

My opposition and recommended changes to proposed legislation

MC/PG 101-23

HB0783

Thanks for your willingness to hear and thoroughly evaluate the facts contained in my opposition and proposed changes to the above referenced legislation. I am incorporating by reference and including my opposition statement that was sent to you earlier on January 20, 2023. In addition to my opposition, I am recommending a more excellent way to administer the minority business program under the authority of the Office of Supplier Diversity & Inclusion. The fundamental recommendations for changes in the proposed legislation is as follows:

- A. Economic incentive and awards for certified Montgomery County and Prince George's County based businesses in the procurement process.
- B. Establish a standard or a base containing a minimum requirement for a percentage of minority participation.
- C. Accountability and checks/balances

A key element of my request is equal access to economic power as a consequence of equal opportunity and through the procurement process. I am making this statement with a particular emphasis on certified MBE, WBE and SLBE companies. My recommendation is that a standard be set mandating that not less than 10% of all certified minority owned businesses without regard to their geographic location be required as a preference in the bid process for goods and services. Additionally, I am proposing that an additional 5% price preference totaling 15% be factored into the purchase process for goods and services in contracts for SLBE companies. This recommendation is based on the fact that SLBE companies are contributing to the economy of both counties that are under the authority of WSSC. Therefore, I am proposing that the current language that is stated in Public Utilities 20-204 section (b) lines 10, 11 and 12 be repealed.

I further recommend that WSSC a non-certifying agency be under mandate to accept the minority business certifications of the District of Columbia DSLBD, MDOT, WMATA and other credible agencies who have provided and been accepted by WSSC over a period of approximately 10 years. It should be recognized that the aforementioned certifying agencies are credible and have the

same certification requirements as MDOT. The continued acceptance of these certifications from other jurisdictions will streamline the process and eliminate duplicity. It was an error for a WSSC official to state that the proposed legislation is necessary for the Office of Supply Diversity and Inclusion to function. Furthermore, the disparity study in which the minority program is predicated did not base its findings on one category of services. The report instead based its disparity study on various categories of services; i.e. professional, construction, engineering, goods and services (See page 2 and 3 of Executive Summary of the 2022 WSSC Disparity Study). Combining the program does not appear to be an option at this time.

Another key element in my request is the exercise of checks, balances, and other authority. No one who understands the three branches of the government of the United States would be opposed to checks and balances, authority, or oversight. Yet in the proposed legislation a request for unlimited authority and discretion is being made.

It should be noted that the proposed legislation was written prior to January 1, 2023, the date that the new General Manager reported for duty. A former General Manager, by her own admission, called WSSC an organization in crisis (According to Washington Post Article date August 10, 2022). No individual nor entity should be viewed as an adversary when exercising authority, oversight, and accountability. It must not go unnoticed that a \$40 million contract allegedly tripled to \$120 million while the past administration was unwilling to recommend more than 5% or \$50,000 to certified minority companies in the area of goods and services.

Based on the facts presented, please take due notice to my plea, and govern yourselves accordingly. For your attention, I am attaching a copy of the Washington Post Article and an excerpt from the 2022 WSSC Disparity Study.

(See copy of Washington Post Article Dated August 10, 2022 and Executive Summary of Disparity Study Attached)

Sincerely,

Lenward C. Hood

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President of Omega Supply Services, Inc.

The Washington Post

Democracy Dies in Darkness

D.C., MD. & VA.

Outgoing WSSC Water leader calls utility 'organization in crisis'

WSSC Water General Manager Carla A. Reid has faced scrutiny over a billing system whose costs have tripled.

By [Katherine Shaver](#) and [Ian Duncan](#)

August 10, 2022 at 7:20 p.m. EDT

The outgoing leader of Maryland's largest water utility is seeking the resignation of two members of the utility's board, saying WSSC Water is an "organization in crisis."

