with the food services and drinking places sector (1,685 jobs) close behind. The secondary effects generated an additional $989.9 million in state and local tax revenues.

City of Escondido

The City of Escondido had $2.4 billion in taxable sales in 2011, or approximately $16,531 per capita. The top five categories were Motor Vehicle and Parts Dealers (26.8% of taxable sales), Gasoline Stations (12.7%), Clothing and Clothing Accessories Stores (7.6%), Food Services and Drinking Places (7.5%), and Building Material and Garden Equipment and Supplies Stores (7.0%).

Home to the Escondido Auto Park, taxable sales from the Motor Vehicle and Parts Dealers totaled $643.5 million in 2011. Automobile and parts purchases generated $51.5 million in sales tax revenues for the State, County, and City. Of these tax revenues, $4.8 million were directly allocated to the city's general fund revenues while another $1.6 million were allocated to the county's transportation fund revenues.

Economic Impact of Taxable Sales in the City of Escondido for Major Categories

	Motor Vehicle and Parts Dealers	Gasoline Stations	Clothing & Accessories Stores	Food Serv. and Drinking Places	Bldg. Matrl. and Garden Equip. and Supplies
Total Spending ($ M)	643.5	306.3	183.7	179.4	168.7
Sales Tax Revenues ($ M)	51.5	24.5	14.7	14.4	13.5
Local General Fund Rev. ($ M)	4.8	2.3	1.4	1.3	1.3
County Transp. Fund Rev. ($ M)	1.6	0.8	0.5	0.4	0.4
Direct Jobs Supported	6,787	1,617	2,021	2,490	1,472
Indirect Jobs Supported	826	475	324	289	287
Induced Jobs Supported	2,146	616	392	399	432
Addit. State & Local Tax Rev. ($ M)	138.3	57.9	35.6	21.0	34.7

Source: IMPLAN; Calculations by Beacon Economics

Spending at Motor Vehicle and Parts Dealers in the City of Escondido directly supports 6,787 jobs and $373.0 million in wages. These jobs are hardly limited to salespersons, as one might initially think. The directly supported jobs include auto mechanics, service advisors, finance and accounting positions, managers, and more. On top of that, the secondary effects supported 2,972 jobs and $150.1 in wages, mostly through the induced effects (effects from spending by related workers). Jobs supported by the induced effects (2,146 jobs) are much greater than those supported by the indirect effects (826 jobs) because auto dealerships provide above-average wages, which further stimulates the local economy when they consume other goods and services. For example, the secondary effects from spending at Motor Vehicle and Parts Dealers supported jobs at Food Services and Drinking Places (57 jobs) and Offices of Physicians, Dentists, and other Health Practitioners (26 jobs). On the other hand, the indirect effects from spending at auto dealerships are relatively smaller because auto and auto parts manufacturers are mostly located outside of the state. Nevertheless, the secondary effects generated an additional $138.3 million in state and local tax revenues.

Gasoline Stations obtained the next highest amount of taxable sales, which totaled $306.3 million in 2011. Consumption from this category generated $24.5 million in sales tax revenues. Of these tax revenues, $2.3 million were directly allocated to the city's general fund revenues while another $0.8 million were allocated to the county's transportation fund revenues.

The direct effects from spending in this category directly support 1,617 jobs and $92.2 million in wages, while the secondary effects supported an additional 1,091 jobs and $56.6 million in wages. While spending in this sector doesn't create a high-number of jobs as a proportion to spending —1-job is supported in this sector for every $112,000 spent in a year, compared to 1-job supported at Motor Vehicle and Parts Stores for every $65,945 spent in a year —the secondary effects do create an additional $57.9 million in state and local tax revenues.

Taxable sales from the next three largest categories —Clothing and Clothing Accessories Stores, Food Services and Drinking Places, and Building Material and Garden Equipment and Supplies Stores —totaled $531.8 billion in 2011. Sales at these businesses generated $42.5 million in sales tax revenues, of which $4.0 million went directly towards the city's general fund revenues and $1.3 million went towards the county's transportation fund revenues.

