



MURIEL BOWSER
MAYOR

February 27, 2024

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 "Certified Business Enterprise Program Compliance and Enforcement Support Emergency Declaration Resolution of 2024", the "Certified Business Enterprise Program Compliance and Enforcement Support Emergency Amendment Act of 2024" and the "Certified Business Enterprise Program Compliance and Enforcement Support Temporary Amendment Act of 2024."

The resolution and accompanying emergency and temporary bills close gaps in the District's Certified Business Enterprise (CBE) Program by making critical amendments to sections 2302, 2346, and 2363 of the Small and Certified Business Enterprise Development and Assistance Act of 2005 ("the Act").

More specifically, these amendments will: (1) establish uniform hearing procedures for all departmental enforcement actions before OAH; (2) expand the scope of DSLBD's complaint hotline for the public reporting of issues beyond allegations of potential certified business enterprise program fraud; (3) add penalties for any person that violates section 2363 of the Act; (4) increase the penalty for beneficiaries who fail to show commercially reasonable best efforts to meet required CBE subcontracting requirements; (5) establish minimum periods of departmental suspensions and revocations for violations under the Act; and (6) expand the statutory definition of "beneficiary" to include non-profit entities, ensuring that all prime contractors on government-assisted projects are subject to the Act's CBE subcontracting and reporting requirements.

These necessary, time-sensitive changes will allow the District to more effectively and efficiently enforce the District's CBE compliance requirements.

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", written over a printed name and the word "Enclosures".

Muriel Bowser
Enclosures

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Chairman Phil Mendelson
At the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Small and Certified Business Enterprise Development and Assistance Act of 2005 to establish uniform hearing procedures for all departmental enforcement actions before the Office of Administrative Hearings, to expand the scope of the Department's complaint hotline for the public reporting of issues in addition to allegations of potential certified business enterprise program fraud, to add penalties for any business enterprise that violates section 2363 of the Act, to increase the penalty for beneficiaries who fail to show commercially reasonable best efforts to meet required certified business enterprise subcontracting requirements, to include non-profit entities as beneficiaries subject to certified business enterprise subcontracting and reporting requirements under section 2346, and to establish minimum periods of revocations, and maximum periods for suspensions, for violations under the act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Certified Business Enterprise Program Compliance and Enforcement Support Emergency Declaration Resolution of 2024".

Sec. 2. (a) A Certified Business Enterprise (CBE) is a business enterprise certified by the Department of Small and Local Business Development (DSLBD) as a local business enterprise.

(b) Businesses with CBE certification may receive preference when submitting bids or proposals for procurement and contracting opportunities.

34 (c) There are currently over 2,000 businesses participating in the District's CBE
35 Program.

36 (d) Following a recent revocation hearing before the Office of
37 Administrative Hearings (OAH), DSLBD determined that certain time-sensitive amendments
38 were necessary to ensure increased effectiveness and efficiency in departmental compliance and
39 enforcement procedures.

40 (e) Time-sensitive items include (1) establishing uniform hearing procedures for all
41 departmental enforcement actions before the Office of Administrative Hearings, (2) expanding
42 the scope of the Department's complaint hotline for the public reporting of issues in addition to
43 allegations of potential certified business enterprise program fraud, (3) the addition of penalties
44 for any business enterprise that violates section 2363 of the Act, (4) increasing the penalty for
45 beneficiaries who fail to show commercially reasonable best efforts to meet required certified
46 business enterprise subcontracting requirements, (5) establishing minimum periods of
47 departmental suspensions and revocations for violations under the act, (6) the addition of critical
48 definitions for the terms "person" and "principal office," and (7) the expansion of the statutory
49 definition of "beneficiary" to include non-profit entities to ensure that all prime contractors and
50 developers on government-assisted projects are subject to the Act's CBE subcontracting and
51 reporting requirements.

52 (f) Accordingly, emergency legislation is needed to clarify and update procedures and
53 penalties under section 2363 of the Act.

54 (g) Failure to move these amendments will have an adverse effect on agency operations
55 as well as agency compliance and enforcement mechanisms.

56 Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute
57 emergency circumstances making it necessary that the Certified Business Enterprise Program
58 Compliance and Enforcement Support Emergency Amendment Act of 2024 be adopted after a
59 single reading.

60 Sec. 4. The Secretary of the Council shall transmit a copy of this resolution, upon its
61 adoption, to the Mayor of the District of Columbia.

62 Sec. 5. This resolution shall take effect immediately.