



Legislation Details (With Text)

File #: 21-0070 **Version:** 0 **Name:** Required Market Research
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: Required Market Research
For the purpose of requiring contracting agencies to conduct market research investigations before determining that no qualified certified business enterprises are available to enter into leases or concession contracts; requiring the Minority and Women’s Business Opportunity Office to attempt to identify qualified certified business enterprises if contracting agencies state that no qualified certified business enterprises are available to enter into leases or concession contracts; requiring the Minority and Women’s Business Opportunity Office to notify the contracting agency and the Board of Estimates if the Office identifies qualified certified business enterprises that are available to enter into leases or concession contracts; requiring contracting agencies that want to waive or reduce MBE/WBE contract goals to conduct market research and document the market research to demonstrate why it is necessary to waive or reduce MBE/WBE contract goals; requiring the Minority and Women’s Business Opportunity Office, if granting the waiver or reduction of contract goals, to give the waiver or reduction of contract goals and the accompanying market research documentation to the Board of Estimates; requiring contracting agencies that want to waive utilization requirements for a specific contract to conduct market research and document the market research to demonstrate that needed goods and services are only available from a sole source; requiring the Minority and Women’s Business Opportunity Office, if granting the waiver of utilization requirements for a specific contract because the needed goods and services are only available from a sole source, to give the waiver and the accompanying market research documentation to the Board of Estimates; defining a certain term; and making the Board of Estimates the ultimate arbiter regarding the reduction or waiver of MBE/WBE contract goals and utilization requirements.

Sponsors: Kristerfer Burnett, President Nicholas J. Mosby, Sharon Green Middleton, John T. Bullock, James Torrence, Phylcia Porter, Robert Stokes, Sr., Odette Ramos, Antonio Glover, Zeke Cohen

Indexes: Market Research

Code sections:

Attachments: 1. 21-0070~1st Reader, 2. Hearing Agenda - 21-0070, 3. Finance 21-0070, 4. MWBOO 21-0070, 5. Law 21-0070, 6. MWBOO Amendments, 7. 21-0070_Comptroller, 8. MWOBDD 21-0070, 9. Hearing Minutes - 21-0070, 10. PSGO Bill 21-0070 Required Market Research, 11. PSGO - Hearing Notes - 21-0070, 12. Hearing Agenda - 21-0070 (1), 13. Hearing Minutes - 21-0070 (2), 14. PSGO - Hearing Notes - 21-0070 (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 Office of the Comptroller	
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 Mayor's Office of Minority and Women-Owned Business Development	
4/22/2021	0	Baltimore City Council	Refer to Labor Commissioner	

4/22/2021	0	Baltimore City Council	Refer to Dept. of Finance
4/22/2021	0	Baltimore City Council	Refer to City Solicitor
4/19/2021	0	Baltimore City Council	Assigned
4/19/2021	0	Baltimore City Council	Introduced

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 Burnett and President Mosby

A Bill Entitled

An Ordinance concerning

Required Market Research

For the purpose of requiring contracting agencies to conduct market research investigations before determining that no qualified certified business enterprises are available to enter into leases or concession contracts; requiring the Minority and Women's Business Opportunity Office to attempt to identify qualified certified business enterprises if contracting agencies state that no qualified certified business enterprises are available to enter into leases or concession contracts; requiring the Minority and Women's Business Opportunity Office to notify the contracting agency and the Board of Estimates if the Office identifies qualified certified business enterprises that are available to enter into leases or concession contracts; requiring contracting agencies that want to waive or reduce MBE/WBE contract goals to conduct market research and document the market research to demonstrate why it is necessary to waive or reduce MBE/WBE contract goals; requiring the Minority and Women's Business Opportunity Office, if granting the waiver or reduction of contract goals, to give the waiver or reduction of contract goals and the accompanying market research documentation to the Board of Estimates; requiring contracting agencies that want to waive utilization requirements for a specific contract to conduct market research and document the market research to demonstrate that needed goods and services are only available from a sole source; requiring the Minority and Women's Business Opportunity Office, if granting the waiver of utilization requirements for a specific contract because the needed goods and services are only available from a sole source, to give the waiver and the accompanying market research documentation to the Board of Estimates; defining a certain term; and making the Board of Estimates the ultimate arbiter regarding the reduction or waiver of MBE/WBE contract goals and utilization requirements.

By adding

Article 5 - Finance, Property, and Procurement
Section 28-1(k-1)
Baltimore City Code
(Edition 2000)

By repealing and re-ordaining, without amendments

Article 5 - Finance, Property, and Procurement
Section 28-1(a)
Baltimore City Code
(Edition 2000)

By repealing and re-ordaining, with amendments
Article 5 - Finance, Property, and Procurement
Section 28-49(c), 28-61, and 28-64
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 28. Minority and Women’s Business Enterprises; Small Local Business Enterprises

§ 28-1. Definitions.

(a) *In general.*

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

...

(k-1) *Market research.*

“Market research” means the continuous process of collecting and analyzing data on products, services, business practices, and vendor capabilities to satisfy agency needs.

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.

(c) [(b)] *Criteria for granting.*

...

§ 28-64. Waiver by agency.

(a) *In general.*

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

(b) *Sole source.*

The agency may waive the utilization requirements if, with the advice of the Office and only after performing market research, it finds that:

- (1) needed goods or services are available only from a sole source; and
- (2) the prospective contractor is not currently disqualified from doing business with the City.

(c) *Documentation of market research.*

The agency must document the market research it performs to satisfy the requirements of § 28-64(b).

(d) *Board of Estimates.*

If a waiver is granted, the Office shall submit the waiver of the utilization requirements and accompanying market research documentation to the Board of Estimates, which must:

- (1) ratify the Office's decision; or
- (2) reinstate the original utilization requirements.

(e) [(c)] *Emergency.*

...

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.