

Introduced by: Councilmember Henry *J.C.H. Donsey, Bennett, Bellor*, 266
Prepared by: Department of Legislative Reference *SUGED* Pinkett
Date: October 2, 2019
Referred to: TAXATION, FINANCE & ECONOMIC DEVELOPMENT Committee *Middleton*
McCray
Stokes
Clarke

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 19-0169R

A RESOLUTION ENTITLED

A COUNCIL RESOLUTION concerning

Investigative Hearing – Minority and Women’s Business Opportunity Office

FOR the purpose of inviting the Chief of the Minority and Women’s Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women’s Business Enterprises participation goals.

[Handwritten signatures and names: Henry Donsey, Bennett, Bellor, R. Donsey, Robert Stokes, Mark Clarke, Daniel...]

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

- Baltimore City Public School System
- Baltimore Development Corporation
- City Solicitor
- Comptroller's Office
- Department of Audits
- Department of Finance
- Department of General Services
- Department of Housing and Community Development
- Department of Human Resources
- Department of Planning
- Other: *Minority and Women's Business Opportunity Office*
- Police Department
- Office of the Mayor
- Mayor's Office of Information Technology
- Mayor's Office of Human Services
- Mayor's Office of Employment Development
- Health Department
- Fire Department
- Department of Transportation
- Department of Recreation and Parks
- Department of Real Estate
- Department of Public Works

Boards and Commissions

- Board of Estimates
- Board of Ethics
- Board of Municipal and Zoning Appeals
- Comm. for Historical and Architectural Preservation
- Commission on Sustainability
- Employees' Retirement System
- Other: *Retiree Investment Savings Board*
- Environmental Control Board
- Fire & Police Employees' Retirement System
- Labor Commissioner
- Parking Authority Board
- Planning Commission
- Wage Commission
- Other: *Comptroller's Office*
- Other:
- Other:

**CITY OF BALTIMORE
COUNCIL BILL 19-0169R
(Resolution)**

Introduced by: Councilmember Henry, President Scott, Councilmembers Dorsey, Burnett,
Bullock, Cohen, Sneed, Pinkett, Middleton, McCray, Stokes, Clarke
Introduced and read first time: October 7, 2019
Assigned to: Taxation, Finance and Economic Development Committee
Committee Report: Favorable
Adopted: January 13, 2019

A COUNCIL RESOLUTION CONCERNING

Investigative Hearing – Minority and Women’s Business Opportunity Office

FOR the purpose of inviting the Chief of the Minority and Women’s Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women’s Business Enterprises participation goals.

Recitals

The Minority and Women’s Business Opportunity Office is responsible for certifying compliance with Article 5, Subtitle 28 of the City Code before contracts are submitted to the Board of Estimates for award, setting Minority Business Enterprises (“MBE”) and Women’s Business Enterprises (“WBE”) participation goals on contracts, and establishing certain annual goals for MBE and WBE participation, among other duties. In Article 5, Subtitle 28 of the Code, the City Council found that past discrimination in the City’s contracting process by prime contractors against MBEs and WBEs resulted in significant underutilization of MBEs and WBEs in contracts awarded by Baltimore City. The Minority and Women’s Business Opportunity Office (hereinafter “the Office”) was created to promote equal business opportunity in the City by encouraging full and equitable participation by MBEs and WBEs in the provision of goods and services to the City on a contractual basis. For each specific contract, the Office must establish MBE and WBE participation goals. These goals cannot be quotas. Annually the Office reviews MBE and WBE participation on all contracts and procurement to evaluate the City’s progress in meeting its goals, and reports this information to the Board of Estimates.

Baltimore City agencies must be audited every two years, and an audit for the Office was published in December 2018. The audit found two major problems regarding the Office. First, in 2016, the number of applications approved by the Office did not meet the participation goal. In fact, less than half of the applications that the Office hoped to approve, in 2016, were actually approved; specifically, the target number of applications approved was 300, while the actual number approved was 106. In 2017, the Office exceeded its target, but there was a disparity between the number of applications the Office claimed to approve and the number the Office actually approved. Second, the audit found that the Office did not maintain a list of waiver requests and approvals. The audit found that because the Office did not maintain a list of waiver requests and approvals, the Office was at risk of mishandling contracts. The audit also found that the Office uses an excel spreadsheet for application tracking stored on the shared drive, and that the Office was looking into obtaining an online certification software application.

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike-out~~ indicates matter stricken by amendment.

