


H. Raymond

FROM	NAME & TITLE	Henry Raymond, Director of Finance	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Finance Room 454, City Hall		
	SUBJECT	City Council Bill 21-0024– Minority and Women’s Business Utilization-Emergencies		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

February 26, 2021

Position: Support

The Department of Finance is herein reporting on City Council Bill 21-0024, Minority and Women’s Business Utilization-Emergencies, the purpose of which is to encourage the utilization of Minority and Women’s businesses in the emergency procurement process.

Background

Under Baltimore City Charter, Article VI, §11. Procurement, all contracts for any public work, or the purchase of any supplies (unless otherwise provided by ordinance for food stuffs and related perishables), materials, equipment, or services other than professional services, involving expenditures above \$25,000 requires formal advertisement and prior approval by the Board of Estimates.

Under §11(e) Emergencies there are two types of emergency circumstances where this requirement does not apply:

(e) *Emergencies, etc.*

(i) *When any supplies, materials, equipment, services, or public works are of such a nature that no advantage will result in seeking, or it is not practicable to obtain, competitive bids, or when the need for supplies, materials, equipment, services, or public works is of an emergency nature and the using agency certifies this in writing to the Board of Estimates, with written notice to the Department of Finance, the provisions of subsection (c) of this section may be dispensed with. However, the purchase may not be made, nor may the City incur any obligation for it, until approved by the Board of Estimates after considering the recommendation of the Department of Finance. When practicable, the City’s intent to make a purchase under this exception shall be posted electronically to the public for comment prior to the approval of the purchase by the Board of Estimates.*

(ii) *In the event of an emergency of such a nature that the public welfare would be adversely affected by awaiting the approval of the Board of Estimates, the Department of Finance, upon application by the head of the municipal agency involved, may proceed to obtain the supplies, materials, equipment, services, or public works required without reference to the provisions of subsection (c) of this section. A full report of any this action shall be promptly submitted to the Board of Estimates.*

This legislation attempts to address utilization of Minority and Woman Business Enterprises (MWBE) in the emergency procurement process in two ways. First, through encouraging the development of list of possible subcontractors in the City’s Minority and Woman Business Opportunity Office (MWBOO).

Second, through facilitating transparency by requiring the contracting agency to report on emergency contracts and vendor utilization post execution of the emergency contract to the Board of Estimates.

The Department of Finance supported a prior version of this bill introduced in September 2020, 20-0605-Minority and Women's Business Utilization-Emergencies, with amendments. The amendments referred to the definition of "emergency" provided in 20-0605 compared to the definition in the City Charter and the authority of the Director of Finance to declare an emergency. The current legislation, as drafted, addresses these concerns. Additionally, Finance raised concerns about the reporting timeline and effective dates in the prior legislation. The current legislation extends the reporting requirement from fifteen days to thirty days, providing agencies more time to gather the necessary information. In addition, the current legislation goes into effect 90 days after enactment, which may still be during the active COVID-19 emergency response, but provides MWBOO and City agencies more time to formalize and normalize the process required under the legislation.

Fiscal Impact Analysis

The Department of Finance does not anticipate a fiscal impact for the City as a result of this legislation since these responsibilities are only required during emergencies and can be absorbed by current staffing. However, any additional resources needed will be reviewed through the annual budget process.

Other Considerations

In general, the Department of Finance supports the goals of this legislation. The Department of Finance recognizes the importance of advancing equity in procurement by ensuring that MWBE's are able to navigate the contracting process and that emergency procurements, which require a rapid response, do not inadvertently create disincentives or barriers to MWBE participation. In recognition of this, the Bureau of Procurement has utilized informal partnerships to achieve these goals. For example, Procurement worked with stakeholders to develop a Critical Supply Warehouse Standard Operating Procedure that sought to coordinate efforts with the Fire Department, Office of Emergency Management, MWBOO, and Procurement to develop a supplier list of certified MWBE's capable of supplying emergency response goods and services. Procurement also worked to streamline the vendor sign up process so that potential MWBE's that were identified by the agencies or Procurement were referred to MWBOO to facilitate the enrollment process. This legislation does not alter the duties or operations of the Department of Finance, but does place additional responsibilities on the contracting agencies that have requested emergency procurements and MWBOO in coordinating with these agencies. Depending on how this legislation is implemented, this additional authorization may prolong the process of procuring goods or services.

Conclusion

The Department of Finance supports the intent of this legislation and appreciates the changes incorporated in this current legislation to address concerns raised about the prior version.

For the reasons stated above, the Department of Finance supports City Council Bill 21-0024.

cc: Natasha Mehu
Nina Themelis