The direct effects from spending in this category directly support 5,983 jobs and $187.5 million in wages, mostly within the three sectors. The secondary effects supported an additional 2,122 jobs and $110.1 million in wages. While some of the jobs supported through secondary effects remained within these sectors (91 jobs in total), the largest shares of jobs supported were in the Real Estate (250 jobs) sector, as businesses in these sectors would prefer to establish themselves in a permanent location to retain customers, and thus have higher interest in purchasing a property or agreeing to a long-term lease, which can be more lucrative to Real Estate firms, relative to industrial properties or offices. The next highest supported sectors from these secondary effects include Employment Services (86 jobs) and Wholesale Trade (83 jobs), yet there are plenty of other sectors that are mildly supported by spending in these categories. So in other words, the secondary benefits are spread to scores of sectors within the local economy. Furthermore, these secondary effects generated an additional $91.3 million in state and local tax revenues.

City of Poway

In 2011, taxable sales in the City of Poway totaled to $971.1 million, or about $20,175 per capita. By category, the bulk of taxable sales were at General Merchandise Stores (27.6% of taxable sales), Motor Vehicle and Parts Dealers (13.4%), Gasoline Stations (7.7%), Food Services and Drinking Places (6.0%), Building Material and Garden Equipment and Supplies Stores (4.6%).

Taxable sales from General Merchandise Stores totaled $268.1 million in 2011 and generated $21.4 million in sales tax revenues for the State, County, and City. The City's general fund received $2.0 million and the county's transportation fund received $670,000.

Spending by businesses and consumers in this category directly support 3,928 jobs and $116.7 million in wages. The secondary effects supported an additional 1,200 jobs and $61.7 in wages. The jobs supported by secondary effects extend beyond the General Merchandise Stores and include sectors like:

- Real Estate Establishments (141 jobs);
- Food Services and Drinking Places (105 jobs);
- Employment Services (51 jobs);
- Offices of Physicians, Dentists, and Other Health Practitioners (43 jobs);
- Wholesale Trade Businesses (40 jobs);
- and Services to Buildings and Dwellings (31 jobs).

Jobs supported by the secondary effects from buying at local at General Merchandise Stores in Employment Services, Wholesale Trade Businesses, and Services to Buildings and Dwellings are mostly a result of the indirect effects. More precisely, these indirect effects are created when General Merchandise Stores need more workers and seek help from local Employment Services agencies, receive help finding goods in bulk from wholesale trade operations, or hire a third-party for building maintenance.

Economic Impact of Taxable Sales in the City of Poway for Major Categories

	General Merch. Stores	Motor Vehicle and Parts Dealers	Gasoline Stations	Food Serv. and Drinking Places	Bldg. Matrl. and Garden Equip. and Supplies
Total Spending ($ M)	268.1	129.8	74.8	58.5	44.5
Sales Tax Revenues ($ M)	21.4	10.4	6.0	4.7	3.6
Local General Fund Rev. ($ M)	2.0	1.0	0.6	0.4	0.3
County Transp. Fund Rev. ($ M)	0.7	0.3	0.2	0.1	0.1
Direct Jobs Supported	3,928	1,368	399	812	388
Indirect Jobs Supported	468	166	117	94	76
Induced Jobs Supported	732	433	152	130	114
Addit. State & Local Tax Rev. ($ M)	55.4	27.9	14.3	6.8	9.2

Source: IMPLAN; Calculations by Beacon Economics

Meanwhile, jobs supported by the secondary effects from buying local at General Merchandise Stores in Food Services and Drinking Places and Offices of Physicians, Dentists, and Other Health Practitioners are mostly a result of the induced effects. That is because the workers at General Merchandise stores will spend their hard earned income at these establishments. Furthermore, these secondary effects also generated an additional $55.4 million in state and local tax revenues.

The second largest category of taxable sales was Motor Vehicle and Parts Dealers, which totaled $129.8 million in 2011. Consumption from this category generated $10.4 million in sales tax revenues. Of these tax revenues, $973,000 were directly allocated to the city's general fund revenues while another $324,000 were allocated to the county's transportation fund revenues.