Council Bill 19-0169R

1 The City Council needs to investigate the effectiveness of the Office. In 2016, the Office
2 egregiously failed to meet its target. The Office also failed to maintain a list of application
3 waiver requests and approvals. The Office could possibly use technology to meet its target
4 approval rates. What type of technology might the Office use for this? Has the Office
5 implemented the online certification software application in order to do application tracking? If
6 so, how is this application helping it complete its duties? If not, why not? It is important that the
7 City is meeting its MBE and WBE participation goals, and an investigative hearing is needed to
8 determine if the Office is meeting these goals and, if not, how it can begin to meet these goals.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the City
10 Council invites the Chief of the Minority and Women's Business Opportunity Office to report to
11 the City Council on the effectiveness of meeting Minority Business Enterprises and Women's
12 Business Enterprises participation goals.

13 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Mayor, Chief
14 of the Minority and Women's Business Opportunity Office, and the Mayor's Legislative Liaison
15 to the City Council.

BALTIMORE CITY COUNCIL

TAXATION, FINANCE AND ECONOMIC DEVELOPMENT

VOTING RECORD

DATE: December 19, 2019

BILL#: 19-0169R

BILL TITLE: **Investigative Hearing – Minority and Women’s Business Opportunity Office**

MOTION BY: West SECONDED BY: McCray

- FAVORABLE FAVORABLE WITH AMENDMENTS
 UNFAVORABLE WITHOUT RECOMMENDATION


NAME	YEAS	NAYS	ABSENT	ABSTAIN
Middleton, Sharon, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
McCray, D, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Costello, Eric	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, Edward	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stokes, Robert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS				

CHAIRPERSON: Sharon Middleton

COMMITTEE STAFF: Samuel Johnson, Initials: _____



RMAC

FROM	NAME & TITLE	Robert Cename, Budget Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432, City Hall (410) 396-4774		
	SUBJECT	City Council Bill 19-0169R—Investigative Hearing-Minority and Women’s Business Opportunity Office		

DATE:

TO

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

December 17, 2019

The Department of Finance is herein reporting on City Council Bill 19-0169R, Investigative Hearing-Minority and Women’s Business Opportunity Office, the purpose of which is to hear from the Chief of the Minority and Women’s Business Opportunity Office (MWBOO) on meeting Minority Business Enterprises and Women’s Business Enterprises participation goals.

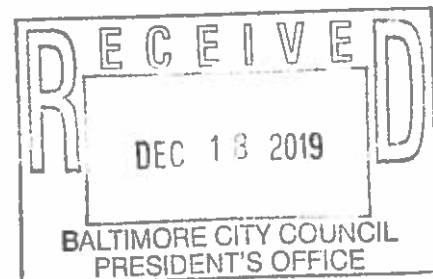
The Department of Finance’s Bureau of Procurement is responsible for the competitive bidding process for all agencies. Through the Bureau of Procurement, the City conducts outreach and provides training and workshops for prospective bidders, with a focus on small, local businesses, in how to do business with the City, and how to find bidding opportunities. Additionally, the Bureau provides workshops on specific procurements to educate local businesses on the process and the City’s needs prior to the initiation of the solicitation process. The Bureau also conducts onboarding sessions with awarded prime contractors and subcontractors on how the awarded contracts will be utilized, with a focus on record keeping and reporting requirements. Previously the Bureau submitted contracts for compliance review only when Board action was required, but the new structure of the responsibilities in the Bureau will allow for more regular review, and vendor course correction when appropriate.

The Bureau of Procurement also works with MWBOO to identify Minority Business Enterprises and Women’s Business Enterprises in the procurement process. The MWBOO Directory is used to ensure that bid opportunity notifications are automatically sent to all vendors certified in the appropriate category, and registered in CitiBuy, at the time a bid is posted and advertised. During the prior fiscal year, the Bureau added the ability of vendors to self-select certain City-certified, and non-City certified business categories such as State and Nationally recognized certifications, including but not limited to LGBTQ-owned businesses and veteran-owned businesses. This allows the Bureau to gather additional information about the vendors doing business with the City, which was previously not gathered or tracked. These self-selected categories also allow agencies more visibility on how they spend their funds.

