



2019 FEB -6 PM 4:53

OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

FEB - 6 2019

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration by the Council is the "Power Line Undergrounding Program Certified Business Enterprise Utilization Emergency Act of 2019." The legislation will clarify and update certain provisions of the Electric Company Infrastructure Improvement Financing Act of 2014 in order to expand contracting opportunities for certified business enterprises.

The District's power line undergrounding program (DC PLUG) is a multiyear effort to place certain overhead electrical lines underground, in order to reduce the number of power outages during weather events and to increase the resiliency of the power distribution system. The Electric Company Infrastructure Improvement Financing Act of 2014, which authorized certain aspects of the program, included a goal that 100% of the DC PLUG construction contracts be awarded to District businesses.

The enclosed legislation will amend the language of this goal, to make clear that the goal applies to certified business enterprises and certified joint ventures. In addition, the legislation will allow architectural and engineering services contracts for DC PLUG to be set aside for certified business enterprises and certified joint ventures.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser".

Muriel Bowser

Enclosures



Chairman Phil Mendelson
at the request of the Mayor

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6 A BILL
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10 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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14 To amend the Electric Company Infrastructure Improvement Financing Act of 2014 to clarify the
15 requirements related to the utilization of certified business enterprises and procurements
16 for certain architectural and engineering services.
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18 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
19 act may be cited as the “Power Line Undergrounding Program Certified Business Enterprise
20 Utilization Amendment Act of 2019”.

21 Sec. 2. The Electric Company Infrastructure Improvement Financing Act of 2014,
22 effective May 3, 2014 (D.C. Law 20-102; D.C. Official Code § 34-1311.01 *et seq.*), is amended
23 as follows:

24 (a) The section heading of Title I is amended to read as follows:

25 “TITLE I. DEFINITIONS AND FINDINGS; PROCUREMENT”.

26 (b) Section 102(7) (D.C. Official Code § 34-1311.02(7)) is amended by striking the
27 phrase “100% of the construction contracts are awarded to District businesses” and inserting the
28 phrase “100% of the construction contracts are awarded to certified business enterprises or
29 certified joint ventures” in its place.

30 (c) A new section 103 is added to read as follows:

31 “Sec. 103. Procurements.

32 “Section 604 of the Procurement Practices Reform Act of 2010 (“PPRA”), effective April
33 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-356.04), shall apply to procurements for
34 architectural and engineering services, as defined in section 104(3) of the PPRA (D.C. Official
35 Code § 2-351.04(3)), to carry out the purposes of this act; provided, that the District may:

36 “(a) Set aside contracts for such services for certified business enterprises and certified
37 joint ventures, as such terms are defined in section 2302(1D) and (1E) of the Small, Local, and
38 Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October
39 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D) and (1E)); or

40 “(b) Award preferences to certified business enterprises as provided in section 2343 of
41 the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of
42 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.43), as part of
43 the evaluation of statements of qualifications submitted in response to a request for
44 qualifications.”.

45 Sec. 3. Fiscal impact statement.

46 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
47 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
48 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

49 Sec. 4. Effective date.

50 This act shall take effect following approval by the Mayor (or in the event of veto by the
51 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
52 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
53 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
54 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL
KARL A. RACINE




PRIVILEGED AND
CONFIDENTIAL

Legal Counsel Division

MEMORANDUM

TO: Barry Kreiswirth
General Counsel and Senior Policy Advisor
Office of the City Administrator

FROM: Janet M. Robins 
Deputy Attorney General
Legal Counsel Division

DATE: January 8, 2019

SUBJECT: Power Line Undergrounding Program Certified Business Enterprise
Utilization Amendment Act of 2019
(AE-19-039)

This responds to your request that we review proposed legislation entitled the "Power Line Undergrounding Program Certified Business Enterprise Utilization Amendment Act of 2019" (Legislation) for legal sufficiency.

The Legislation will amend the Electric Company Infrastructure Improvement Financing Act of 2014, effective May 3, 2014, D.C. Law 20-102, D.C. Official Code § 34-1311.01 *et seq.* (2012 Repl. and 2018 Supp.), to clarify the requirements related to the utilization of certified business enterprises and procurements for certain architectural and engineering services.

This Office finds the attached Legislation to be legally sufficient.

I have attached a Certificate of Legal Sufficiency for your use. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer to accompany the Legislation.

If you have any questions about this memorandum, please contact either Anne R. Hollander, Assistant Attorney General, at 724-5560, or me at 724-5524.

JMR/arh

Attachments (2)

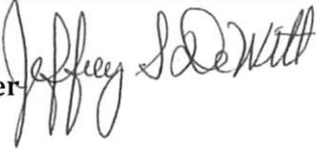
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 15, 2019

SUBJECT: Fiscal Impact Statement – Power Line Undergrounding Program
Certified Business Enterprise Utilization Amendment Act of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on January 7,
2019

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

The DC Powerline Undergrounding (DC PLUG) program is a public-private partnership between the District and Pepco to relocate underground electricity feeder lines that are currently attached to utility poles. The goal of the DC PLUG program is to increase the reliability of service for District residents by reducing outages caused by severe weather.

The bill updates the Council's finding that the Mayor should make every practical effort to award 100 percent of DC PLUG program-related construction contracts to District firms¹ to more specifically award the contracts to certified business enterprises and certified joint ventures (collectively CBEs).² The bill also requires the District to solicit for any architectural and engineering contracts required for the DC PLUG program in the same manner it does for other architectural and engineering contracts in the District: through a request for qualifications process

¹ Electric Company Infrastructure Improvement Financing Act of 2014, effective May 3, 2014 (D.C. Law 20-102; D.C. Official Code § 34-1311.02(7)).

² Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D) and (1E)).

The Honorable Phil Mendelson

FIS: "Power Line Undergrounding Program Certified Business Enterprise Utilization Amendment Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on January 7, 2019

with an architect-engineer evaluation board review process.³ The bill allows the District to set aside some or all of these contracts for CBEs or award preference points to CBEs during the qualification evaluation process.

The Council approved this bill on an emergency basis in December 2018.⁴

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The District has included approximately \$171 million in its six-year capital plan to pay for the DC PLUG program. The goal of increased CBE participation, both generally and through set asides or preference points, does not change the budgeted amounts for the DC PLUG program. The bill does not require the District to use CBEs, but any efforts that narrow the list of eligible contractors could potentially increase the cost or timelines of any project component and the budgeted \$171 million budget could result in fewer miles of power lines relocated underground.

³ Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-356.04).

⁴ Power Line Undergrounding Program Certified Business Enterprise Utilization Emergency Amendment Act of 2018, approved by Council on December 18, 2018 (Bill 22-1064).

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL
KARL A. RACINE
Legal Counsel Division**

MEMORANDUM

**TO: Alana Intrieri
Director
Office of Legislative Support**

**FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division**

DATE: January 8, 2019

**SUBJECT: Power Line Undergrounding Program Certified Business Enterprise
Utilization Amendment Act of 2019
(AE-19-039)**

This is to Certify that this Office has reviewed the legislation entitled the "Power Line Undergrounding Program Certified Business Enterprise Utilization Amendment Act of 2019" and found it to be legally unobjectionable. If you have any questions, please do not hesitate to call me at 724-5524.

A handwritten signature in cursive script, appearing to read "JMR/Janet M. Robins", is written over a horizontal line.

Janet M. Robins