The direct effects from spending in this category directly support 1,368 jobs and $75.2 million in wages, while the secondary effects supported an additional 599 jobs and $30.3 million in wages. The secondary effects also generated an additional $14.3 million in state and local tax revenues.

Taxable sales from the next three largest categories —Food Services and Drinking Places, Building Material and Garden Equipment and Supplies Stores —totaled $177.8 million in 2011. Sales at these businesses generated $14.2 million in sales tax revenues, of which $1.3 million directly went towards the city's general fund revenues and $445,000 went towards the county's transportation fund revenues.

The direct effects from spending in this category directly support 1,599 jobs and $60.7 million in wages. Meanwhile, the secondary effects supported an additional 683 jobs and $35.4 million in wages and generated an additional $30.3 million in state and local tax revenues.

Conclusion

Observing the economic impacts created from taxable sales within San Diego County, we find that there are true economic benefits from buying local. Admittedly, there will be cases where buying local may appear more costly as a reflection of the price tag for a particular good or service. Yet consumers, businesses, and especially government agencies should be aware that a local purchase comes with the added benefits of tax revenues. When considering buying outside of their home region, the buyer should consider that sales taxes paid for the purchase will leave the home region, whereas a comparable local purchase would be indirectly returned through government services. These services, as previously mentioned, includes local infrastructure projects and community police and fire departments, and public education. For example, a 10% increase in local purchases in the City of Poway, which translates to $2,000 per person, would generate $971,000 in direct tax revenues, which could support 17 new elementary or middle school teachers.[7] More so, local sales help cities like San Diego, Escondido, and Poway improve their budgets and minimize the need for other taxes and fees, which are usually absorbed by local residents.

Meanwhile, the secondary effects should also be considered as local spending supports local jobs and wages. While the secondary effects vary by the type of spending —as shown previously for the Cities of San Diego, Escondido, and Poway —local purchases nonetheless make a positive contribution by supporting local jobs and providing a source of income for these workers. The jobs supported are not only at the retail stores making the sales, but they are spread across multiple industries often including the industry in which the consumer is employed. Then there is the third benefit, the additional sales tax revenues to state and local governments that are created by the secondary effects. Put together, the three effects show that purchasing locally can often be the most efficient choice, even if prices locally are higher than those in other areas.

[7] Based on the Poway Unified School District salary of roughly $44,000 for first year teachers plus an additional 30% cost of benefits provided, as estimated for public school teachers throughout the U.S. by the Bureau of Labor Statistics, Employer Cost for Employee Compensation Survey.

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About Beacon Economics

Beacon Economics, LLC is a leading provider of economic research, forecasting, industry analysis, and data services. By delivering independent, rigorous analysis we give our clients the knowledge they need to make the right strategic decisions about investment, growth, revenue, and policy. Learn more at www.BeaconEcon.com

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MICHIGAN STATE UNIVERSITY

Why Buy Local?

An Assessment of the Economic Advantages of Shopping at Locally Owned Businesses

Michigan State University
Center for Community and Economic Development

In cooperation with the

Capital Area Local First

September 2010

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Contributors
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A digital version of this report is available at
http://www.ced.msu.edu

Introduction

The Michigan State University Center for Community and Economic Development (MSU CCED) in cooperation with Capital Area Local First of Ingham County, Michigan, prepared this policy brief to document the impact of independent locally owned businesses on the community and to explore opportunities to keep money inside of the local economy to increase economic return.

The CCED was established in downtown Lansing, Michigan, in 1969. Adhering to a set of guiding community development principles, the CCED, in partnership with public and private organizations, has developed and conducted numerous innovative programs that address local concerns while building the capacity of students, scholars and communities to address future challenges. Students, faculty and community involvement is a crucial element of the CCED's mission. The CCED's resources focus on the unique challenges of distressed communities throughout the state of Michigan.

In this report, the CCED examined the findings of several studies to identify ways to increase local prosperity by keeping money in the local economy and to assess the impact of these initiatives in comparison to those of large chain retailers. For an in-depth view of the analyses presented in these studies, see the works cited for a list of studies researched to create this report.