The Department of Finance will attend the hearing for this Resolution to provide all information relevant to this inquiry.

cc: Henry Raymond
Matthew Stegman
Nina Themelis

Comments



CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG
Mayor



DEPARTMENT OF LAW
ANDRE M. DAVIS, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

December 13, 2019

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

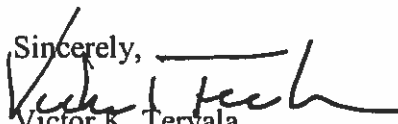
Re: City Council Bill 19-0169R – Investigative Hearing – the Minority and Women’s
Business Opportunity Office

Dear President and City Council Members:

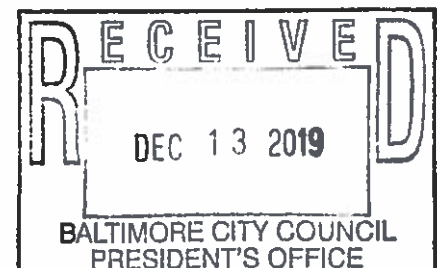
The Law Department has reviewed City Council Bill 19-0169R for form and legal sufficiency. The resolution is for the purpose of inviting the Chief of the Minority and Women’s Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women’s Business Enterprises participation goals.

In general, a City Council resolution is “an expression of opinion or mind concerning some particular item of business coming within the legislative body’s official cognizance.” *Inlet Assocs. v. Assateague House Condominium Assoc.*, 545 A.2d 1296, 1303 (Md. 1988) (quoting *McQuillin Mun. Corp.* § 15:2 (3rd Ed.)). Council Bill 19-0169R is an appropriate resolution to express the Council’s concerns about this particular situation and request that appropriate officials to discuss methods to include more MWBE’s on exclusive vendor lists at the facilities in question.

Accordingly, the Law Department approves Council Bill 19-0169R for form and legal sufficiency as it is a valid method of conveying City Council’s desires regarding this matter.

Sincerely,

Victor K. Tervala
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Nicholas Blendy, MOGR
Matt Stegman, Mayor’s Legislative Liaison
Caylin Young, President’s Legislative Director
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Ashlea Brown, Assistant Solicitor



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COMPTROLLER

JOAN M. PRATT, CPA
Room 204, City Hall
Baltimore, Maryland 21202-3461



OFFICE OF THE COMPTROLLER

Department of Audits
Department of Real Estate
Municipal Post Office
Municipal Telephone Exchange
Harbor Master

November 14, 2019

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, MD 21202

Re: City Council Bill 19-0169R (Resolution)—Investigative Hearing—Minority and Women’s Business Opportunity Office

Dear President and City Council Members:

The Comptroller’s Office has reviewed City Council Bill 19-0196R. This Resolution would invite the Chief of the Minority and Women’s Business Opportunity Office (MWBOO) to report to the City Council on its effectiveness in meeting the City’s Minority Business Enterprise and Women’s Business Enterprise participation goals. Council Bill 19-0196R refers to a December 2018 audit of the Department of Law which included three findings and recommendations for action related to MWBOO’s performance measures for Fiscal Years June 30, 2017 and 2016.

The Department of Audits is a unit of City government that reports to the Office of the Comptroller. Article V, §11 of the City Charter requires the Department of Audits to conduct biennial audits of principal agencies of City government. The next audit of the Department of Law will occur in calendar year 2020. This audit will include an ancillary report on the implementation status of all recommendations for action from the immediately preceding audit, as required by Article V §11(d) of the Charter. The ancillary report will directly address the status of the three findings related to MWBOO’s performance measures.

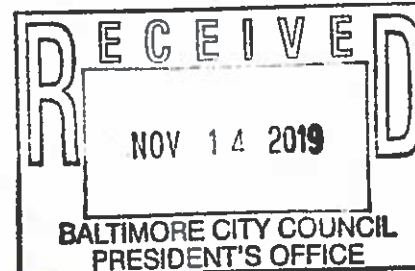
Council Bill 19-0169R invites MWBOO to address broadly its efforts to meet its goals and poses certain specific questions that could shed light on MWBOO’s implementation of actions to address the findings in the December 2018 audit. Given the importance of Minority Business Enterprise and Women’s Business Enterprise participation on City contracts, Council Bill 19-0169R could help to address the issues that will be further reviewed in next year’s audit.

For these reasons, the Office of the Comptroller has no objections to Council Bill 19-0169R.

