

Racial Equity and Social Justice (RESJ) Impact Statement

EXPEDITED CONTRACTS AND PROCUREMENT – MINORITY OWNED BILL 29-21: BUSINESSES – SUNSET DATE - AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 29-21 will favorably impact racial equity and social justice in the County by extending the County's minority-business procurement program for another two years.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refers to a **process** that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF EXPEDITED BILL 29-21

Expedited Bill 29-21 would extend the County's Minority Owned Business Purchasing Program's time frame for the Executive Branch to submit its report from July 1, 2021 until July 1, 2023 and the sunset date of the program until December 31, 2023. The law requires the Executive to submit a report evaluating the need to extend this program.³ The County's Minority Procurement Program awards bidding preferences to Minority-Owned Business Enterprises (MBE's) to offset the discrimination MBE's have faced in government contracting.

Bill 29-21 was introduced on July 13, 2021. Of note, a special appropriation to fund a disparity study to inform the Executive Branch in their evaluation of the Minority Procurement Program accompanied the introduction of Bill 29-21. The last disparity study submitted to the County Council that supported the continuation of the Minority Procurement Program through the end of 2021 was prepared in 2014.

ENTREPRENEURSHIP AND RACIAL EQUITY

This RESJ impact statement describes data on the entrepreneurship gap by race and ethnicity and the structural drivers that contribute to it. The intent of this overview is to demonstrate that racial and ethnic disparities in entrepreneurship are neither random nor solely driven by differences in individual behavior. Instead, the entrepreneurship gap reflects historical and current inequities in wealth and economic opportunity by race and ethnicity. Moreover, removing these inequities could "enhance dynamism and productivity" such that if Black-owned businesses achieved revenue parity with their White-owned peers within their industries, McKinsey and Company estimate that this would add about \$190 billion to the annual U.S. GDP.⁴

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Data on Entrepreneurship Gap. Nationally, Black and Latinx residents represent 28 percent of the population, but 8 percent of business owners with employees.⁵ Local data also demonstrates disparities in entrepreneurship by race and ethnicity, particularly with respect to revenue. For example, while the 2012 Survey of Business Owners indicates that Black and Latinx firms each accounted for 15 percent of local firms in Montgomery County and Asian firms accounted for 14 percent of County firms, Asian firms accounted for 4 percent of local business revenue, Black firms accounted for 1.7 percent of local business revenue, and Latinx firms accounted for 1.5 percent of local business revenue.⁶

Data from Montgomery County's Minority, Female, and Disabled-Owned Business Program also demonstrates an under-representation of minority-owned businesses. Whereas Black, Indigenous and Other Persons of Color (BIPOC) accounted for 55 percent of County residents, BIPOC-owned firms accounted for 18 percent of procurement contracts for County Government in FY20.⁷ More specifically:

- Latinx-owned firms accounted for 7.5 percent of contracts;
- African American-owned firms accounted for 6.5 percent of contracts;
- Asian-owned firms accounted for 3.6 percent of contracts; and
- Native American-owned firms accounted for less than one-tenth of one percent of contracts.⁸

Further, the County's 2014 Disparity Study found statistically significant differences in business ownership and procurement opportunities by race, ethnicity, and gender.⁹ The 2014 study compared the share of minority business enterprises that were qualified to perform work for Montgomery County to the total number of dollars awarded to such firms. It conducted this analysis across four business types: construction, professional services, services, and goods. Across each of these business categories, the study found that Black firms were under-represented among vendors and receipts with prime contracts, but that Latinx firms were over-represented among construction and professional services contracts relative their share of the local marketplace. More specifically, from 2008 to 2012:

- **Construction:** Black firms accounted for 11 percent of the marketplace, but less than 2 percent of prime contracts. White male firms accounted for 74 percent of the marketplace and 79 percent of prime contracts; Latinx firms accounted for 6 percent of the marketplace and 13 percent of prime contracts.
- **Professional Services:** Black firms accounted for 8 percent of the marketplace, but less than 2 percent of prime contracts. White male firms accounted for 82 percent of the marketplace and 92 percent of prime contracts; Latinx firms accounted for 1 percent of the marketplace but nearly 4 percent of prime contracts.
- **Other Services:** Black firms accounted for 13 percent of the marketplace, but less than 1 percent of prime contracts. White male firms accounted for 76 percent of the marketplace and 88 percent of prime contracts.
- **Goods:** Black firms accounted for 6 percent of the marketplace, but less than 1 percent of prime contracts. White male firms accounted for 86 percent of the marketplace and 97 percent of prime contracts while Latinx firms accounted for 3 percent of the marketplace but less than one percent of prime contracts.