This report is divided into eight sections, each representing a key concept of why buying locally is important. A bibliography is provided for readers seeking more information on the potential effects of local products and consumption. The studies and literature involved in creating this report can al be found on page 8 in the work cited section.

Special thanks to Nandi Robinson, senior undergraduate student at Michigan State University, whose dedication and professional engagement made this paper possible.
Disclaimer: The statements, conclusions, and recommendations contained in this report are solely those of the authors and do not represent the views of the University, the government, or funding agencies and organizations.

Why Buy Local?

This question is best answered by Michael H. Shuman, author of the book *Going Local*. "Going local does not mean walling off the outside world. It means nurturing locally owned businesses which use local resources sustainably, employ local workers at decent wages and serve primarily local consumers. It means becoming more self-sufficient and less dependent on imports. Control moves from the boardrooms of distant corporations and back into the community where it belongs." *(Shuman 2000)*

Job Creation

Small local businesses are the largest employers nationally and create two out of every three new jobs. The Small Business Act defines a small business as "one that is independently owned and operated and which is not dominant in its field of operation." Small businesses employ more than 52 percent of the nation's employees. This means that overall more Americans work for a company with fewer than 100 employees than for a large retailer, with more than 500 employees. Small businesses have played a vital role in job creation, adding more than 5.1 million new jobs to our economy since 2003. Buying locally means that employment levels are more likely to be stable, and may even create more opportunities for local residents to work in the community.

Keep Money in the Community

When dollars are spent locally, they can in turn be re-spent locally, raising the overall level of economic activity, paying more salaries, and building the local tax base. This re-circulating of money leads to an increase of economic activity, with the degree of expanse entirely dependent on the percentage of money spent locally.

The Local Premium represents the quantifiable advantage to the city provided by locally owned businesses relative to chain businesses. It is the added economic benefit of local businesses to a local economy. According to the Andersonville Study, Local businesses generate a substantial local premium, or added economic benefit over chain retailers. This means more money will be circulating in the local economy, which may lead to more public infrastructure like libraries and schools, and raising more money in taxable transactions to fund local government services.

The Local Works West Michigan Economic Analysis describes four ways in which a firm keeps money local: wages and benefits paid to local residents, profits earned by local owners, the purchases of local goods and services for resale and internal use, and contributions to local nonprofits. Consistently, locally owned businesses exceed their chain competitors in all four components.

