



Legislation Details (With Text)

File #:	21-0069	Version:	0	Name:	Transparency in Procurement
Type:	Ordinance	Status:	In Committee		
File created:	4/19/2021	In control:	Public Safety and Government Operations		
On agenda:		Final action:			
Enactment date:		Enactment #:			
Title:	Transparency in Procurement For the purpose of adding certain disclosure requirements related to fulfillment of detailed specifications for contracts, prior contracting experience, and the demographic characteristics of employees, other sources of labor, and board members of contractors and subcontractors for City contracts over \$100,000; defining certain terms; establishing certain administrative penalties; and generally relating to better transparency in Baltimore City procurement.				
Sponsors:	Antonio Glover, President Nicholas J. Mosby, Robert Stokes, Sr., Zeke Cohen, John T. Bullock, Kristerfer Burnett, Odette Ramos, Danielle N. McCray, James Torrence, Sharon Green Middleton, Isaac "Yitzy" Schleifer				
Indexes:	Procurement, Transparency				
Code sections:					
Attachments:	1. 21-0069~1st Reader, 2. Hearing Agenda - 21-0069, 3. Law 21-0069, 4. 21-0069 _Comptroller, 5. MWOB 21-0069, 6. Hearing Minutes - 21-0069, 7. PSGO Bill 21-0069 Transparency in Procurement, 8. PSGO - Hearing Notes - 21-0069, 9. Hearing Agenda - 21-0069 (1), 10. Finance 21-0069, 11. Hearing Minutes - 21-0069 (2), 12. PSGO - Hearing Notes - 21-0069 (2)				

Date	Ver.	Action By	Action	Result
8/18/2021	0	Public Safety and Government Operations	Worksession	
6/8/2021	0	Public Safety and Government Operations	Scheduled for a Public Hearing	
4/22/2021	0	Baltimore City Council	Refer to Dept. of Finance	
4/22/2021	0	Baltimore City Council	Refer to Mayor's Office of Minority and Women-Owned Business Development	
4/22/2021	0	Baltimore City Council	Refer to Minority and Women's Business Opportunity Office	
4/22/2021	0	Baltimore City Council	Refer to Labor Commissioner	
4/22/2021	0	Baltimore City Council	Refer to City Solicitor	
4/22/2021	0	Baltimore City Council	Refer to Office of the Comptroller	
4/19/2021	0	Baltimore City Council	Introduced	
4/19/2021	0	Baltimore City Council	Assigned	

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

*** Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: Councilmember Glover and President Mosby

A Bill Entitled

An Ordinance concerning

Transparency in Procurement

For the purpose of adding certain disclosure requirements related to fulfillment of detailed specifications for contracts, prior contracting experience, and the demographic characteristics of employees, other sources of labor, and board members of contractors and subcontractors for City contracts over \$100,000; defining certain terms; establishing certain administrative penalties; and generally relating to better transparency in Baltimore City procurement.

By adding

Article 5 - Finance, Property, and Procurement

Sections 49-1 through 49-7, to be under the new subtitle,

“Subtitle 49. General Contractor Reporting Requirements”

Baltimore City Code

(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 5. Finance, Property, and Procurement

Subtitle 49. General Contractor Reporting Requirements

§ 49-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Demographic data.*

“Demographic data” means statistical information on a group of individuals, disaggregated by specific characteristics, including:

(1) race;

(2) ethnicity;

(3) gender identity;

(4) job title;

(5) salary range;

(6) length of employment;

(7) Baltimore City residency; and

(8) other demographic categories as may be established by rule or regulation.

(c) *Contractor*.

“Contractor” means the person with which the City has entered into an agreement.

(d) *Gender identity*.

“Gender identity” means an individual’s gender as reported to the individual’s employer.

(e) *Director*.

“Director” means the Director of the Department of Finance or the Director’s designee.

(f) *Labor source*.

