

**CITY OF BALTIMORE
COUNCIL BILL 21-0069
(First Reader)**

Introduced by: Councilmember Glover, President Mosby, Councilmembers Stokes, Cohen,
Bullock, Burnett, Ramos, McCray, Torrence, Middleton, Schleifer

Introduced and read first time: April 19, 2021

Assigned to: Public Safety and Government Operations

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Labor
Commissioner, Minority and Women’s Business Development Office, Minority and Women’s
Business Opportunity Office

A BILL ENTITLED

1 AN ORDINANCE concerning

2 style="text-align:center">**Transparency in Procurement**

3 FOR the purpose of adding certain disclosure requirements related to fulfillment of detailed
4 specifications for contracts, prior contracting experience, and the demographic characteristics
5 of employees, other sources of labor, and board members of contractors and subcontractors
6 for City contracts over \$100,000; defining certain terms; establishing certain administrative
7 penalties; and generally relating to better transparency in Baltimore City procurement.

8 BY adding

9 Article 5 - Finance, Property, and Procurement
10 Sections 49-1 through 49-7, to be under the new subtitle,
11 “Subtitle 49. General Contractor Reporting Requirements”
12 Baltimore City Code
13 (Edition 2000)

14 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
15 Laws of Baltimore City read as follows:

16 style="text-align:center">**Baltimore City Code**

17 style="text-align:center">**Article 5. Finance, Property, and Procurement**

18 style="text-align:center">**SUBTITLE 49. GENERAL CONTRACTOR REPORTING REQUIREMENTS**

19 **§ 49-1. DEFINITIONS.**

20 (A) *IN GENERAL.*

21 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (B) *DEMOGRAPHIC DATA.*

2 “DEMOGRAPHIC DATA” MEANS STATISTICAL INFORMATION ON A GROUP OF INDIVIDUALS,
3 DISAGGREGATED BY SPECIFIC CHARACTERISTICS, INCLUDING:

4 (1) RACE;

5 (2) ETHNICITY;

6 (3) GENDER IDENTITY;

7 (4) JOB TITLE;

8 (5) SALARY RANGE;

9 (6) LENGTH OF EMPLOYMENT;

10 (7) BALTIMORE CITY RESIDENCY; AND

11 (8) OTHER DEMOGRAPHIC CATEGORIES AS MAY BE ESTABLISHED BY RULE OR
12 REGULATION.

13 (C) *CONTRACTOR.*

14 “CONTRACTOR” MEANS THE PERSON WITH WHICH THE CITY HAS ENTERED INTO AN
15 AGREEMENT.

16 (D) *GENDER IDENTITY.*

17 “GENDER IDENTITY” MEANS AN INDIVIDUAL’S GENDER AS REPORTED TO THE
18 INDIVIDUAL’S EMPLOYER.

19 (E) *DIRECTOR.*

20 “DIRECTOR” MEANS THE DIRECTOR OF THE DEPARTMENT OF FINANCE OR THE
21 DIRECTOR’S DESIGNEE.

22 (F) *LABOR SOURCE.*

23 “LABOR SOURCE” MEANS A SUPPLY OF TRAINED AND QUALIFIED INDIVIDUALS FROM
24 WHICH WORKERS CAN BE SECURED BY AGREEMENT OR THROUGH OTHER MEANS FROM AN
25 ORGANIZATION OTHER THAN THE CONTRACTOR, INCLUDING A BUSINESS, UNION HIRING
26 HALL, JOB TRAINING ORGANIZATION, OR REGISTERED APPRENTICESHIP PROGRAM.

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1 (G) *PERSON*.

2 "PERSON" MEANS:

3 (1) AN INDIVIDUAL;

4 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
5 KIND; OR

6 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
7 REPRESENTATIVE OF ANY KIND.

8 (H) *REPORT DATE*.

9 "REPORT DATE" MEANS DECEMBER 31 OF THE CALENDAR YEAR IMMEDIATELY PRECEDING
10 THE DATE THE BID IS FILED.

11 (I) *SUBCONTRACTOR*.

12 "SUBCONTRACTOR" MEANS A PERSON WHO HAS A DIRECT CONTRACT WITH A
13 CONTRACTOR TO PERFORM PART OF THE WORK ON A CONTRACT.

14 (J) *WORKFORCE*.

15 "WORKFORCE" MEANS ALL INDIVIDUALS WHO PERFORM WORK FOR COMPENSATION ON A
16 REGULAR BASIS.

17 **§ 49-2. SCOPE OF SUBTITLE.**

18 NOTHING IN THIS SUBTITLE MAY BE CONSTRUED SO AS TO REQUIRE ANY PERSON TO DISCLOSE
19 ANY INFORMATION IN VIOLATION OF STATE OR FEDERAL LAW.

20 **§ 49-3. REPORTING REQUIREMENTS.**

21 A CONTRACTOR WHO ENTERS INTO A SERVICE CONTRACT VALUED AT \$100,000 OR MORE
22 MUST DISCLOSE, AND AGREE TO REQUIRE ALL SUBCONTRACTORS ON THE CONTRACT TO
23 DISCLOSE:

24 (1) INFORMATION THAT SHOWS THE CONTRACTOR OR SUBCONTRACTOR HAS THE
25 CAPACITY OR WILL HAVE THE CAPACITY TO FULFILL THE DETAILED SPECIFICATIONS OF
26 THE CONTRACT;

27 (2) THE CONTRACTOR'S AND EACH SUBCONTRACTOR'S PRIOR YEARS OF EXPERIENCE
28 PERFORMING ON CITY CONTRACTS IN ANY CAPACITY DURING THE 5 CALENDAR YEARS
29 PRIOR TO THE DATE OF THE OPENING OF BIDS FOR A CONTRACT;