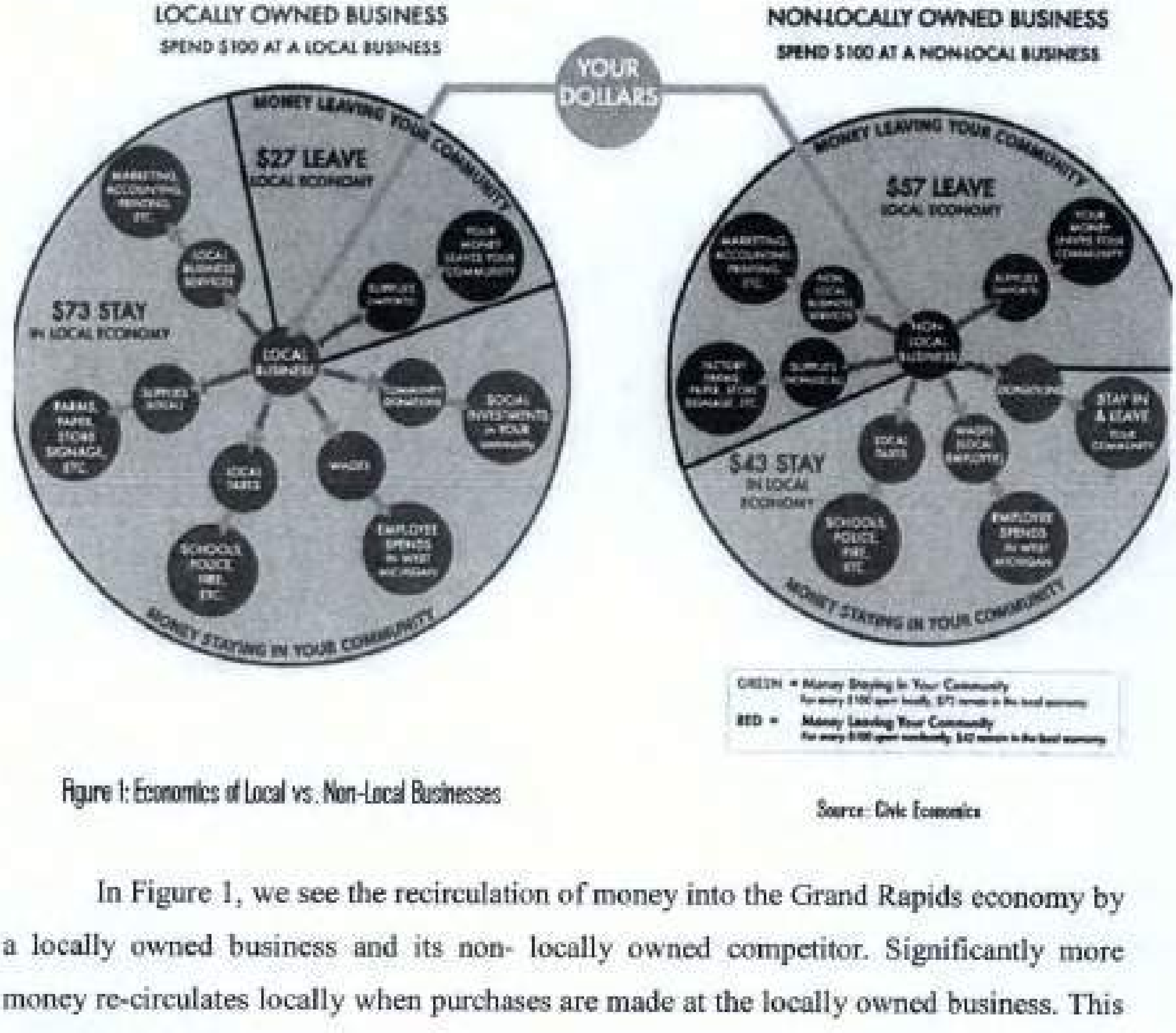

Figure 1: Economics of Local vs. Non-Local Businesses

Source: Civic Economics

In Figure 1, we see the recirculation of money into the Grand Rapids economy by a locally owned business and its non- locally owned competitor. Significantly more money re-circulates locally when purchases are made at the locally owned business. This recirculation is attributed, in part, to locally owned businesses purchasing more often from other local businesses, service providers and farms. Purchasing locally helps other businesses grow, as well as the local tax base.

According to the Local Works analysis of the West Michigan economy, locally owned businesses generate a premium in enhanced economic impact. For every $100 in consumer spending with a locally owned business, $73 remains in the Grand Rapids Economy. This concept is illustrated in Figure 1 by the left pie chart. The remaining $73 is then dispersed locally in the form of wages, charitable donations, taxes which fund city services, and purchases of goods and services from other local businesses.

The pie chart on the right in figure 1 displays the effects of consumer spending at a non-locally owned business. For every $100 spent, only $43 remains in the Grand Rapids economy. When economic stimulus comes from outside of an economy (e.g., tourism, federal funding, and industrial exports) the full effect of those dollars depends on how much of that money remains in the local area.

Community Investment: Charitable Contributions

Locally owned businesses contribute more to local charities and fundraisers than do their national counterparts. In a case study of the economic impact of locally owned businesses on the local economy in the Mid-coast Maine region conducted by the Institute for Local Self-Reliance, the charitable contributions made by local businesses were compared to those made by a chain retailer, Wal-Mart, in 2002.