Sincerely,

Joan M. Pratt, CPA
Joan M. Pratt, CPA
Comptroller

No obj!



cc: Mr. Dominic McAlily, Legislative Assistant, Office of the City Council President
Mr. Matt Stegman, Legislative Liaison, Office of the Mayor



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CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG
Mayor



DEPARTMENT OF LAW
ANDRE M. DAVIS, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

November 12, 2019

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

Re: City Council Bill 19-0169R – Investigative Hearing – Minority and Women’s
Business Opportunity Office

Dear President and City Council Members:

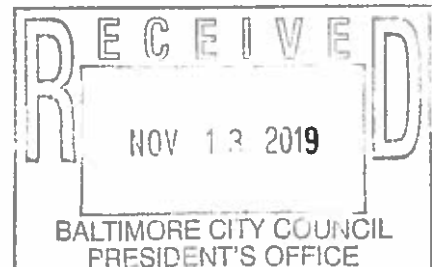
The Minority and Women’s Business Opportunity Office (MWBOO) has reviewed City Council Bill 19-0169R. The resolution seeks to investigate the effectiveness of the MWBOO and seeks a response to several questions related to the FY 2016 and 2017 Biennial Performance Audit Report.

MWBOO supports the goal of this resolution, which is focused on an open discussion related to the effectiveness of the Office. We look forward to presenting an up-to-date progress report on the program and answer any questions the City Council may have.

Sincerely,

Tamara Brown
Chief, The Minority and Women’s Business Opportunity Office

cc: Andre M. Davis, City Solicitor
Dana Moore, Deputy Solicitor
Matthew Stegman, Mayor’s Legislative Liaison
Caylin Young, President’s Legislative Director
Elena, DiPietro, Chief Solicitor



CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG, Mayor



EMPLOYEE'S RETIREMENT SYSTEM,
ELECTED OFFICIALS' RETIREMENT SYSTEM
and RETIREMENT SAVINGS PLAN

DAVID A. RANDALL, Executive Director
7 E. Redwood Street
11th, 12th and 13th Floors
Baltimore, Maryland 21202

Via email: natawnab.austin@baltimorecity.gov

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

**Re: City Council Bill 19-0169R – Investigative Hearing –
Minority and Women's Business Opportunity Office**

Dear Mr. President and City Council Members:

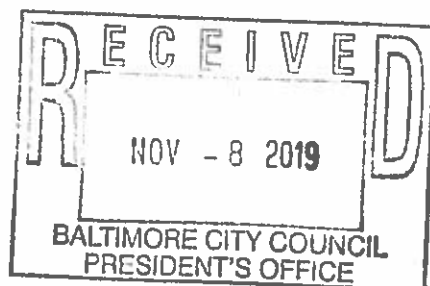
City Council Bill 19-0169R has been referred to the Employees' Retirement System for comment. The Bill's stated purpose is of inviting the Chief of the Minority and Women's Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women's Business Enterprises participation goals.

The Employees' Retirement System has no comment on the Bill.

Please call me at 443-984-3183 if you would like additional information.

Sincerely,

David A. Randall
Executive Director



No comment



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City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Minutes - Final

Taxation, Finance and Economic Development Committee

Thursday, December 19, 2019

10:05 AM

Du Burns Council Chamber, 4th floor, City Hall

19-0169R
CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

- Present** 4 - Member Sharon Green Middleton, Member Danielle McCray, Member Eric T. Costello, and Member Robert Stokes Sr.
- Excused** 1 - Member Edward Reisinger

ITEMS SCHEDULED FOR PUBLIC HEARING

19-0169R **Investigative Hearing - Minority and Women's Business Opportunity Office**
For the purpose of inviting the Chief of the Minority and Women's Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women's Business Enterprises participation goals.

Sponsors: Bill Henry, President Brandon M. Scott, Ryan Dorsey, Kristerfer Burnett, John T. Bullock, Zeke Cohen, Shannon Sneed, Leon F. Pinkett, III, Sharon Green Middleton, Danielle McCray, Robert Stokes, Sr., Mary Pat Clarke

A motion was made by Member Stokes, Sr., seconded by Member McCray, that this Bill be Recommended Favorably. The motion carried by the following vote:

Yes: 4 - Member Middleton, Member McCray, Member Costello, and Member Stokes Sr.

ADJOURNMENT



HEARING NOTES

Mayor and City Council Resolution: 19-0169R

Investigative Hearing – Minority and Women’s Business Opportunity Office

Committee: Taxation, Finance and Economic Development

Chaired By: Councilmember Sharon Green – Middleton

Hearing Date: December 19, 2019

Time (Beginning): 11:10 a.m.

Time (Ending): 12:10 a.m.

