



BILL SYNOPSIS

Committee: Public Safety and Government Operations

Bill 21-0033

Imari’s LGBTQ Procurement Preference Act

Sponsor: *Councilmember Odette Ramos*

Introduced: *February 8, 2021*

Purpose:

For the purpose of creating a LGBTQ Business Enterprise (“LGBTQBE”) Program, to be administered by the Minority and Women’s Business Opportunity Office; defining certain terms; establishing the eligibility requirements for firms seeking to participate in the LGBTQBE Program; establishing revocation criteria for firms in the LGBTQBE Program; authorizing the City to employ various affirmative procurement initiatives to promote the award of City contracts to LGBTQBEs; requiring annual reports on the LGBTQBE Program; requiring periodic hearings on and review of the LGBTQBE Program; providing for the appeal of certain adverse determinations by the Minority and Women’s Business Opportunity Office; setting certain penalties; correcting, conforming, and clarifying related provisions; renumbering certain sections; and generally relating to City procurement requirements.

Effective: This Ordinance takes effect on the 30th day after enactment

Agency Reports

Law Department	
Minority and Women’s Business Opportunity Office	
Mayor’s Office of Minority and Women-Owned Business	
Baltimore City Office of Information Technology	Favorable
Office of the Comptroller	
Office of Equity	
Department of Finance	Not Favorable

By adding

Article 5 – Finance, Property, and Procurement; Section(s) 28 – 122 through 28 – 142, to be under the amended subtitle designation; “Subtitle 28. Minority and Women’s Business Enterprises; Small Local Business Enterprises; LGBTQ Business Enterprises” and under the new chapter designation, “Chapter 4. LGBTQ Business Enterprise Procurement Requirements”; Baltimore City Code (Edition 2000)

By repealing and re-ordaining, with amendments

Article 5 – Finance, Property, and Procurement; Section(s) 28 – 3(a)(5)(ii), 28 – 10(b)(6), 28 – 87(b); Baltimore City Code (Edition 2000)

By re-numbering current

Article 5 – Finance, Property, and Procurement; Section(s) 28 – 122, 28 – 123, 28 – 124 to be Sections 28 – 145, 28 – 146, and 28 -147, respectively, and to be under the amended chapter designation, “Chapter 5. Penalties”; Baltimore City Code (Edition 2000)

Analysis

Background

On November 14, 2018 then Mayor Catherine Pugh issued Executive Order 2018 – 02, Inclusion of Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Owned Businesses for the Economic Health of the City of Baltimore. Through this executive order the city set out to better understand the LGBTQ-owned business community by creating a database and registry of these businesses.

In 2019, the New York City Council Speaker raised concerns about similar legislation being introduced in that jurisdiction, stating “state law currently does not authorize the city to give preferential contracting services to these businesses, so it is unclear what benefit certification would have.” In practice the legislation wouldn’t have provided LGBTQBE participants with preferential advantages in the contracting process, but it would have included them in disparity studies conducted by the city. In the past, the City of Baltimore has had vendors conduct disparity studies but they only included information on Minority and Women Owned Businesses. This legislation would include members of LGBTQ-owned businesses into those studies to provide evidence of whether actual disparity gaps exist in the procurement process for city contracts.

The National Gay and Lesbian Chamber of Commerce (NGLCC) is the business voice and the national advocacy organization dedicated to expanding economic opportunities for the LGBT community. The NGLCC began certifying LGBTQ-owned small businesses in 2002, a process that requires substantiation of majority LGBTQ ownership in a business and verification of a business’ good standing in the community. The NGLCC is the exclusive third-party certifying body for Certified LGBT Business Enterprise companies. It has been reported that there are approximately 1.4 million LGBTQ-run companies in the United States, they create more than 33,000 jobs, and generate over \$1.7 trillion in economic impact nationwide. If Baltimore City were to enact this ordinance, then it would join over 30 other cities, counties, and states that include LGBTQ businesses in their procurement process.

If enacted, Bill 21-0033 would establish the eligibility requirements for firms seeking to participate in the LGBTQBE Program. Those eligibility requirements are set forth in Part III. LGBTQBE Program Participation Criteria:

28 – 132. Eligibility for LGBTQBE Program.

- a) “Independently owned and operated” defined.

In this section, “independently owned and operated” means a firm:

- 1) That is independently and directly owned by individuals only; and
- 2) Whose day-to-day management is direct and independent of the influence of any other business that cannot itself qualify under the LGBTQBE eligibility requirements.

- b) General Requirements.

To be eligible for certification as an LGBTQBE, the business enterprise must:

- 1) Be owned by 51% or more by LGBTQ individuals;
- 2) Be certified by the National LGBT Chamber of Commerce;
- 3) Be an independently owned and operated business enterprise that is not:
 - i. A broker;
 - ii. A subsidiary of another business; or
 - iii. Dominant in its field of operation;
- 4) Perform a commercial useful function; and
- 5) Be located in the Baltimore City Market Area.

- c) Ineligible firms.

A business firm is not eligible to become a certified LGBTQBE if it is owned by:

- i. Other businesses that cannot themselves qualify under the LGBTQBE eligibility requirements in subsection (b) of this section; or
- ii. The principals or owners of other businesses that cannot themselves qualify under the LGBTQBE eligibility requirements in subsection (b) of this section.

Additional Information

Fiscal Note: Not Available

Information Source(s): 2018 Mayoral Executive Order, U.S. Small Business Administration, National LGBT Chamber of Commerce, Human Rights Campaign, Gay City News

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