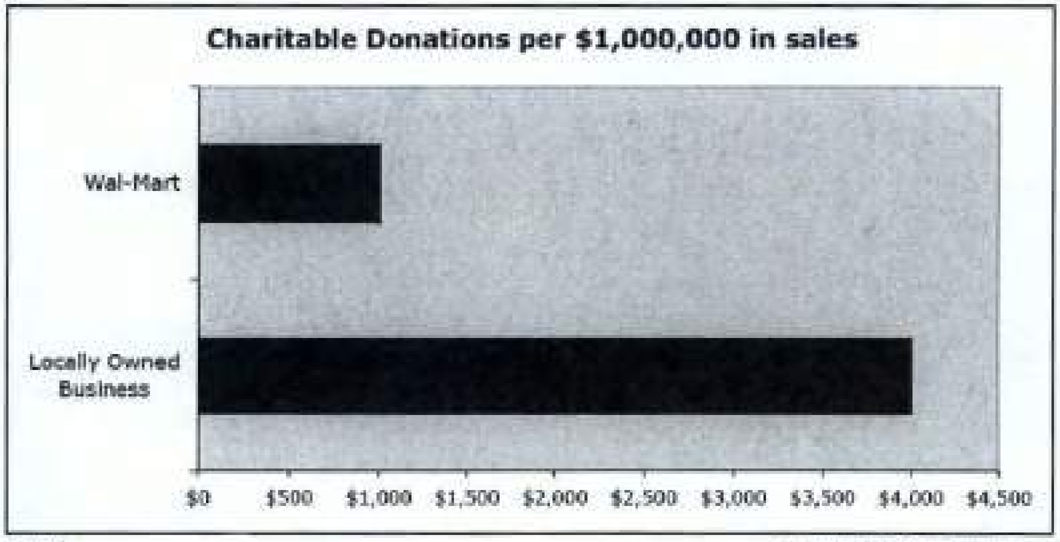

Figure 2

Source: Institute for Self-Reliance

Figure 2 illustrates the findings of this comparison. For every $1,000,000 in sales, one local business alone contributed $4,000 to Wal-Mart's $1,000 contribution. All eight local businesses surveyed, together, made $24,000 in cash donations to charities in 2002. 91% of local business owners contribute to their community, including schools, non profits and community groups, by volunteering and making donations. Local business owners invest in the community and have a vested interest in the future of the community.

Keep the Community Unique

Spending money with local retailers helps keep the local community alive. The places where we eat, shop, and have fun all have the potential to make a community feel like home. "One-of-a-kind" businesses are a fundamental part of the distinctive character and of a community. A community where large chains of shops exceed the number of independently run small businesses becomes less personal and homogenized, with less product diversity.

The benefits of a thriving local independent business sector are not limited to economic benefits. Possibly equally important is that independent businesses define the community's self-image and creates a sense pride for the people who live there. National chain retailers, on the other hand, can homogenize a community and reduce its element of uniqueness and originality. Many communities are choosing to take control of their own economic character by supporting unique one-of-a-kind local businesses.

More Consumer Choices

A marketplace of hundreds of small businesses is the best way to ensure innovation and low prices over the long term. A multitude of small businesses, each selecting products based not on a national sales plan but on their own interests and the need of their local customers, guarantees a much broader range of product choices. A growing body of research shows that in an increasingly homogenized world, entrepreneurs and skilled workers are more likely to invest and settle in communities that preserve their one-of-a-kind businesses and distinctive character with multiple consumer choices.

Reduce Environmental Impacts

Reducing the amount of materials and products that are bought from national retail chains helps reduce your ecological footprint. Locally owned businesses can make more local purchases requiring less transportation and generally operate from within city centers as opposed to developing on the outskirts of a city. More commercial districts result in fewer vehicle miles traveled and leads to less sprawl. Less transportation also means less traffic congestion, which has the potential to reduce the amount of fuel emission that contributes to air pollution. This generally means contributing to less sprawl, congestion, wildlife, habitat loss and pollution.

Locally sourced materials and products have many environmental benefits. They produce less waste by eliminating unnecessary transportation and delivery, therefore reducing the amount of packaging being used. Less packaging means less waste and less demand on landfill sites. According to the National Resource Defense Council, buying local will help reduce pollution, improve air quality and improve our health.

Chain Retailers: The False Promise of Economic Growth

Large national businesses are growing in both numbers and employment totals at rates much faster than those of smaller businesses. The arrival of these larger companies affects the small business sector through increased competition for labor, higher rents, and usually a decrease in small business sales. While national businesses have a role to play in every economy, purchases from national businesses typically cause money to leak out of the local economy. National chains send money outside of the community to the areas where they are headquartered. Large chain retailers often draw revenues from neighboring communities and even these towns and towns adjacent to locations with new chain retailers see sizable losses in both sales tax revenues and employment according to The Santa Fe Independent Business Report.