30 (3) DEMOGRAPHIC DATA ON THE WORKFORCE OF THE CONTRACTOR AND EACH
31 SUBCONTRACTOR, AS OF THE REPORT DATE;

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1 (4) DEMOGRAPHIC DATA ON ALL INDIVIDUALS SERVING AS BOARD MEMBERS OF THE
2 CONTRACTOR AND EACH SUBCONTRACTOR, AS OF THE REPORT DATE;

3 (5) DEMOGRAPHIC DATA ON THE WORKFORCE OF EACH LABOR SOURCE FROM WHICH
4 WORKERS ARE LIKELY TO BE DRAWN IN PERFORMANCE OF A CITY CONTRACT; AND

5 (6) ANY OTHER INFORMATION REQUIRED BY THE RULES OR REGULATIONS ADOPTED UNDER
6 THIS SUBTITLE.

7 **§ 49-4. SUBMISSION OF DEMOGRAPHIC DATA REGARDING LABOR SOURCES.**

8 (1) SUBMISSION TO THE DIRECTOR AND THE LABOR COMMISSIONER OF DEMOGRAPHIC DATA
9 REGARDING A LABOR SOURCE BY ANY CONTRACTOR DURING THE 6 MONTHS PRECEDING
10 THE OPENING OF A BID SHALL SATISFY THE DISCLOSURE REQUIREMENTS OF § 49-3(5) OF
11 THIS SUBTITLE WITH RESPECT TO THAT LABOR SOURCE FOR ALL CONTRACTORS.

12 (2) THE DIRECTOR MUST PROVIDE NOTICE NO LATER THAN 1 WEEK PRIOR TO THE TIME OF THE
13 OPENING OF BIDS FOR EACH CONTRACT OF ALL LABOR SOURCES FOR WHICH DEMOGRAPHIC
14 DATA HAS BEEN PROVIDED DURING THE PREVIOUS 6 MONTHS.

15 **§ 49-5. RULES AND REGULATIONS.**

16 SUBJECT TO TITLE 4 {“ADMINISTRATIVE PROCEDURE ACT - REGULATIONS”} OF THE CITY
17 GENERAL PROVISIONS ARTICLE, THE DIRECTOR MAY ADOPT RULES AND REGULATIONS TO
18 CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

19 **§ 49-6. ADMINISTRATIVE PENALTIES.**

20 (A) *IN GENERAL.*

21 A VIOLATION OF ANY REQUIREMENT OF THIS SUBTITLE OR OF A RULE OR REGULATION
22 ADOPTED UNDER THIS SUBTITLE SHALL BE CONSIDERED A MATERIAL BREACH.

23 (B) *PENALTIES.*

24 A CONTRACTOR WHO FAILS TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE IS
25 SUBJECT TO ANY OR ALL OF THE FOLLOWING PENALTIES:

26 (1) SUSPENSION OF CONTRACT;

27 (2) WITHHOLDING OF FUNDS;

28 (3) RESCISSION OF CONTRACT;

29 (4) REFUSAL TO ACCEPT A BID;

30 (5) DISQUALIFICATION OF A BIDDER, CONTRACTOR, OR OTHER BUSINESS FROM
31 ELIGIBILITY FOR PROVIDING GOODS OR SERVICES TO THE CITY FOR A PERIOD NOT
32 TO EXCEED 2 YEARS; AND

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1 (6) PAYMENT OF LIQUIDATED DAMAGES.

2 **§ 49-7. ANNUAL REPORT.**

3 (A) *REPORT REQUIRED.*

4 ON OR BEFORE APRIL 1 OF EACH YEAR, THE DIRECTOR MUST PROVIDE AN ANNUAL REPORT
5 TO THE MAYOR AND CITY COUNCIL SUMMARIZING THE DISCLOSURES RECEIVED
6 PURSUANT TO THIS SUBTITLE DURING THE PREVIOUS CALENDAR YEAR.

7 (B) *PUBLIC AVAILABILITY.*

8 A COPY OF THE ANNUAL REPORT TO THE MAYOR AND CITY COUNCIL SHALL BE MADE
9 AVAILABLE TO THE PUBLIC ON THE DEPARTMENT OF FINANCE’S WEBSITE.

10 (C) *PROVISION OF REPORT TO LOCAL ORGANIZATIONS.*

11 TO IMPROVE THE CITY’S CAPACITY IN TERMS OF BUSINESSES AND WORKFORCE DIVERSITY,
12 THE DIRECTOR MUST PROVIDE COPIES OF THE REPORT TO AREA ORGANIZATIONS THAT
13 SPECIALIZE IN BUSINESS GROWTH AND WORKFORCE DEVELOPMENT, INCLUDING:

- 14 (1) BALTIMORE DEVELOPMENT CORPORATION;
- 15 (2) GREATER BALTIMORE COMMITTEE;
- 16 (3) ECONOMIC ALLIANCE OF GREATER BALTIMORE;
- 17 (4) BALTIMORE CITY CHAMBER OF COMMERCE;
- 18 (5) DOWNTOWN PARTNERSHIP OF BALTIMORE;
- 19 (6) GREATER BALTIMORE URBAN LEAGUE;
- 20 (7) GREATER BALTIMORE BLACK CHAMBER OF COMMERCE;
- 21 (8) BALTIMORE HISPANIC CHAMBER OF COMMERCE; AND
- 22 (9) UNITED STATES PAN ASIAN AMERICAN CHAMBER OF COMMERCE.

23 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
24 are not law and may not be considered to have been enacted as a part of this or any prior
25 Ordinance.

26 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
27 after the date it is enacted.