

PRINCE GEORGE'S COUNTY COUNCIL
COMMITTEE REPORT
2023 Legislative Session

Reference No.: CB-078-2023

Draft No.: 2

Committee: Government Operations and Fiscal Policy

Date: October 5, 2023

Action: FAV (A)

REPORT: Committee Vote: 3-0, Favorable with Amendments

In favor: Council Members Burroughs, Oriadha, and Ivey

Absent: Fisher and Harrison

The Government Operations and Fiscal Policy Committee convened on September 28, 2023 and October 5, 2023 to consider CB-78-2023. At the September 28 Committee work session, the Committee Director summarized the purpose of the legislation. As presented on September 6, 2023, this legislation aims to promote the participation of County-Based minority business enterprises and County-based small businesses in bidding for Police Department towing contracts. It also advocates for equitable treatment of successful bidders, contractors, and subcontractors regarding the number and type of service calls they receive from the Police Dispatcher on the Police Vendor List.

The Policy Analysis and Fiscal Impact Statement indicates that the enactment of CB-78-2023 may have an adverse fiscal impact on the County as smaller businesses may be unable to deliver the required services at the lowest cost. Additional administrative costs may be incurred in implementing the new provisions, including the reporting requirement.

The enactment of CB-78-2023 may have a favorable indirect fiscal impact on the County to the extent that more County-based minority and small businesses receive revenue from Police Department towing contracts. This revenue is recycled within the County.

The bill sponsor highlighted the intent and necessity of the bill, explaining that feedback from the business community and advocates had identified issues with service calls received from the police dispatcher. This proposed legislation aims to enhance minority representation and monitor data more effectively.

The Office of Law has reviewed CB-78-2023 as it was presented. While the Office of Law finds the bill in proper legislative form, proposed amendments were submitted to ensure no legal impediments to its enactment. A second draft, including proposed amendments from the Office of Law, was presented to the committee.

The Office of Law representative mentioned that the majority of the amendments were technical and discussed the substantive amendments with the members after obtaining their consent.

Council Member Franklin offered amendments addressing the issue of ensuring equity in contracting is dollars paid. Someone could interpret the current language as the number of contracts, but what if each contract is not of equal payment? The most important issue for contractors and subcontractors is how much they're paid.

Council Member Franklin stated that there are many County-based minority business enterprises (CMBEs) that are also certified as County-based small businesses (CBSBs), so which portion of the 51% requirement (the 29% CMBE or 22% CBSBs) does a double-certified business get counted for? The proposed language would remove that confusion by confirming that at least 51% of the contract dollars paid must go to CMBEs and CBSBs, with at least 29% paid to CMBEs.

Council Member Oriadha was amicable to the Office of Law and Council Member Franklin's amendments.

A Council Member asked the percentage of current County-based small businesses (CBSB) awarded the towing contracts.

Jonathan Butler, Director Office of Central Services, reported that during the competitive solicitation for towing companies under the previous administration, a total of 23 contracts were granted, all of which were based in the county. Among these contracts, 60% or 14 of 23 were awarded to Certified County-Based Small Businesses (CCBSB). Director Butler also mentioned that the remaining towing contractors may not be certified, possibly due to lapses in certification or incomplete certification processes.

A question was raised regarding the number of minority-owned towing companies under contract. Director Butler responded by committing to provide the committee with that specific information. He added that many small businesses qualify as minority-owned, but some choose not to pursue the minority designation.

The Administration representative provided suggested amendments:

Replace the "Director of Central Services" with the "Purchasing Agent".

Page 3, starting on line 22: "Contractors or subcontractors with an employee(s) with a non-violent felony conviction within the past ten years shall be considered eligible bidders, contractors, and subcontractors in police department towing bids, contracts, and subcontracts."

The bill sponsor indicated that the revised felony language would only relate to who is dispatched by the Police Department so as not to jeopardize the company, and agreed to discuss further before introducing the legislation and indicated that two years was sufficient for bidding on contracts.

A question was raised regarding safety and risk for citizens under the current law and the proposed changes with the felony language.

The Police Department representative indicated that the County's towing service has certain eligibility criteria for employees with misdemeanors and felonies. To apply, individuals must satisfy sentence requirements and have no further violations, and ten years must have passed

since the conviction. Murder, rape, and sexual assault violations make individuals ineligible for employment with the towing service regardless of the time that has passed. These criteria apply to all employees that have contact with the citizens.

During the public testimony, the concerns raised were primarily related to various aspects of towing company contracts. These concerns include issues with annual renewals, price, pay rates, strict felony guidelines, an unfair contract awarding process, potential monopolization of contracts, a lack of diversity, and limitation on one owner having multiple companies.

A Council Member asked Director Butler about the longevity of the towing contract list. Director Butler clarified that the current towing contract list is relatively new, having been developed in 2019. Director Butler stated that 99% of the contracts were awarded to applicants, but the two contracts not awarded had issues related to felony convictions. He also mentioned that the term “minority businesses” is broad, encompassing various subgroups.

The contract requires a tow truck to respond to the scene of a police incident within thirty minutes of receiving a request. Response areas are limited to 15 miles from the physical location of the tow company to be consistent with Maryland law and the Prince George’s County Code. Each police beat has multiple tow companies assigned for redundancy. Each towing company is within a thirty-minute travel time of their designated areas.

The Office of Law representative suggested that Council Member Franklin’s amendment might not be necessary because the citizens are paying the towing company directly. Council Member Franklin seems to believe that the revision should remain. He referenced lucrative contracts for the only two towing companies in the county for crime-related incidents.

Council Member Franklin asked for clarity on one of the Office of Law amendments suggesting that County Based MBE language should not be removed. Office of Law representative agreed to discuss further prior to introduction.

The bill sponsor made a motion, seconded by Council Member Ivey, to hold CB-78-2023 until the next meeting to allow time to incorporate all the amendments in a clean draft. The motion passed 5 – 0.

The GOFP Committee reconvened on October 5, 2023, to consider CB-78-2023.

The bill Sponsor indicated that CB-78-2023 Draft 2A includes the amendments (the majority are technical) from the Administration, Office of Law, and Council Member Franklin. The bill Sponsor preceded to review the substantive amendments:

On Page 3, after line 27, insert:

- (4) Neither Contractors or Subcontractors shall dispatch drivers who have been convicted of a violent felony in the last five years.
- (5) Employee or Employees with misdemeanors shall not be a factor in eligibility.

The Second substantive amendment was:

On page 3, in line 22, strike “annually” and substitute “every two years,” Police Department towing contracts shall be bid every two years with no option for extensions.

The bill Sponsor presented Amendment #2, which addresses the contractor's concerns with limitations of one owner having multiple companies. She indicated that she spoke to owners and lobbyists from both sides and created language that everyone agreed with.

A Council Member inquired about the information requested from Director Butler regarding the towing contracts and specifically asked who is currently receiving these contracts and how many are Minority Business Enterprises. The Administration representative indicated she would follow up with Director Butler regarding the requested information.

The Administration representative expressed support for the proposed amendments and suggested a longer duration for contract renewal.

A motion was made to approve amendment #3, which was technical. The motion passed, 3-0.

The Government Operation and Fiscal Policy Committee moved 3-0, favorably as amended on CB-78-2023 Draft 2A.