Location: Clarence “Du” Burns Chambers

Total Attendance: Approximately 10 – 15

Committee Members in Attendance:

Sharon Green – Middleton

Danielle McCray

Robert Stokes

Eric Costello

Bill Synopsis in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Attendance sheet in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Agency reports read?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Hearing televised or audio-digitally recorded?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Certification of advertising/posting notices in the file?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Evidence of notification to property owners?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Final vote taken at this hearing?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Motioned by:	Councilmember Stokes		
Seconded by:	Councilmember McCray		
Final Vote:	4 – 0		

Major Issues Discussed

1. Chairwoman Middleton read the bill into the record.
2. Councilman Bill Henry, sponsor of the bill offered remarks.
3. The Chief of the Minority and Women’s Business Opportunity Office conducted a presentation and took questions.
4. Councilman Bill Henry made a request for the Minority and Women’s Business Opportunity Office to provide information on the total number of waivers that were granted in fiscal year 2019.
5. There was no public testimony.
6. The committee took a final vote and the hearing was adjourned.

Further Study

Was further study requested?

Yes No

If yes, describe. N/A

Samuel Johnson , Committee Staff
(410) 396-1091

Date: December 19, 2019

cc: Bill File
OCS Chrono File



Baltimore City Council Committee Hearing Attendance Record

Subject: Ordinance – Investigative Hearing – Minority and Women’s Business Opportunity Office	Bill #: 19-0169R
Committee: Taxation, Finance, and Economic Development	Chair: Bill Henry
Date: Thursday, December 19, 2019	Time: 10:05 AM
Location: Clarence "Du" Burns Council Chamber	

PLEASE PRINT CLEARLY			What is your position on this bill?		Lobbyist: Are you registered in the City?*		
<u>CHECK HERE TO TESTIFY</u>			Testify	For	Against	Yes	No
First Name	Last Name	Address / Organization / Email					
John	Doe	400 N. Holliday St. Johndoenbmore@yahoo.com	✓	✓	✓	✓	✓
JAMES	KNIGHTON	COMPTROLLER'S OFFICE 410-936-0927 james.knighton@baltimorecity.gov	✓	✓			
Tawana	Brown						

*NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD AS A LOBBYIST. REGISTRATION CAN BE DONE ONLINE AND IS A SIMPLE PROCESS. FOR INFORMATION VISIT: [HTTPS://ETHICS.BALTIMORECITY.GOV/](https://ethics.baltimorecity.gov/) OR CALL: 410-396-4730

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Agenda - Final

Taxation, Finance and Economic Development Committee

Thursday, December 19, 2019

10:05 AM

Du Burns Council Chamber, 4th floor, City Hall

19-0169R
CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

[19-0169R](#) Investigative Hearing - Minority and Women's Business Opportunity Office
For the purpose of inviting the Chief of the Minority and Women's Business
Opportunity Office to report to the City Council on the effectiveness of
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Sponsors: Bill Henry, President Brandon M. Scott, Ryan Dorsey, Kristerfer Burnett, John T. Bullock,
Zeke Cohen, Shannon Sneed, Leon F. Pinkett, III, Sharon Green Middleton, Danielle
McCray, Robert Stokes, Sr., Mary Pat Clarke

Attachments: [19-0169R~1st Reader](#)
[ERS 19-0169R](#)
[MWBOO 19-0169R](#)
[Comptroller's Office 19-0169R](#)
[Law 19-0169R](#)

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC



BILL SYNOPSIS

Committee: Taxation, Finance and Economic Development

Bill 19-0169R

**Investigative Hearing –
Minority and Women’s Business Opportunity Office**

Sponsor: Councilmember Bill Henry
Introduced: October 7, 2019

Purpose:

For the purpose of inviting the Chief of the Minority and Women’s Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women’s Business Enterprises participation goals.

Effective: N/A

Hearing Date/Time/Location: December 19, 2019 / 10:05 a.m. / Clarence "Du" Burns Chamber

Agency Reports

Dept. of Finance	
Fire and Police Retirement System	
Employees Retirement System	No Comment
MWBOO - Law	Comments
Department of Law	Favorable
MWOBD - Mayor's Office	
Office of the Comptroller	No Objection

Analysis

Current Law:

Article V – Finance, Property, and Procurement; Section 28-5; Baltimore City Code (Edition 2000)

Background

In 2014, the City of Baltimore commissioned NERA Economic Consulting to conduct a study to evaluate: The State of Minority-and Women-Owned Business Enterprise: Evidence from Baltimore. The studies purpose was to investigate whether business enterprises in the City's market area had a full and fair opportunity to compete for prime and associated subcontracts. Data analysis was conducted in the study and it found evidence consistent with the presence of business discrimination against Minority and Women's Business Enterprises. The report also details an analysis that found the City's own contracting and purchasing process contained documented evidence of business discrimination.

