


<b>FROM</b>	NAME & TITLE	Honorable Bill Henry, Comptroller of Baltimore City	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Office of the Comptroller, Room 204, City Hall		
	SUBJECT	21-0069 Transparency in Procurement		

DATE:

**TO**

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

June 18, 2021

**Position: Favorable with Amendment**

The Comptroller’s Office is offering comments on Council Bill 21-0069 Transparency in Procurement. The purpose of this bill is to require a contractor entering into a service contract with the City valued at \$100,000 or more to provide detailed information on the contractor’s capacity to perform the required work and demographic data on its workforce and the labor sources from which its employees are likely to be drawn. It would also require the Director of the Department of Finance to provide an annual report to the Mayor and City Council summarizing such information disclosed under its provisions for the previous calendar year.

**Background**

The Comptroller is a member of the Board of Estimates (BOE), which is charged under the City Charter and Code with, among other things, reviewing and approving all City contracts with a value of \$25,000 or more. The information Council Bill 21-0069 would require contractors to disclose speaks directly to concerns the Comptroller raises on a regular basis when reviewing contracts.

The first is whether the contractor and its subcontractors have the capacity to perform the work required; often, when contracts come before the Board of Estimates for extensions and renewals it is found that minority or women-owned subcontractors have not been assigned work by the prime contractor because in the course of performance subcontractors have notified the prime that they do not have the capacity to perform the required work. This results in failure to meet minority business participation goals and usually requires substitution of subcontractors. Substitutions must follow specific procedures and may result in real minority business attainment not being credited until the task or project is completed. Submitting the information required by this Bill at the time the contractor enters into a contract with the City will allow for the identification of potential issues much earlier in the process.

The second area of helpful disclosure is the contractor’s, and any subcontractor’s, experience with performing on City contracts during the five previous calendar years. Requiring this information for all large service contracts will allow City procurement professionals to make deeper inquiries of agency contract managers to determine potential contractors’ history of performance and any related quality issues.

Third, the mandate for a service contractor to provide demographic data on its workforce and potential sources of labor would be a significant enhancement in terms of allowing City agencies to evaluate whether or not a contractor is meeting some of the broader social goals of City procurement policies, including employing local residents, promoting diversity in hiring and retaining employees, and providing fair salary ranges across general categories of employees. All these matters are important when the City is spending taxpayers' funds more often than not in a local economy that has long been characterized by structural inequities.

The Comptroller's Office respectfully requests a minor amendment to Council Bill 21-0069. On page 5, in lines 5 and 8, the Bill refers to an annual report that must be provided to the Mayor and City Council. The Comptroller's Office requests an amendment to add the Board of Estimates as a body to which the annual report must be provided under the law. This would be in line with the annual contract participation report submitted by the Minority & Women's Business Opportunity Office.

### **Conclusion**

This legislation will require significantly more disclosure by contractors who enter into services contracts with the City valued at \$100,000 or more. The disclosure mandated by the Bill will provide important, meaningful information that will help City agencies better manage contracts and conduct future solicitations for services. **For the reasons stated above, the Comptroller's Office supports the bill with the proposed amendment.**

**AMENDMENTS TO COUNCIL BILL 21-0069  
(1<sup>st</sup> Reader Copy)**

By: The City Comptroller  
{To be offered to the Public Safety and Government Operations Committee}

**Amendment No. 1** *{amending the purpose paragraph to include information regarding the annual report}*

On page 1, in line 7, after the semi-colon, insert “REQUIRING THAT THE DIRECTOR OF THE DEPARTMENT OF FINANCE OR THE DIRECTOR’S DESIGNEE REPORT ANNUALLY CERTAIN INFORMATION TO THE MAYOR, CITY COUNCIL, AND THE BOARD OF ESTIMATES AND REQUIRING THE REPORT TO BE MADE AVAILABLE ON THE DEPARTMENT’S WEBSITE AND SENT TO CERTAIN AREA ORGANIZATIONS:”.

**Amendment No. 2** *{amending the due date of the annual report}*

On page 5, in line 4, strike “APRIL 1” and substitute “JUNE 30”.

**Amendment No. 3** *{requiring the Director to send the annual report to the MWBOO, and specifying that the annual report be sent to area organizations}*

On page 5, in line 5, after “MAYOR”, strike “AND” and substitute a comma; and, on that same page, in that same line, after “COUNCIL”, insert “, AND BOARD OF ESTIMATES”; and, on that same page, in line 8, after “REPORT”, strike “TO THE MAYOR AND CITY COUNCIL”; and, on that same page, in line 12, before “REPORT”, insert “ANNUAL”.