


FROM	NAME & TITLE	David E. Scott, P.E., Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	CITY COUNCIL BILL 08-0221		

TO

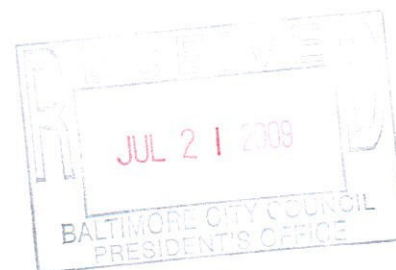
DATE: July 17, 2009

The Honorable President and Members
of the Baltimore City Council
c/o Karen Randle
Room 400 - City Hall

I am herein reporting on City Council Bill 08-0221 introduced by President Rawlings Blake and Council Members Young, Middleton, D'Adamo, Henry, Cole, Branch, Welch, Spector, Clarke, Holton, Conaway, Curran, Kraft, and Reisinger.


The purpose of the Bill is to establish the Baltimore Small Business Opportunity Program; provide for the certification and decertification of small businesses; establish certain procurement reserves and procedures; require certain reports; prohibit certain conduct and set penalties for violations; define certain terms; affirm the Charter-granted authority of the Board of Estimates; and generally relating to a small business opportunity program for Baltimore City.

The State of Maryland has, as part of its Finance and Procurement Article, a Small Business Reserve Program (Title 14 Subtitle 5) and a Small Business Preference Program (Title 14, Subtitle 2). The Small Business Reserve Program sets a minimum of 10% of a designated procurement unit's expenditures of goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering service contracts, to be made to small businesses. This percentage would not apply to the value of contracts for which these conditions would result in a conflict with federal law. Eligibility criteria would have to be met for a business to be considered a small business by the State, and to be on the comprehensive bidder's list of qualified small businesses as compiled, maintained and posted by the Maryland Department of General Services. The Small Business Preference Program means a purchase request for which bids are invited from a qualified list of bidders that includes small businesses. The percentage preference may not exceed 8% for each industry, the percentage by which a small business may exceed the lowest bid submitted by a responsible bidder (who is not a small business) and be awarded a procurement contract. The criteria for qualifying as a small business may vary among industries to reflect the unique characteristics of each industry.



City Council Bill 08-0221, if approved, would establish a Baltimore Small Business Opportunity Program. The Minority and Women's Business Opportunity Office would be required to certify (and, if necessary, decertify) local small businesses according to certain criteria, and would be required to compile, maintain, and post on its website a comprehensive list of certified small businesses. For each major procurement agency, a minimum of 10% of its combined dollar value of contracts issued for goods, services, or construction, must be awarded to local small businesses. The legislation would exclude the dollar value of emergency contracts as determined by the Board of Estimates. The definition of a major procurement agency includes the Department of Public Works, the Department of Transportation, and commodity contracts handled by the Bureau of Purchases that are less than \$150,000 in value. To award a procurement contract to a local small business, the responsive bidder must be the lowest price or, if provided for in the bid, the lowest evaluated bid price; or the bid which is most favorable to the City within the local small business reserve. An appeals process and penalties are provided for in the legislation.

The Department of Public Works defers to the Minority and Women's Business Opportunity Office on City Council Bill 08-0221, as the bulk of the responsibility to create, maintain, and manage a small business opportunity program would lie with that body. However, as Public Works would be considered a major procurement agency under the proposed program, it is recommended that, as a minimum, the following be considered before establishing such a program: an evaluation of the success of the State's program and the cost to maintain it; a determination whether federal or State funding may be subject to a Baltimore small business program; and verification that enterprise funds may not be subject to the requirements of a small business program.


David E. Scott, P.E.
Director

DES/MMC:pat

*Refers to Mr. Boo/
Comments*