In Article V – Section 28:3, one of the objectives of this study and subsequent legislation was to provide remedies to address the effects of past discrimination by setting MWBE goals, instituting race and gender equity into the MBE/WBE Program, and providing criminal penalties for fraudulent misuse of this subtitle.

Existing Law

Article 5 Finance, Property, and Procurement
Subtitle 28 – 3: Legislative Findings and Policy

(a) Findings.

- (5) A general objective of this subtitle is to provide a narrowly tailored remedy to ongoing effects of past discrimination, an objective that is advanced by:
- i. setting minority and women's business enterprise goals that are flexible and rationally related to the disparity identified in the City's contracting markets;
 - ii. instituting race- and gender-neutral remedies, including a Small Local Business Enterprise Program, in conjunction with the narrowly tailored administration of the MBE/WBE Program;
 - iii. setting goals on a contract-by-contract basis;
 - iv. providing criminal penalties for fraudulent misuse of this subtitle;
 - v. requiring regular review of the necessity for this subtitle;
 - vi. limiting those minority and women's businesses that qualify for certification under this subtitle to those located in the Baltimore City Market Area;
 - vii. requiring regular review of the categories included in the definition of minority-group members; and
 - viii. providing for post bid submission of required information about minority and women's business enterprises as well as other subcontractors.

(b) Policy.

It is the policy of the City of Baltimore to promote equal business opportunity in the City's contracting process by encouraging full and equitable participation by minority and women's business enterprises in the provision of goods and services to the City on a contractual basis.

Additional Information

Fiscal Note: Not Available

Information Source(s): Baltimore City Code, Agency Reports, NERA Economic Consulting

Analysis by: Samuel Johnson
Analysis Date: December 17, 2019

Direct Inquiries to: (410) 396-1091



**CITY OF BALTIMORE
COUNCIL BILL 19-0169R
(Resolution)**

Introduced by: Councilmember Henry, President Scott, Councilmembers Dorsey, Burnett,
Bullock, Cohen, Sneed, Pinkett, Middleton, McCray, Stokes, Clarke

Introduced and read first time: October 7, 2019

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Minority and Women's Business
Opportunity Office, Department of Finance

A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Investigative Hearing – Minority and Women's Business Opportunity Office**

3 FOR the purpose of inviting the Chief of the Minority and Women's Business Opportunity Office
4 to report to the City Council on the effectiveness of meeting Minority Business Enterprises
5 and Women's Business Enterprises participation goals.

6 **Recitals**

7 The Minority and Women's Business Opportunity Office is responsible for certifying
8 compliance with Article 5, Subtitle 28 of the City Code before contracts are submitted to the
9 Board of Estimates for award, setting Minority Business Enterprises ("MBE") and Women's
10 Business Enterprises ("WBE") participation goals on contracts, and establishing certain annual
11 goals for MBE and WBE participation, among other duties. In Article 5, Subtitle 28 of the Code,
12 the City Council found that past discrimination in the City's contracting process by prime
13 contractors against MBEs and WBEs resulted in significant underutilization of MBEs and WBEs
14 in contracts awarded by Baltimore City. The Minority and Women's Business Opportunity
15 Office (hereinafter "the Office") was created to promote equal business opportunity in the City
16 by encouraging full and equitable participation by MBEs and WBEs in the provision of goods
17 and services to the City on a contractual basis. For each specific contract, the Office must
18 establish MBE and WBE participation goals. These goals cannot be quotas. Annually the Office
19 reviews MBE and WBE participation on all contracts and procurement to evaluate the City's
20 progress in meeting its goals, and reports this information to the Board of Estimates.

21 Baltimore City agencies must be audited every two years, and an audit for the Office was
22 published in December 2018. The audit found two major problems regarding the Office. First,
23 in 2016, the number of applications approved by the Office did not meet the participation goal.
24 In fact, less than half of the applications that the Office hoped to approve, in 2016, were actually
25 approved; specifically, the target number of applications approved was 300, while the actual
26 number approved was 106. In 2017, the Office exceeded its target, but there was a disparity
27 between the number of applications the Office claimed to approve and the number the Office
28 actually approved. Second, the audit found that the Office did not maintain a list of waiver

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike-out~~ indicates matter deleted by amendment.