The call by General Manager Carla A. Reid follows months of scrutiny of the utility's billing system, particularly by the two commissioners who she said should resign or be removed. The commissioners — Keith E. Bell, representing Prince George's County, and T. Eloise Foster, representing Montgomery County — have questioned the utility's procurement and management of a 3-year-old billing system, whose \$40 million budget has tripled.

Some utility officials have said the system also hasn't done enough to help customers address billing problems online, leading to numerous complaints of long hold times and unanswered calls at the utility's customer service center.

In an [Aug. 3 letter](#) to leaders of Montgomery and Prince George's counties, Reid said the commissioners improperly interfered in daily operations by reducing her authority last month to make high-level personnel changes. Reid, who has led WSSC Water since 2016, said the move followed the board deciding in June to not renew her contract, which expires at the end of the year.

The seven-page letter, obtained by The Washington Post, illustrates the kind of political infighting that has plagued the bicounty agency for years, including tensions between general managers and commissioners. Foster said during the board's July meeting that the board had decided in a closed-door session to not renew Reid's contract but did not say why. Board members told Reid they were curbing her personnel authority, as often occurs with other outgoing chief executives.

Reid has publicly accused the commissioners of curtailing her power — a step she said had not been taken during previous WSSC Water leadership transitions — because she is the utility's first female leader.

"WSSC Water is an organization in crisis because of the abhorrent conduct of certain Commissioners and their misuse of power," Reid wrote. "... The conduct of these commissioners has created a cancer in the organization."

WSSC Water, which has about 1,700 employees, is governed by a six-member board, with county executives in Montgomery and Prince George's appointing three commissioners each. The general manager reports to the board. Reid is paid \$297,252 annually, and commissioners are paid \$13,000, according to a WSSC Water spokesman.

WSSC Water provides water and sewer services to nearly 2 million people in the Washington suburbs and has come under scrutiny for high administrative costs, water-main breaks and spills of untreated sewage. It is funded by customers, whose rates have risen by about 6 percent annually in recent years.

Reid's letter drew a swift response from Prince George's County Executive Angela D. Alsobrooks (D). In an [Aug. 5 letter](#) to Bell, Miriam L. Brewer, appointments liaison for Alsobrooks, said the executive "intends to commence the process for your removal" from the board.

"A central concern was your routine encroachment from your role of governance to attempting to dictate the organization's daily operations,"

In an interview, Bell called Brewer's letter a "knee-jerk reaction" to Reid's allegations.

Bell, a federal administrative law judge, denied improperly interfering in personnel issues, saying he works to fulfill his fiduciary responsibility as a commissioner. Bell has led the board's recent questioning of WSSC Water officials about the billing system's cost overruns.

"My goal here is to make sure we are doing the right thing for WSSC Water and ratepayers," Bell said.

Foster did not respond Wednesday to a call and email seeking comment. Richard S. Madaleno Jr., Montgomery's chief administrative officer, said Wednesday that Elrich has no plans to remove Foster from the board. Madaleno cited her "decades of leadership," including as former secretary of the Maryland Department of Budget and Management.

"He has full faith in her and the value she brings to the rate payers of WSSC," Madaleno said in an interview.

Reid returned to WSSC Water after top administrative jobs with Montgomery and Prince George's governments. She worked at the utility for 20 years before leaving as deputy general manager in 2006, five months after being cited for speeding and crashing a utility vehicle on the Capital Beltway, her fifth incident in a utility-owned vehicle.

In an interview, Reid said she is seeking the two commissioners' removal because she believes the board must be "impartial" to choose her successor. She said she had not been told why commissioners voted to not renew her contract but said it "feels like retaliation" after she referred to the utility's ethics board allegations that an IT manager had assisted in the hiring of six friends and former colleagues, including some who weren't qualified.

"I never got a reason," Reid said. "Never got any kind of discussion with the commissioners regarding transition or regarding their thoughts about not renewing my contract."

