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**CITY OF BALTIMORE**

**BRANDON M. SCOTT**  
Mayor



**MINORITY AND WOMEN'S  
BUSINESS OPPORTUNITY  
OFFICE**  
100 N. HOLLIDAY STREET  
SUITE 101, CITY HALL  
BALTIMORE, MD 21202

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June 21, 2021

The Honorable President and Members  
of the Baltimore City Council  
Attn: Natawna B. Austin, Executive Secretary  
Room 409, City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 21-0070 – Required Market Research

Dear President and City Council Members:

The Minority and Women's Business Opportunity Office (MWBOO) has reviewed Council Bill 21-0070. The bill requires contracting agencies to conduct market research investigations before determining that no qualified certified business enterprises are available to enter into leases or concession contracts. It requires MWBOO to attempt to identify qualified certified business enterprises if contracting agencies state that no qualified certified business enterprises are available to enter into leases or concession contracts. MWBOO also is required to notify the contracting agency and the Board of Estimates if the Office identifies qualified certified business enterprises that are available to enter into leases or concession contracts. Contracting agencies that want to waive or reduce MBE/WBE contract goals to conduct market research and document the market research to demonstrate why is necessary to waive or reduce MBE/WBE contract goals. If MWBOO grants the waiver or reduction of contract goals, it must give the waiver or reduction of contract goals and the accompanying market research documentation to the Board of Estimates. The bill also requires contracting agencies that want to waive utilization requirements for a specific contract to conduct market research and document the market research to demonstrate that needed goods and services are only available from a sole source. If MWBOO grants the waiver of utilization requirements for a specific contract because the needed goods and services are only available from a sole source, MWBOO must give the waiver and the accompanying market research documentation to the Board of Estimates. The bill makes the Board of Estimates the ultimate arbiter regarding the reduction or waiver of MBE/WBE contract goals and utilization requirements.

Council Bill 21-0070 seeks to benefit MWBOO in supporting the enforcement of Article 5, Subtitle 28. If adopted, this bill reinforces agency adherence to Article 5, §§ 28-88, 28-89, and 28-90, which establish agency responsibilities. In the past, these sections were not enforced by MWBOO nor were the requirements performed by contracting agencies. The adoption of Council Bill 21-0070 would require agencies to be more prudent in their determinations about relaxing minority participation requirements. In effect, in requiring market research, the bill ensures the agencies and MWBOO will render diligence before concluding that exclusions, based on the

market data obtained, are justified. MWBOO notes also that the gathered data will assist the BOE in its deliberations, should BOE decisions be required to approve a relaxation of minority participation requirements.

MWBOO is concerned, however, that by moving final waiver authority from MWBOO to the BOE, the bill will inadvertently slow down the City's contracting process due to the high volume of waiver requests that MWBOO currently receives from other agencies, including sole source requests. Under the bill, those decisions ultimately will be made by the BOE. If all these requests need BOE approval, the workload is likely to inundate Board members and possibly, extend the duration of BOE meetings with waiver deliberations. That workload is unnecessary, viewed from MWBOO's perspective. Waiver decisions should continue to be vested with DOL/MWBOO. The BOE can be consulted when the contracting agency and MWBOO cannot reconcile a waiver request or if unresolved issues arise related to the contract utilization of MBE/WBEs. Thus, MWBOO proposes these amendments:

On page 3: delete the phrase "and the Board of Estimates" on line 11; and delete lines 25 through 30 in their entity.

On page 4: delete lines 16 through 21 in their entity.

If the above amendments are viewed favorably but, nonetheless, the City Council seeks to retain BOE involvement, we suggest adding a new section to the bill: Add new Section 3 requiring MWBOO, by regulation approved by the BOE, to establish the criteria MWBOO must consider when approving requests to relax minority participation requirements supported by the market research required by the Act.

Sincerely,



Darnell Ingram

Deputy City Solicitor/Acting Head of MWBOO

cc: James L. Shea, City Solicitor  
Nina Themelis, Mayor's Office of Government Relations  
Nikki Thompson, Director of Legislative Affairs  
Matthew Stegman, Director of Fiscal and Legislative Services  
Stephen Salisbury, Chief of Staff, Law Department  
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Victor Tervalo, Chief Solcitor  
Ashlea Brown, Assistant Solicitor