Council Bill 19-0169R

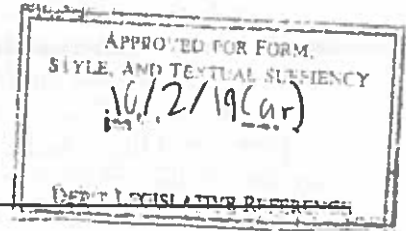
1 requests and approvals. The audit found that because the Office did not maintain a list of waiver
2 requests and approvals, the Office was at risk of mishandling contracts. The audit also found that
3 the Office uses an excel spreadsheet for application tracking stored on the shared drive, and that
4 the Office was looking into obtaining an online certification software application.

5 The City Council needs to investigate the effectiveness of the Office. In 2016, the Office
6 egregiously failed to meet its target. The Office also failed to maintain a list of application
7 waiver requests and approvals. The Office could possibly use technology to meet its target
8 approval rates. What type of technology might the Office use for this? Has the Office
9 implemented the online certification software application in order to do application tracking? If
10 so, how is this application helping it complete its duties? If not, why not? It is important that the
11 City is meeting its MBE and WBE participation goals, and an investigative hearing is needed to
12 determine if the Office is meeting these goals and, if not, how it can begin to meet these goals.

13 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the City
14 Council invites the Chief of the Minority and Women’s Business Opportunity Office to report to
15 the City Council on the effectiveness of meeting Minority Business Enterprises and Women’s
16 Business Enterprises participation goals.

17 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Mayor, Chief
18 of the Minority and Women’s Business Opportunity Office, and the Mayor’s Legislative Liaison
19 to the City Council.

INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____ R
(Resolution)



Introduced by: Councilmember Henry

A RESOLUTION ENTITLED

A COUNCIL RESOLUTION concerning

Investigative Hearing – Minority and Women’s Business Opportunity Office

FOR the purpose of inviting the Chief of the Minority and Women’s Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women’s Business Enterprises participation goals.

Recitals

The Minority and Women’s Business Opportunity Office is responsible for certifying compliance with Article 5, Subtitle 28 of the City Code before contracts are submitted to the Board of Estimates for award, setting Minority Business Enterprises (“MBE”) and Women’s Business Enterprises (“WBE”) participation goals on contracts, and establishing certain annual goals for MBE and WBE participation, among other duties. In Article 5, Subtitle 28 of the Code, the City Council found that past discrimination in the City’s contracting process by prime contractors against MBEs and WBEs resulted in significant underutilization of MBEs and WBEs in contracts awarded by Baltimore City. The Minority and Women’s Business Opportunity Office (hereinafter “the Office”) was created to promote equal business opportunity in the City by encouraging full and equitable participation by MBEs and WBEs in the provision of goods and services to the City on a contractual basis. For each specific contract, the Office must establish MBE and WBE participation goals. These goals cannot be quotas. Annually the Office reviews MBE and WBE participation on all contracts and procurement to evaluate the City’s progress in meeting its goals, and reports this information to the Board of Estimates.