The board has scrutinized the billing system, implemented in mid-2019, that has soared from a \$40 million budget to \$120 million, according to board meeting recordings. Commissioners have said utility leaders didn't make clear that the system would be the first of its kind that its vendor, Oracle, had implemented in North America. WSSC Water spokesman Chuck Brown said commissioners, including Foster, were told the system would be based on new technology before they approved the contract unanimously.

The billing system, known as Project Cornerstone, was designed to replace the previous outdated system and eventually allow customers' water usage to be transmitted automatically from their meters to the utility rather than through meter readers, according to board meeting recordings.

Utility officials have said they selected Oracle to develop the system in 2017, without putting the project out to bid, because the utility already used other Oracle software. Reid also has said the utility needed the system to quickly implement a new rate structure after the Maryland Public Service Commission found its previous structure discriminated against larger households.

But the project quickly ran into problems, with the price continuing to climb as Oracle submitted change orders and the utility relied heavily on vendors who were flown in from around the country, according to board meeting discussions.

In February, the board voted unanimously to hire an independent firm to investigate the problems and how the system was procured. The board also put on hold additional spending until the utility analyzes whether it would be more cost-effective to switch to another software company.

Reid said Project Cornerstone has been providing "accurate and timely bills." The additional costs, she said, have been "normal" for such a large project and were "never considered or represented to be part of the project budget," according to a February memo she wrote to the board.

Maryland state Del. Alfred C. Carr Jr. (D-Montgomery), who has followed WSSC Water closely, said the utility has a history of "serious overspending issues," even as its customers pay water rates almost twice as high as they would in Fairfax County.

Asked about the commissioners whom Reid wants removed, Carr said, "They're doing their jobs. They're providing the oversight they should be."

Monika Mathur contributed to this report.

and states, based on the following considerations: 1) the courts have accepted the use of standard geographic units in conducting equal employment opportunity and disparity studies; 2) geographic units are externally determined, so there are no subjective determinations, and 3) U.S. Census and other federal agencies routinely collect data by geographic unit.

Based on the market area analysis results conducted for each business category, the recommended relevant market area are the 29 counties and independent cities within the WSSC Water Market Area. **Chapter 3** details the exact localities utilized.

Key Findings

Finding A: M/WBE Utilization (Chapter 3, Appendix C)

In **Table ES-1**, the utilization analysis shows that non-M/WBE firms are utilized at higher rates than their M/WBE counterparts. The WSSC Water's utilization of non-M/WBE firms totaled 66.80 percent, while 33.20 percent went to M/WBE firms. Overall, the highest utilization rates among M/WBE classifications included African American firms accounting for 8.89 percent of dollars spent and Nonminority Female firms accounting for 8.82 percent of dollars spent. African American firms had the greatest utilization in Goods & Services at 19.97 percent or \$92.24 million, followed by Asian American firms in Architecture & Engineering at 14.77 percent or \$36.59 million.¹

