



THE PRINCE GEORGE'S COUNTY GOVERNMENT

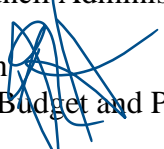
Office of Audits and Investigations

September 7, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Malcolm Moody - *MM*
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-051-2022 Diversity and Equity Policy

CB-051-2022 (*Proposed by: Councilmember Franklin, Hawkins, Burroughs, Harrison, Glaros, Ivey, Medlock, Streeter, and Taveras*)

Assigned to the Government Operations and Fiscal Policy (GOFP) Committee

AN ACT CONCERNING DIVERSITY AND EQUITY POLICY IN PUBLICLY SUBSIDIZED DEVELOPMENT PROJECTS for the purpose of establishing a diversity and equity policy for publicly subsidized development projects under certain circumstances.

Fiscal Summary

Direct Impact

Expenditures: Additional expenditures in the form of increased administrative costs

Revenue: None.

Indirect Impact

Potentially favorable and adverse fiscal impacts.

Legislative Summary:

CB-051-2022, proposed and sponsored by Council Members Franklin, Hawkins, Burroughs, Harrison, Glaros, Ivey, Medlock, Streeter, and Taveras, was presented on May 31, 2022, and was referred to the Government Operations and Fiscal Policy (GOFP) Committee. The Bill would establish a diversity and equity policy for publicly subsidized development based on the qualifying criteria outlined in the legislation.

Background/Current Law:

Under Subtitle 10. FINANCE AND TAXATION¹ of Prince George's County Code establishes provisions and procedures for financial matters within the County. This Bill will add Division 28. DIVERSITY AND EQUITY POLICY FOR PUBLICLY SUBSIDIZED DEVELOPMENT PROJECTS and § 10-355. Supplier Diversity and Equity Policy for Publicly Subsidized Development Projects Established to Subtitle 10 of the County Code.

Resource Personnel:

- Brendon Laster, Chief of Staff/Legislative Aide, At-Large
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Discussion/Policy Analysis:

CB-051-2022 would establish Division 28. DIVERSITY AND EQUITY POLICY FOR PUBLICLY SUBSIDIZED DEVELOPMENT PROJECTS and have § 10-355. Supplier Diversity and Equity Policy for Publicly Subsidized Development Projects Established included in Division 28. The Bill would *require* that qualifying County-subsidized projects² comply with the provisions of the Supplier Diversity and Equity Plan established by this Bill.

Requirements:

Under the Bill, County-subsidized projects receiving a County subsidy of \$1,000,000 or more in value must comply with the following requirements:

¹ [SUBTITLE 10. - FINANCE AND TAXATION](#)

² Meaning any real estate, property development, or redevelopment in the County that receives a county subsidy and being developed in whole or part by an entity that is not a unit of the County government. Public-Private partnerships that receive a county subsidy are considered a County-subsidized project.

- (i) “At least fifty percent (50%) of the development costs of the County subsidized project shall be paid to County-based businesses;
- (ii) No less than forty percent (40%) of the development costs of the County subsidized project shall be paid to County-based small business enterprises, Locally-owned and Operated Businesses, and County-based minority business enterprises;
- (iii) No less than thirty percent (30%) of the development costs of the County subsidized projects shall be paid to County-based minority business enterprises, a percentage that applies separately to the
 - planning, architecture, and design phase and
 - construction (including any demolition/site work, etc.) phase (collectively defined in this Section as the “project development phase”); and
- (iv) No less than twenty-five percent (25%) of the development costs of the County-subsidized project paid to the project prime or general contractor(s) shall be paid to businesses on the prime contractor team who are County-based minority business enterprises and/or Locally-owned and Operated Businesses.
- (v) In the project development phase of a County-subsidized project, at least thirty-five percent (35%) of the total work hours on the project shall be worked by County residents, including at least twenty-five percent (25%) of the total work hours of workers in the specialty trades (defined as “specialty trade contractors” in the North American Industry Classification System (NAICS)) being worked by County residents.
- (vi) If the County-subsidized project includes residential ownership units and utilizes real estate listing agents, real estate appraisers, closing agents, settlement and/or title companies for the sale of one or more of the units, the primary place of business for these agents and companies shall be in Prince George’s County. The business entities referenced in this Subparagraph shall have the definitions set forth in Subtitle 10A of the Code unless otherwise specified.

Further, County-subsidized projects receiving *less than* \$1,000,000 in County subsidy would be required to comply with the requirements of items(i) through (iv), above.

Finally, the Bill would also impose additional requirements on larger County-subsidized projects. Specifically, projects receiving a County subsidy of \$5 million or more, *in addition to all the requirements outlined above*, must also comply with the following:

- (i) The entity receiving the county subsidy shall have a Nondilutable County based Minority Business Equity Interest of at least ten percent (10%); or
- (ii) At least ten percent (10%) of the building gross square footage of the project receiving the county subsidy shall be developed by County-based Minority Business Enterprise(s) and minority individuals who are County resident(s); and
- (iii) At least five percent (5%) of the work hours in the project development phase of the project shall be worked by County residents who are previously incarcerated individuals.

Enforcement:

The Bill would also require a Compliance and Reporting Plan³ that applies to qualifying businesses and will be enforced by the County Minority Business Enterprise (MBE) Compliance Manager, in consultation with the Supplier Development and Diversity Division (SDDD). The County MBE Compliance Manager and SDDD will specify the requirements of the Compliance and Reporting Plan.

Failure to comply with an approved Supplier Diversity and Equity Plan or any other applicable requirement may result in a restoration, or claw back, from the receiving entity of an amount up to the equivalent value of the County subsidy, *as determined by resolution of the County Council and concurrence of the County Executive*, in consultation with the County MBE Compliance Manager and SDDD.

Waiver:

The Bill would allow the County Council, to waive or modify the applicable requirements on a case-by-case basis by resolution. Such resolution must be adopted with concurrence of the County Executive and after consultation with the County MBE Compliance Manager and SDDD, and be approved by at least a 2/3s majority of the Council after holding a public hearing. Such waivers could be used in cases where there is not the local business capacity to permit compliance with the law's requirements.

Fiscal Impact:

- *Direct Impact*

Enactment of CB-051-2022 would have an adverse direct fiscal impact in the form of increased administrative costs.

- *Indirect Impact*

Enactment of CB-051-2022 would likely have a favorable indirect fiscal impact, to the extent that it fosters increased economic activity of local businesses. However, enactment of the Bill may also have an adverse indirect fiscal impact, to the extent that compliance increases the cost of projects to a degree that they are downscaled, delayed, or not pursued.

- *Appropriated in the Current Fiscal Year Budget*

No

³ Requires quarterly written public reports to the County MBE Compliance Manager and SDDD.

Effective Date of Proposed Legislation:

The Act shall take effect forty-five (45) days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.