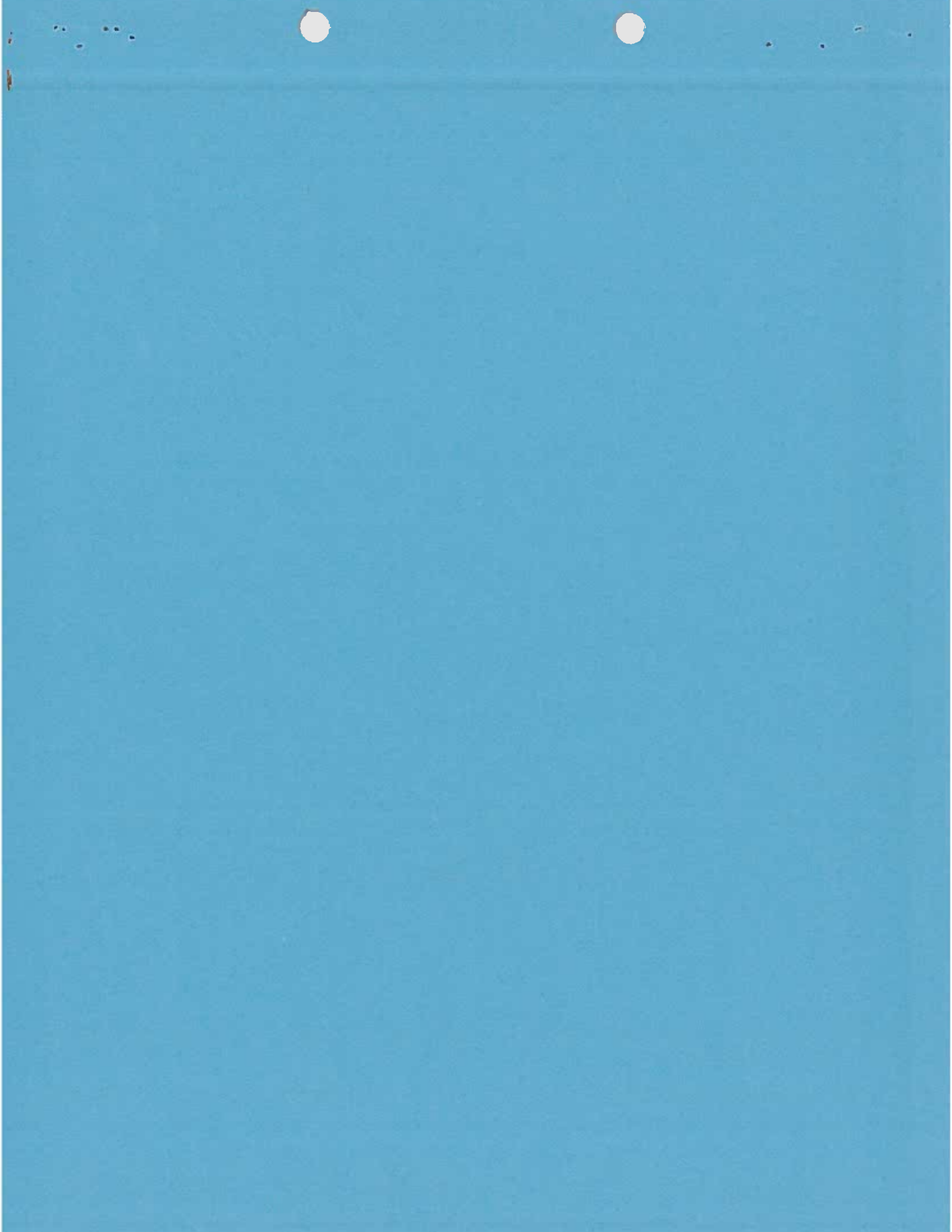
Baltimore City agencies must be audited every two years, and an audit for the Office was published in December 2018. The audit found two major problems regarding the Office. First, in 2016, the number of applications approved by the Office did not meet the participation goal. In fact, less than half of the applications that the Office hoped to approve, in 2016, were actually approved; specifically, the target number of applications approved was 300, while the actual number approved was 106. In 2017, the Office exceeded its target, but there was a disparity between the number of applications the Office claimed to approve and the number the Office actually approved. Second, the audit found that the Office did not maintain a list of waiver requests and approvals. The audit found that because the Office did not maintain a list of waiver requests and approvals, the Office was at risk of mishandling contracts. The audit also found that the Office uses an excel spreadsheet for application tracking stored on the shared drive, and that the Office was looking into obtaining an online certification software application.

* **WARNING:** THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

The City Council needs to investigate the effectiveness of the Office. In 2016, the Office egregiously failed to meet its target. The Office also failed to maintain a list of application waiver requests and approvals. The Office could possibly use technology to meet its target approval rates. What type of technology might the Office use for this? Has the Office implemented the online certification software application in order to do application tracking? If so, how is this application helping it complete its duties? If not, why not? It is important that the City is meeting its MBE and WBE participation goals, and an investigative hearing is needed to determine if the Office is meeting these goals and, if not, how it can begin to meet these goals.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE, That the City Council invites the Chief of the Minority and Women's Business Opportunity Office to report to the City Council on the effectiveness of meeting Minority Business Enterprises and Women's Business Enterprises participation goals.

AND BE IT FURTHER RESOLVED, That a copy of this Resolution be sent to the Mayor, Chief of the Minority and Women's Business Opportunity Office, and the Mayor's Legislative Liaison to the City Council.



ACTION BY THE CITY COUNCIL

OCT 07 2019

FIRST READING (INTRODUCTION) _____

PUBLIC HEARING HELD ON _____ December 19 20 19

COMMITTEE REPORT AS OF _____ January 13 20 20

_____ FAVORABLE _____ UNFAVORABLE _____ FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION

Shirley M. [Signature]

Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

JAN 13 2020

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING _____ 20 _____

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) _____ 20 _____

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) _____ 20 _____

WITHDRAWAL _____ 20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

President

Chief Clerk