The premise that locally owned and operated businesses generate greater local economic activity than their chain counterparts has become widely understood and accepted. In communities across the nation and abroad, public policy has adapted to this reality through a variety of planning and zoning tools.

Better Customer Service

There is power in shopping at locally owned businesses. The dollars spent at a local retailer often have a greater impact on product options and service than when these dollars are spent at chains or on-line retailers. When shopping at local businesses you're seen as an individual not a consumer statistic. The rapport that is built between small businesses and the customer is often long standing and the service received is generally better when you are familiar with the staff. Because they have a smaller consumer base, local businesses have the advantage of tailoring their sales strategies to the local customer and community rather than having to stick with nationwide marketing plans.

Save Tax Dollars: Locals Use Less public Infrastructure

There are many different types of land that generate revenues and deficits to a community. Of the non residential land categories, local businesses, or specialty retail businesses generated the best net fiscal result at $326 per 1,000 square feet, among categories like restaurants, fast food, hotels, offices, big box retailers, and shopping centers. Big Box retailers generated a fiscal deficit of -$426 per 1,000 square feet. The net fiscal result is the difference between the average net revenues and the average net costs incurred by each category.

According to a study done by Tischler & Associates in 2002 in Barnstable, Massachusetts, the majority of costs incurred by these businesses are based on employment densities and vehicle trip rates. Because Big Box retailers are generally larger than specialty retail businesses, they generally incur more costs per square foot and experience higher vehicle trip rates as a result of shipping from longer distances. The net fiscal impact on the community as represented by the difference between costs and revenue represents the amount per square foot that is invested in public infrastructure such as infrastructure like roads, schools, and police departments.

Promote Entrepreneurship

Local economic growth will attract new talent and professionals, who may, in turn, create businesses of their own, enhancing a local economy. According to the Small Business Association of Michigan (SBAM), Michigan must begin to pursue a culture of entrepreneurship to stimulate more individuals to create their own growth-oriented firms and to nurture the existing firms. This nurturing has been coined "economic gardening" by the SBAM and is a new approach to economic development which focuses on strengthening small firms positioned for growth rather than trying to recruit or retain companies that could locate elsewhere like national retailers.

The most valuable asset to the pursuit of an entrepreneurial culture is college graduates. These young professionals are the primary source such a culture. They are attracted to urban communities; those characterized by complex public transportation systems, residential and retail developments, and a variety of amenities like restaurants, bars, and galleries all within a densely populated community. The economic growth resulting from shopping at locally owned businesses helps to expand community areas.

This expansion makes for a community that has the potential to attract new talent and future entrepreneurs as well retain young professionals living in the area.

Locally owned businesses provide many economic benefits to a community. These benefits are at risk of being measurably reduced by increasing national chain competition. Local businesses are owned by people who live in the community, are less likely to leave, and are more invested in the community's future. Shopping at local businesses creates more local jobs than shopping at major chain or online companies. Local businesses not only pay their employees, they also spend money at other local businesses. That means by buying local, you help create jobs for your friends and neighbors, contribute to improved public infrastructure, and invest in your community both socially and economically.

About Capital Area Local First

Capital Area Local First (CALF) is a collaborative effort between local independent business owners, non-profit organizations and individuals in the Capital Area to support local ownership, a sense of community, and financial, environmental, and social well-being, to educate our community about the multiple benefits of locally-owned independent businesses, and to nurture relationships among locally-owned businesses.

Capital Area Local First is committed to the Capital Area community and being involved. Their aim is to reach out to those within the community and educate them on the importance of keeping local first. CALF is made up of four different committees that members can join to be an active part in the community as well as the organization.