Drivers of Entrepreneurship Gap. Researchers at the Brookings Institution find that disparities in entrepreneurship by race and ethnicity “do not reflect the intrinsic desire or talents of entrepreneurs of color themselves, but rather the structure of the systems they navigate.”¹⁰ Their review of the research finds that there “are no differences between racial groups in entrepreneurial capabilities or interest, as measured by degree of confidence, capacity to learn appetite for risk, creativity, and determination.”¹¹

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Instead, a variety of factors adversely impact BIPOC as they consider starting and growing businesses, including inequities in educational attainment, personal wealth, and exposure to entrepreneurship in family and social networks.¹² For example, the Small Business Administration found that Black- and Latinx-owned firms are more likely to have been denied credit, to receive only a portion of the funding requested, or to refrain from applying for funding out of fear that their applications will be rejected.¹³ Other factors that explain the disparity in capital for business development include discriminatory lending practices, less wealth to leverage, recent financial challenges, and lower credit scores.¹⁴

ANTICIPATED RESJ IMPACTS

OLO anticipates that enacting Expedited Bill 29-21 and extending the County's Minority Procurement Program for two years will benefit current BIPOC-owned businesses participating in the program and future BIPOC applicants. BIPOC-owned business participation in the County's Procurement Program will help narrow the entrepreneurship gap by race and ethnicity in the County and in turn diminish racial and ethnic inequities in the County. Moreover, the special appropriation accompanying Bill 29-21 to fund an updated disparity study aligns with best practices for advancing contracting and procurement opportunities for BIPOC-owned firms to advance racial equity and social justice.¹⁵

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹⁶ OLO finds that Expedited Bill 29-21 should narrow racial and ethnic inequities in entrepreneurship by continuing the County's Minority Procurement Program until December 31, 2023. Should the Council desire more reductions in the entrepreneurship gap by race and ethnicity via legislation, amendments aligning with the following best practices could be added to Bill 29-21 to help increase the number of minority-owned businesses eligible to apply for government contracts.¹⁷

- Use "best value contracting" to require prime bidders to propose plans for maximizing utilization of minority-business enterprises (MBE),
 - Streamline MBE certification processes,
 - Break up large contracts into smaller subcontracts to encourage more MBE applicants,
 - Help MBE subcontractors grow into prime contractors, and
 - Remove onerous financial burdens for small businesses that may disproportionately impact MBE's.
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CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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¹ Adopted from definition of racial equity described in the Racial Equity Policy Scorecard included in “Applying a Racial Equity Lens into Federal Nutrition Programs,” authored by Marlysa Gamblin; see the Government Alliance for Race and Equity’s “Advancing Racial Equity and Transforming Government” resource guide for understanding the historical role of government in maintaining racial inequities https://racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource_Guide.pdf

² Adopted from racial equity definition provided by Racial Equity Tools. <https://www.racialequitytools.org/glossary>

³ Montgomery County Council, Expedited Bill 29-21, Contracts and Procurement – Minority Owned Businesses – Sunset Date – Amendments https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210713/20210713_11B.pdf

⁴ McKinsey and Company estimates cited by Joseph Parilla and Darrin Redus in How A New Minority Business Accelerator Grant Program Can Close the Racial Entrepreneurship Gap, Brookings, December 9, 2020 <https://www.brookings.edu/research/how-a-new-minority-business-accelerator-grant-program-can-close-the-racial-entrepreneurship-gap/>

⁵ Ibid

⁶ OLO Racial Equity Profile, 2019 <https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/RevisedOLO2019-7.pdf>

⁷ Minority, Female, and Disabled-Owned Business Program, FY20 Annual Report, Office of Procurement, Montgomery County, Maryland https://www.montgomerycountymd.gov/PRO/Resources/Files/Reports/MFDRReport_FY20.pdf

⁸ Ibid

⁹ Griffin and Strong, Disparity Study of Montgomery County, 2014 <https://www.montgomerycountymd.gov/cat/Resources/Files/Disparity/V.pdf>

¹⁰ Parilla and Redus

¹¹ Ibid

¹² Joyce Klein, “Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap” Washington: The Aspen Institute 2017; Robert Fairlie and Alicia Robb, “Why Are Black-Owned Businesses Less Successful than White-Owned Businesses? The Role of Families, Inheritance, and Business Human Capital,” Journal of Labor Economics 25(2) 2017; “Kaufmann Compilation: Research on Race and Entrepreneurship,” Kaufmann Foundation, December 2016

¹³ From COVID-19 Recovery Outlook: Minority-Owned Businesses, Office of Legislative Oversight, Stephen Roblin, September 21, 2020 <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19RecoveryOutlook-MinorityOwnedBusinesses.pdf>

¹⁴ Robert Fairlie and Alicia Robb, Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: A Troubling Reality of Capital Limitations Faced by MBE’s, U.S. Department of Commerce, January 2010 <https://www.mbda.gov/sites/default/files/migrated/files-attachments/DisparitiesinCapitalAccessReport.pdf>

¹⁵ Sarah Treuhaft and Victor Rubin, Economic Inclusion: Advancing an Equity-Driven Growth Model, PolicyLink https://www.policylink.org/sites/default/files/4A_TREUHAFT_RUBIN_POLICYLINK_REPORT_SECTORAL_INDUSTRY.PDF

¹⁶ Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established

¹⁷ Treuhaft and Rubin