

**CITY OF BALTIMORE
COUNCIL BILL 21-0070
(First Reader)**

Introduced by: Councilmember Burnett, President Mosby, Councilmembers Middleton, Bullock,
Torrence, Porter, Stokes, Ramos, Glover, Cohen

Introduced and read first time: April 19, 2021

Assigned to: Public Safety and Government Operations

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Labor
Commissioner, Minority and Women’s Business Development Office, Minority and Women’s
Business Opportunity Office

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Required Market Research**

3 FOR the purpose of requiring contracting agencies to conduct market research investigations before
4 determining that no qualified certified business enterprises are available to enter into leases or
5 concession contracts; requiring the Minority and Women’s Business Opportunity Office to
6 attempt to identify qualified certified business enterprises if contracting agencies state that no
7 qualified certified business enterprises are available to enter into leases or concession contracts;
8 requiring the Minority and Women’s Business Opportunity Office to notify the contracting
9 agency and the Board of Estimates if the Office identifies qualified certified business enterprises
10 that are available to enter into leases or concession contracts; requiring contracting agencies that
11 want to waive or reduce MBE/WBE contract goals to conduct market research and document the
12 market research to demonstrate why it is necessary to waive or reduce MBE/WBE contract goals;
13 requiring the Minority and Women’s Business Opportunity Office, if granting the waiver or
14 reduction of contract goals, to give the waiver or reduction of contract goals and the
15 accompanying market research documentation to the Board of Estimates; requiring contracting
16 agencies that want to waive utilization requirements for a specific contract to conduct market
17 research and document the market research to demonstrate that needed goods and services are
18 only available from a sole source; requiring the Minority and Women’s Business Opportunity
19 Office, if granting the waiver of utilization requirements for a specific contract because the
20 needed goods and services are only available from a sole source, to give the waiver and the
21 accompanying market research documentation to the Board of Estimates; defining a certain term;
22 and making the Board of Estimates the ultimate arbiter regarding the reduction or waiver of
23 MBE/WBE contract goals and utilization requirements.

24 BY adding
25 Article 5 - Finance, Property, and Procurement
26 Section 28-1(k-1)
27 Baltimore City Code
28 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 21-0070

1 BY repealing and re-ordaining, without amendments
2 Article 5 - Finance, Property, and Procurement
3 Section 28-1(a)
4 Baltimore City Code
5 (Edition 2000)

6 BY repealing and re-ordaining, with amendments
7 Article 5 - Finance, Property, and Procurement
8 Section 28-49(c), 28-61, and 28-64
9 Baltimore City Code
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
12 Laws of Baltimore City read as follows:

13 **Baltimore City Code**

14 **Article 5. Finance, Property, and Procurement**

15 **Subtitle 28. Minority and Women’s Business Enterprises; Small Local Business**
16 **Enterprises**

17 **§ 28-1. Definitions.**

18 (a) *In general.*

19 In this subtitle, the following terms have the meanings indicated unless the context clearly
20 requires a different meaning.

21 . . .

22 (K-1) *MARKET RESEARCH.*

23 “MARKET RESEARCH” MEANS THE CONTINUOUS PROCESS OF COLLECTING AND ANALYZING
24 DATA ON PRODUCTS, SERVICES, BUSINESS PRACTICES, AND VENDOR CAPABILITIES TO SATISFY
25 AGENCY NEEDS.

Council Bill 21-0070

Part V. Utilization Requirements

§ 28-49. Leases and concessions.

...

(c) When qualified enterprises unavailable.

If, after A MARKET RESEARCH investigation, a contracting agency determines that no qualified certified business enterprise is available:

- (1) the contracting agency must so notify the Office before signing a lease or awarding a concession contract, unless the Office has waived notification based on the known unavailability of qualified certified businesses to perform a particular contract; and
- (2) the Office [may] MUST attempt to identify qualified certified business enterprises and, if successful, must notify the contracting agency AND THE BOARD OF ESTIMATES of their availability.

Part VI. Waivers

§ 28-61. Agency's pre-solicitation request.

(a) In general.

A contracting agency may request that the Office waive or reduce the contract goals [by submitting the reasons for the request in writing before bids are solicited.] IF THE CONTRACTING AGENCY:

- (1) CONDUCTS RELEVANT MARKET RESEARCH;
- (2) DOCUMENTS THE MARKET RESEARCH IT PERFORMS;
- (3) DETERMINES FROM THE MARKET RESEARCH THAT IT IS NECESSARY FOR THE OFFICE TO WAIVE OR REDUCE THE CONTRACT GOALS; AND
- (4) SUBMITS THE MARKET RESEARCH AND THE SPECIFIC REASONS FOR THE OFFICE TO WAIVE OR REDUCE THE CONTRACT GOALS IN WRITING BEFORE BIDS ARE SOLICITED.

(B) BOARD OF ESTIMATES.

IF THE OFFICE REDUCES THE CONTRACT GOALS OR GRANTS THE WAIVER UNDER THIS SECTION, THE OFFICE SHALL SUBMIT ITS DECISION AND THE ACCOMPANYING MARKET RESEARCH TO THE BOARD OF ESTIMATES, WHICH MUST:

- (1) RATIFY THE OFFICE'S DECISION; OR
- (2) REINSTATE THE ORIGINAL CONTRACT GOALS.

Council Bill 21-0070

1 (C) [(b)] *Criteria for granting.*

2 . . .

3 **§ 28-64. Waiver by agency.**

4 (a) *In general.*

5 A contracting agency may waive the utilization requirements for a specific contract as
6 provided in this section.

7 (b) *Sole source.*

8 The agency may waive the utilization requirements if, with the advice of the Office AND
9 ONLY AFTER PERFORMING MARKET RESEARCH, it finds that:

10 (1) needed goods or services are available only from a sole source; and

11 (2) the prospective contractor is not currently disqualified from doing business with the
12 City.

13 (C) *DOCUMENTATION OF MARKET RESEARCH.*

14 THE AGENCY MUST DOCUMENT THE MARKET RESEARCH IT PERFORMS TO SATISFY THE
15 REQUIREMENTS OF § 28-64(B).

16 (D) *BOARD OF ESTIMATES.*

17 IF A WAIVER IS GRANTED, THE OFFICE SHALL SUBMIT THE WAIVER OF THE UTILIZATION
18 REQUIREMENTS AND ACCOMPANYING MARKET RESEARCH DOCUMENTATION TO THE BOARD
19 OF ESTIMATES, WHICH MUST:

20 (1) RATIFY THE OFFICE'S DECISION; OR

21 (2) REINSTATE THE ORIGINAL UTILIZATION REQUIREMENTS.

22 (E) [(c)] *Emergency.*

23 . . .

24 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance are
25 not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

26 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
27 after the date it is enacted.