



Legislation Text

File #: 20-0605, Version: 0

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

A Bill Entitled

An Ordinance concerning

Minority and Women's Business Utilization - Emergencies

For the purpose of clarifying and expanding the conditions for a City agency to obtain a waiver from the City's minority business and women's business contract utilization requirements; requiring that, if an agency receives a waiver for an emergency, the agency submit a report to the Board of Estimates and the Minority and Women's Business Opportunity Office; defining certain terms; and generally relating to greater transparency and utilization of minority and women's business in City emergency contracting.

By repealing and re-ordaining, with amendments

Article 5 - Finance, Property, and Procurement
Section(s) 28-64
Baltimore City Code
(Edition 2000)

By adding

Article 5 - Finance, Property, and Procurement
Section(s) 28-64.1
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

Part VI. Waivers

§ 28-64. Waiver by agency - Sole source.

[(a) *In general.*]

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

[(b) *Sole source.*]

[The] A contracting agency may waive the utilization requirements if, with the advice of the Office, 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) *Emergency.*]

[The agency may waive the utilization requirements if it certifies in writing to the Office that:

- (1) an emergency exists that requires goods or services to be provided with such an immediacy that the agency is unable to comply with this chapter; and
- (2) the prospective contractor will make every good faith effort to subcontract to minority and women's business enterprises if subcontracting is utilized.]

§ 28-64.1 Waiver by agency - Emergency procurements.

(a) *"Emergency procurement" defined.*

In this section, "emergency procurement" means either:

- (1) a rapid procurement response:
 - (i) that is necessary to provide immediate relief to a critical, unexpected event that has or will have a catastrophic and direct impact on life, public health, or public safety; and
 - (ii) if the response were to be delayed, it would result in increased harm to life, public health, or public safety; or
- (2) a procurement response that is required to urgently sustain City infrastructure or other core City services after the immediate criticality described in paragraph (1) has been addressed.

(b) *In general.*

- (1) A contracting agency may waive the utilization requirements for a specific emergency procurement contract if both the agency and the Comptroller certify in writing to the Office that:
 - (i) the emergency procurement is necessary;
 - (ii) the agency has made the good faith efforts described in paragraph (2) of this subsection; and
 - (iii) the prospective contractor will make every good faith effort to subcontract to minority and women's business enterprises if subcontracting is utilized.

- (2) Prior to submitting any waiver certification to the Office, the contracting agency shall engage in a good faith effort to comply with this chapter, including:
- (i) contacting the Office for assistance in expedited emergency MBE/WBE utilization; and
 - (ii) to the extent practicable, receiving a quote from at least 1 MBE and 1 WBE that can provide the goods or services needed.

(c) *Office cooperation.*

The Office shall provide all necessary assistance to an agency in making good faith efforts to comply with this chapter for the emergency procurement.

(d) *Post-execution report.*

(1) *In general.*

As soon as possible after the execution of any contract for which a waiver under this section was necessary, but no later than 15 days after the contract execution, the agency shall submit a report to the Board of Estimates and the Office stating:

- (i) the name and address of the selected contractor;
- (ii) whether the contractor is a City-certified MBE or WBE;
- (iii) an overview of the nature of the emergency and why an emergency procurement was necessary;
- (iv) a reasonable estimation of the threat or loss that may have occurred had an emergency procurement not been taken;
- (v) a summary of the contractor's qualifications, experience, and background to provide the emergency goods or services and the basis on how the contractor was selected over other qualified and responsive potential contractors;
- (vi) if applicable, a description of the scope of work, including the costs, fees, or rates for the purchase;
- (vii) if applicable, a description of the work performed by the contractor to mitigate or eliminate the emergency;
- (viii) if applicable, a justification regarding why an additional procurement was necessary when an existing City contract might have provided the goods or services necessary; and
- (ix) a list of all potential vendors contacted, including the MBE and WBE contacted under _ 28-64.1(b)(2)(ii) of this subtitle.

(2) *Posting.*

The report required by this subsection shall be posted to the Office's website on its receipt.

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.