



The Honorable President and Members
of the Baltimore City Council
Room 409, City Hall
100 N. Holiday Street
Baltimore, Maryland 21202

Dear President and City Council Members:

Response to City Council Bill 21-0039 Local Hiring- 21-0039

This report is submitted by MOED in response to City Council Bill 21-0039, Local Hiring – Employment Plan. This bill requires certain contractors to create and submit to the Director of the Department of Finance initial employment plans to bid on government-assisted construction projects or contracts that receive government assistance totaling \$5 million or more; requiring the Director of the Department of Finance to score the bids using the Director's evaluation of the employment plan as 10% of a bidder's score; requiring the winning bidder to submit a revised employment plan to the Director of the Department of Finance with certain criteria; and conforming related provisions.

MOED strongly supports local hiring. Local hiring is crucial to growing and sustaining Baltimore City's economy. Connecting Baltimore City residents to well-paying job opportunities is at the core of MOED's mission. Businesses thrive in places where they can find a skilled workforce and local communities thrive when residents invest back in the neighborhoods where they live, work and play. MOED agrees with the intent of the proposed legislation 21-0039; however, there are significant concerns with the bill as drafted.

Current Law:

Baltimore City's Local Hiring Law went into effect on December 23, 2013, and requires compliance by vendors, contractors, and sub-contractors who do business with the City. The Law is applicable to City-awarded contracts over \$300,000 and City-subsidized projects over \$5,000,000. The Law requires businesses and all of their subcontractors to:

- Meet with MOED within 2 weeks after the contract award to complete an Employment Analysis
- Post new jobs with MOED only for a period of seven days
- Utilize MOED's recruitment services for new hires
- Meet the goal: 51% of all new hires for City-funded contracts must be Baltimore City residents
- Submit monthly employment reports with information on the number of current workers, new workers, and the number of Baltimore City residents working on the project

Bill 21-0039: Considerations and concerns:

Administrative Oversight

Bill 21-0039 creates a process and set of mandates in addition to the existing Local Hiring Law (Article 5. Finance, Property, and Procurement; Subtitle 27. Local Hiring). As the Local employment agency, MOED believes it should retain oversight of the Local Hiring Law (LHL). However, the proposed legislation requires employment plans to be submitted by bidders at the time of bid and after the contract award to the Department of Finance. Employment development is not within expertise or portfolio of the Finance department; therefore, it would be challenging for the Director of Finance to analyze a workforce plan. Additionally, creating a separate but similar process that is managed by the Department of Finance may cause confusion and create challenges with administration and implementation. The proposed legislation aims to expand upon the existing LHL by requiring contractors to provide data in addition to what is required by the LHL. Reporting requirements include:

(Pre-Award)

- Strategy to meet the local hiring requirement and hire economically disadvantaged, socially disadvantaged, and economically and socially disadvantaged individuals.
- A description of health and retirement benefits provided to employees that worked on completed projects in the past three years.
- A description of efforts to provide City residents with ongoing employment and training after completion of projects they are initially hired for.
- A detailed description of efforts to hire and retain at least 50% of the total workforce those who constitute economically disadvantaged, socially disadvantaged, and socially and economically disadvantaged individuals.

(Post-Award)

- Detailing estimates and timetables for hours worked by different trade and employee groups.
- Describing of the skill requirements by the job title position.
- Detailing how they plan to meet the local hiring requirements based on the needs of the project.
- Outlining remediation strategy to resolve problems associated with meeting the hiring requirements.
- Designating an official from the contractor that will be responsible for implementing and reporting all requirements.
- Describing of health and retirement benefits provided to City residents working on the project.
- Outlining a strategy to ensure that City residents continue to receive employment and training after completing work on this job.
- Outlining a strategy to hire graduates of Baltimore City public and charter schools, community-based job training providers, and hard-to-employ residents.

- Reporting the bidder's general City-resident hiring practices on projects or contracts completed within the last 2 years.

The level of reporting and analysis required by this law would require a significant increase in staffing and a software upgrade. For example, as drafted, the bill would require the city to review the health and retirement plans of every bidder. Health and retirement plans can be tremendously complex. Evaluating each bidder's plan would require a great deal of expertise and would be very time-consuming. It would likely lead to delayed contract awards causing the purchasing of goods and services of benefit to city residents to be stalled. In addition, this would be used to award a contract; the provision would likely result in an increase of appeals in the process as the interpretation of which health and retirement plants are better becomes open to debate.

In addition, payroll data tracking is administratively intensive. It requires monthly certified payroll submissions from all subcontractors on projects, a database to track all information collected, staff to track, verify, report, respond to inquiries and follow up on outstanding documents. Additionally, the existing software/database system was designed specifically to address the reporting requirements for the existing LHL. New modules and staff training would need to be procured/created to support this legislation.

Balanced Reporting

MOED recommends that the thirteen additional reporting requirements be reviewed and narrowed to only include the information the city needs to advance local hiring without causing administrative burden on employers and the city. The reporting requirements should be connected to something actionable or measurable and lead to more residents going to work. Requirements for posting jobs within the workforce system, meeting MOED/workforce providers on a scheduled basis to review and implement hiring plans, holding recruitment events within the workforce system, and creating or making monetary contributions to training programs are examples of commitments that connect and integrate the contracting community with the public workforce system.

Penalties for Non-Compliance

Similar to the existing LHL, there are little to no penalties if a contractor does not adhere to the law. Payment delays, significant penalties, disbarment and other BOE reviews prior to the contract being awarded should be considered for the existing and proposed legislation.

Unintended Consequences

As noted above, MOED supports legislation that leads to more city residents going to work. While well-meaning, the legislation could have negative effects. A few, but not all examples include: employers would be required to track whether their employees are socially disadvantaged on a continuous basis as they bid on city contracts over time. Employers may need to lay off good qualified city workers who no longer meet the definition of disadvantaged in order to comply with the local hiring requirement. More worrisome, they may be incentivized to lay off skilled city

workers to score higher in the bid process. Overall, the additional requirements may lengthen the bid process, and increase costs to both the employer (who will likely pass it on to the city) and the direct costs to the city to administer the law. Striking a balance between mandates and providing support is an important step towards creating an environment where local residents are the first hired on public contracts and where businesses seek employment resources from the workforce system. Creating overly burdensome administrative requirements potentially diminishes the relationship building between employers and the public workforce system; which is contradictory to the intent of the legislation.

Best Practices

There is an opportunity to build upon some of the best practices learned from the existing LHL, not only from MOED, but from the agencies that are also very involved with the process of implementing the law such as DPW, DOT, Recreation and Parks and DGS. Carrying out the LHL law is a shared responsibility that starts with the agencies at the time of bid. The input and commitment from the agencies to hold contractors accountable is essential to the success of the law.

Cost

To provide the oversight and analysis required by this law MOED would need significant staffing and software increases for reporting, analysis and tracking but also for outreach and recruitment. While MOED does not have an exact estimate at this time, it believes the number of staff required to oversee these requirements would be significant. Additionally, the implementation deadline of 30 days would need to be expanding significantly to ensure the law is executed properly. MOED is in support of the intent of Bill 21-0039 with amendments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jason Perkins-Cohen".

Jason Perkins-Cohen
Director