TABLE ES-1.
UTILIZATION ANALYSIS
BY BUSINESS OWNERSHIP CLASSIFICATION AND BY PROCUREMENT CATEGORIES

BUSINESS OWNERSHIP CLASSIFICATION	ALL	Construction	Architecture & Engineering	Professional Services	Goods & Services
African Americans	\$186,114,375.02	\$59,608,032.37	\$19,762,135.64	\$14,500,476.19	\$92,243,730.82
Asian Americans	\$152,173,372.36	\$82,671,083.79	\$36,592,200.17	\$13,997,684.86	\$18,912,403.54
Hispanic Americans	\$171,318,721.88	\$141,938,432.17	\$10,468,364.83	\$1,226,732.75	\$17,685,192.13
Native Americans	\$1,035,291.62	\$1,035,291.62	\$0.00	\$0.00	\$0.00
TOTAL MINORITY FIRMS	\$510,641,760.88	\$285,252,839.95	\$66,822,700.64	\$29,724,893.80	\$128,841,326.49
Nonminority Female Firms	\$184,855,431.93	\$132,523,411.82	\$7,429,400.40	\$7,987,604.94	\$36,915,014.77
TOTAL M/WBE FIRMS	\$695,497,192.81	\$417,776,251.77	\$74,252,101.04	\$37,712,498.74	\$165,756,341.26
TOTAL Non-M/WBE Firms	\$1,399,202,921.88	\$753,093,852.85	\$173,543,420.35	\$176,307,926.83	\$296,257,721.85
TOTAL FIRMS	\$2,094,700,114.69	\$1,170,870,104.62	\$247,795,521.39	\$214,020,425.57	\$462,014,063.11
BUSINESS OWNERSHIP CLASSIFICATION	ALL	Construction	Architecture & Engineering	Professional Services	Goods & Services
African Americans	8.89%	5.09%	7.98%	6.78%	19.97%
Asian Americans	7.26%	7.06%	14.77%	6.54%	4.09%
Hispanic Americans	8.18%	12.12%	4.22%	0.57%	3.83%
Native Americans	0.05%	0.09%	0.00%	0.00%	0.00%
TOTAL MINORITY FIRMS	24.38%	24.36%	26.97%	13.89%	27.89%
Nonminority Female Firms	8.82%	11.32%	3.00%	3.73%	7.99%
TOTAL M/WBE FIRMS	33.20%	35.68%	29.97%	17.62%	35.88%
TOTAL Non-M/WBE Firms	66.80%	64.32%	70.03%	82.38%	64.12%

Source: Chapter 3, Market Area and Utilization Analysis.

¹ Chapter 3, Market Area and Utilization Analyses



Finding B: Availability Estimates (Chapter 4, Appendix C)

A reliable estimation of the number of firms *willing* and *able* to provide each of the respective services is an essential element in the determination of disparity. Post-*Croson* case law has not prescribed a single approach to deriving firm availability, and agencies have used various means to estimate pools of available vendors that have withstood legal scrutiny.

MGT calculates availability based on a “custom census” approach. This approach is the most accurate for calculating availability at its most granular level. An in-depth explanation of this approach is provided in **Chapter 4**. Detailed availability results by business category and 4-digit NAICS code are provided in **Appendix C**. The availability estimates by procurement category are illustrated in **Table ES-2**.

TABLE ES-2.
ESTIMATION OF AVAILABLE FIRMS

BUSINESS OWNERSHIP CLASSIFICATION	ALL	Construction	Architecture & Engineering	Professional Services	Goods & Services
African Americans	12.39%	9.77%	14.42%	17.21%	15.71%
Asian Americans	8.73%	7.22%	18.31%	11.62%	6.09%
Hispanic Americans	9.88%	13.19%	7.38%	4.44%	5.35%
Native Americans	0.48%	0.29%	0.68%	0.43%	0.85%
TOTAL MINORITY FIRMS	31.48%	30.47%	40.78%	33.71%	28.00%
Nonminority Female Firms	15.58%	14.56%	14.78%	13.05%	19.75%
TOTAL M/WBE FIRMS	47.05%	45.03%	55.56%	46.75%	47.75%
TOTAL Non-M/WBE Firms	52.95%	54.97%	44.44%	53.25%	52.25%

Source: Chapter 4, Availability and Disparity Analysis.

Finding C: Disparity (Chapter 4, Appendix C)

This section includes the results of the disparity ratios calculated in **Chapter 4**. MGT’s disparity index methodology yields an easily calculable value, understandable in its interpretation, and universally comparable. A disparity in utilization within the minority- and female-owned firms can be assessed - comparing the utilization of nonminority- and male-owned firms providing evidence of public sector discrimination.

These overall results show that among M/WBE firms there is disparity in all categories. Only in Goods & Services do you find no disparity for African American firms. Additionally, as a total M/WBE classification, all procurement categories find substantial and statistically significant disparity. Detailed disparity results by business category and 4-digit NAICS code are provided in **Appendix C**.