“Labor source” means a supply of trained and qualified individuals from which workers can be secured by agreement or through other means from an organization other than the contractor, including a business, union hiring hall, job training organization, or registered apprenticeship program.

(g) *Person*.

“Person” means:

(1) an individual;

(2) a partnership, firm, association, corporation, or other entity of any kind; or

(3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(h) *Report date*.

“Report date” means December 31 of the calendar year immediately preceding the date the bid is filed.

(i) *Subcontractor*.

“Subcontractor” means a person who has a direct contract with a contractor to perform part of the work on a contract.

(j) *Workforce*.

“Workforce” means all individuals who perform work for compensation on a regular basis.

§ 49-2. Scope of subtitle.

Nothing in this subtitle may be construed so as to require any person to disclose any information in violation of State or federal law.

§ 49-3. Reporting requirements.

A contractor who enters into a service contract valued at \$100,000 or more must disclose, and agree to require all subcontractors on the contract to disclose:

- (1) information that shows the contractor or subcontractor has the capacity or will have the capacity to fulfill the detailed specifications of the contract;
- (2) the contractor's and each subcontractor's prior years of experience performing on City contracts in any capacity during the 5 calendar years prior to the date of the opening of bids for a contract;
- (3) demographic data on the workforce of the contractor and each subcontractor, as of the report date;
- (4) demographic data on all individuals serving as board members of the contractor and each subcontractor, as of the report date;
- (5) demographic data on the workforce of each labor source from which workers are likely to be drawn in performance of a City contract; and
- (6) any other information required by the rules or regulations adopted under this subtitle.

§ 49-4. Submission of demographic data regarding labor sources.

- (1) Submission to the Director and the Labor Commissioner of demographic data regarding a labor source by any contractor during the 6 months preceding the opening of a bid shall satisfy the disclosure requirements of § 49-3(5) of this subtitle with respect to that labor source for all contractors.
- (2) The Director must provide notice no later than 1 week prior to the time of the opening of bids for each contract of all labor sources for which demographic data has been provided during the previous 6 months.

§ 49-5. Rules and regulations.

Subject to Title 4 {"Administrative Procedure Act - Regulations"} of the City General Provisions Article, the Director may adopt rules and regulations to carry out the provisions of this subtitle.

§ 49-6. Administrative penalties.

(a) *In general.*

A violation of any requirement of this subtitle or of a rule or regulation adopted under this subtitle shall be considered a material breach.

(b) *Penalties.*

A contractor who fails to comply with any provision of this subtitle is subject to any or all of the following penalties:

- (1) suspension of contract;

- (2) withholding of funds;
- (3) rescission of contract;
- (4) refusal to accept a bid;
- (5) disqualification of a bidder, contractor, or other business from eligibility for providing goods or services to the City for a period not to exceed 2 years; and
- (6) payment of liquidated damages.

§ 49-7. Annual report.

(a) Report required.

On or before April 1 of each year, the Director must provide an annual report to the Mayor and City Council summarizing the disclosures received pursuant to this subtitle during the previous calendar year.

(b) Public availability.

A copy of the annual report to the Mayor and City Council shall be made available to the public on the Department of Finance's website.

(c) Provision of report to local organizations.

To improve the City's capacity in terms of businesses and workforce diversity, the Director must provide copies of the report to area organizations that specialize in business growth and workforce development, including:

- (1) Baltimore Development Corporation;
- (2) Greater Baltimore Committee;
- (3) Economic Alliance of Greater Baltimore;
- (4) Baltimore City Chamber of Commerce;
- (5) Downtown Partnership of Baltimore;
- (6) Greater Baltimore Urban League;
- (7) Greater Baltimore Black Chamber of Commerce;
- (8) Baltimore Hispanic Chamber of Commerce; and
- (9) United States Pan Asian American Chamber of Commerce.

Section 2. And be it further ordained, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

Section 3. And be it further ordained, That this Ordinance takes effect on the 30th day after the date it is enacted.