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Marc Elrich
County Executive

OFFICE OF THE COUNTY ATTORNEY

Marc P. Hansen
County Attorney

MEMORANDUM

TO: Marc Elrich
County Executive

FROM: Megan B. Greene
Associate County Attorney

VIA: Trevor M. Ashbarry
Chief, Division of Finance and Procurement
Office of the County Attorney

DATE: February 21, 2020

RE: State Preemption and Bill 25-19 - Contracts and Procurement - Local Business Preference Program - Established

With regard to proposed Bill 25-19, you have asked this Office to respond to the following question posed by the County Council:

"Section 1-402 of the Md Local Government Code creates a reciprocal local business preference for State contracts. This law also provides authority for a local jurisdiction to provide a reciprocal local business preference against a bidder from a State that has a local business preference

Does the County Attorney believe this State law would preempt the local business preference in Bill 25-19?"

There are three types of State preemption of local laws. The first is express preemption, where a State statute specifically prohibits local legislation on a subject. The second is implied preemption, which "occurs when a local law 'deals with an area in which the [General Assembly] has acted with such force that an intent by the State to occupy the entire field must be implied.'" East Star, LLC v. County Comm'r of Queen Anne's County, 203 Md. App. 477, 484-485 (2012). The third scenario is conflict preemption, which arises when a local law conflicts with a State law

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Express preemption is not applicable to Bill 25-19, as there is no Maryland statute prohibiting a County from enacting such a program. We may also quickly resolve the question of conflict preemption. "Conflict preemption occurs when a local law 'prohibits an activity which is intended to be permitted by state law, or permits an activity which is intended to be prohibited by state law.'" Montgomery Cty. V. Complete Lawn Care, Inc., 240 Md. App. 664, 688 (2019)(internal citations omitted). Neither scenario is applicable here.

Therefore, our inquiry centers on whether Bill 25-19 is subject to implies preemption. To determine whether a local statute is preempted by implication, the courts look at "'whether the General Assembly has manifested a purpose to occupy exclusively a particular field.' . . . The comprehensiveness with which the Legislature has spoken is the primary indicator of implied preemption." East Star, at 486 (internal citations omitted).

"Among the secondary factors considered by a court are: 1) whether local laws existed prior to the enactment of the state laws governing the same subject matter, 2) whether the state laws provide for pervasive administrative regulation, 3) whether the local ordinance regulates an area in which some local control has traditionally been allowed, 4) whether the state law expressly provides concurrent legislative authority to local jurisdictions or requires compliance with local ordinances, 5) whether a state agency responsible for administering and enforcing the state law has recognized local authority to act in the field, 6) whether the particular aspect of the field sought to be regulated by the local government has been addressed by the state legislation, and 7) whether a two-tiered regulatory process existing if local laws were not preempted would engender chaos and confusion." East Star at 486.

There are three Maryland statutes relevant to our inquiry. First, as you have noted, is §1-402 of the Local Government Code, which allows a locality to implement a reciprocal preference for bidders located in the State of Maryland. Notably, this is a permissive statute, providing localities with the option to implement such a preference.

Section 10-310 of the Local Government Code is found within the Express Powers Act and provides broadly that "[f]or any county work, a county may provide for competitive bidding and the making and awarding of contracts and may require bonds."

Finally, §10-206 of the Local Government Code states:

(a) In general. -- A county council may pass any ordinance, resolution, or bylaw not inconsistent with State law that:

(1) may aid in executing and enforcing any power in this title; or

(2) may aid in maintaining the peace, good government, health, and welfare of the county.

(b) Limits on exercise of powers. -- A county may exercise the powers provided under this title only to the extent that the powers are not preempted by or in conflict with public general law.

Here, there is no indication that the State has intended to "exclusively occupy" the field of purchasing preferences. To the contrary, the State has granted to the counties broad authority to design their own competitive purchasing schemes. Montgomery County already has several purchasing programs in place, such as the Local Small Business Preference Program, as do other Maryland jurisdictions. This Office is unaware of any legal challenge to any of these programs on the grounds that the State has exclusively occupies the field of purchasing preferences by virtue of the permissive reciprocal preference authorized in Local Government §1-402. Therefore, while the question has not been directly addressed by any Maryland court, I believe it is unlikely that a purchasing preference program such as envisioned by Bill 25-19 would be preempted by implication.