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MAYOR

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SB 514

March 22, 2023

TO: Members of the Health and Government Operations Committee

FROM: Nina Themelis, Interim Director of Mayor's Office of Government Relations

RE: SB 514 - County Procurements – Minority Business Enterprise Utilization Programs – Certification

POSITION: Letter of Information

Chair Peña-Melnyk, Vice-Chair Cullison, and Members of the Committee, please be advised of the Baltimore City Administration (BCA) letter of concern for Senate Bill (SB) 514.

SB 514 would require a county with a minority business enterprise utilization program and certification process to accept State certification of a minority business enterprise as valid for certification purposes.

While the BCA supports the intent of this bill, we have some concerns about removal of certification authority and discretion from local, municipal minority and women business enterprise (M/WBE) certification programs.

The Maryland Department of Transportation (MDOT) certifies for categories that the City's Minority and Women's Business Operations Office (MWBOO) does not provide. This would potentially forgo MWBOO's ability to investigate these businesses to ensure that they are operating as a lawful business. Additionally, we are concerned that this will violate the legally mandated narrow tailoring of the MWB Program that limits the applicability to the Baltimore City Market Area that has been established by the August 2022 MGT Disparity Study.

MGT analyzed data for July 1, 2015 (Fiscal Year 2016) through June 30, 2019 (Fiscal Year 19) for Construction, Architecture and Engineering, Goods, and Other Services, including professional services. The Study analyzed whether a disparity exists between the number of available MBEs, WBEs, VBEs, DOBEs, and LGBTQs providing goods or services in the above business categories (availability) and the number who are contracting with the City as a prime contractor or subcontractor (utilization). This would severely impact the availability and utilization figures that are based upon the Baltimore City Market Area. Furthermore, they are relied upon to set particularized contract M/WBE participation goals.

The Baltimore City Market Area was established based upon the review of City Fiscal Year 2016 through Fiscal Year 2019 spending data. SB 514 legislation would enlarge the program's scope to that of the State which would open up the City and the MWB Program to potential legal challenges for the program being overly broad in scope. The BCA must have a statistically significant disparity, based upon the Disparity Study data, that serves as the foundation of the remedial efforts of the MWB Program.

The BCA would appreciate the opportunity to address these substantive issues and implementation challenges that are non-fiscal in nature