

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED CONTRACTS AND PROCUREMENT – MINORITY OWNED BILL 37-23: BUSINESSES – SUNSET DATE – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 37-23 will have a positive impact on racial equity and social justice (RESJ) in the County by extending the County's minority owned business purchasing program for another year.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power 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 37-23

According to the Office of Procurement, the County's Minority, Female and Disabled-Owned (MFD) Businesses Program "assists certified minority firms in gaining access to prime contractor and subcontractor opportunities with County government agencies."³ Towards this end, the MFD Program establishes goals for MFD participation in the purchasing categories of construction, professional services, non-professional services, and goods.⁴ County law establishing the minority owned business purchasing program states the program "is intended to remedy the effects of discrimination on minority owned businesses."⁵ The MFD Program has been in existence in the County for over 25 years.⁶

County law includes a sunset date for the minority owned business purchasing program and requires the Office of Procurement to continually evaluate the need to extend the program.⁷ The purpose of Bill 37-23 is to extend the current sunset date for the program by one year from December 31, 2023, to December 31, 2024.⁸ The Introduction Staff Report notes that a disparity study is currently underway to assess the minority owned business purchasing program and the County's contracting policies relative to MFD businesses. Thus, extending the sunset date by one year would prevent the expiration of the program while the disparity study is completed.⁹

Expedited Bill 37-23, Contracts and Procurement – Minority Owned Businesses – Sunset Date – Amendments, was introduced by the Council on September 26, 2023.

Of note, this RESJIS builds on the RESJIS for Expedited Bill 29-21, Contracts and Procurement – Minority Owned Businesses – Sunset Date – Amendments,¹⁰ published by OLO in September 2021. Please refer to this RESJIS for additional background on entrepreneurship and racial equity.

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BUSINESS OWNERSHIP AND RACIAL EQUITY

Racial disparities in economic outcomes such as business ownership and revenues are a pervasive feature of American society. In 2020, while Black and Latinx people accounted for 12 percent and 19 percent of Americans, they respectively accounted for 2 percent and 7 percent of business owners with employees.¹¹ Similar patterns of racial disparities exist at the local level. For instance, data from the 2017 American Business Survey (Table 1) suggests that Black and Latinx constituents are largely underrepresented among County business owners with employees, while Asian and White constituents are overrepresented and Native American constituents are proportionately represented. Further, Black, Native American, Latinx, and Asian employer firms collectively accounted for 10 percent of local sales, value of shipments, or revenue compared to 44 percent for White employer firms.

Table 1: Percent of Population, Business Owners with Employees, and Sales, Value of Shipments, or Revenue by Race and Ethnicity, Montgomery County, 2017

Race and ethnicity ¹²	Percent of Population	Percent of Business Owners with Employees	Percent of Sales, Value of Shipments or Revenue
Asian	14.8	18.0	6.0
Black	18.1	5.0	1.4
Native American	0.3	0.4	0.1
White	54.3	68.1	44.2
Latinx	19.0	7.1	2.1

Source: 2017 American Community Survey 5-Year Estimates and 2017 American Business Survey, Census Bureau.

Racial and ethnic disparities in business ownership are neither random nor driven by individual differences in intrinsic desire or talents for entrepreneurship.¹³ Instead, the gap in entrepreneurship and business ownership reflects historical and current inequities in wealth and economic opportunity by race and ethnicity. As explained by researchers at the Federal Reserve Bank of Boston:

“[T]he practices and policies that laid the groundwork for and built the U.S. were explicitly designed to ensure an absolute accumulation of intergenerational wealth and concentrated power for [W]hite people, particularly men. A legacy of land theft, slavery, racial segregation, disenfranchisement, and other exclusive policies against Black and Indigenous people and people of color (BIPOC) produced a racialized economy that decimated these communities and intentionally barred survivors and descendants from building wealth, socioeconomic well-being, and resilience.”¹⁴

Today, a variety of factors rooted in a legacy of racial inequity 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.^{15,16,17} For example, a study by 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 funding requested, or to refrain from applying for credit out of fear their applications will be rejected.¹⁸ 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.¹⁹

MFD Program. Data from the County’s MFD Program also demonstrates racial disproportionalities and disparities among County contractors. Whereas Black, Latinx, and Asian people accounted for 54 percent of County constituents,²⁰ they accounted for 15 percent of firms awarded contracts for County requests for proposals in FY23.²¹ The success rate for submitted proposals was respectively 60 percent and 46 percent for White female and male firms, compared to 26 percent for Asian firms, 21 percent for Black firms, and 20 percent for Latinx firms.²²

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The County's 2014 Disparity Study found statistically significant differences in business ownership and procurement opportunities by race, ethnicity, and gender.²³ The study compared the share of BIPOC-owned businesses that were qualified to perform work for the County to the total number of dollars awarded to such firms across four business categories: construction, professional services, other services, and goods. The study found that Black firms were underrepresented among vendors and receipts with prime contracts across each business category while Latinx firms were overrepresented among construction and professional services contracts relative their share of the local marketplace. More specifically, from 2008 to 2012:²⁴

- **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; and 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; and 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; and 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; and Latinx firms accounted for 3 percent of the marketplace but less than one percent of prime contracts.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 37-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

OLO anticipates Bill 37-23 will have a positive impact on RESJ in the County. MFD businesses, including Black, Latinx, and Asian firms will disproportionately benefit from the extension of the MFD Program, which is specifically intended to increase MFD business participation in contracting opportunities with the County. Of note, extension of the program will also benefit firms owned by White women, as they are also designated MFD businesses. Indeed, in FY23, White women firms received the highest dollar awards among MFD businesses in two of the four business categories for County contracts (professional services, goods).²⁵ Nonetheless, increased participation of BIPOC-owned businesses in particular in County contracting opportunities could help reduce racial disparities in business outcomes, including in local business revenues and sales.

RECOMMENDED AMENDMENTS

The 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.²⁶ OLO anticipates Expedited Bill 37-23 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments.

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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.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid.

³ [Minority, Female and Disabled-Owned Businesses \(MFD\) Program](#), Office of Procurement.

⁴ Ibid.

⁵ [Montgomery County Code § 11B-57](#)

⁶ [Introduction Staff Report for Bill 20-16](#), Montgomery County Council, May 13, 2016.

⁷ [Montgomery County Code § 11B-61](#)

⁸ [Introduction Staff Report for Expedited Bill 37-23](#), Montgomery County Council, Introduced September 26, 2023.

⁹ Ibid.

¹⁰ [RESJIS for Expedited Bill 29-21](#), Office of Legislative Oversight, September 13, 2021.

¹¹ Andre M. Perry, et. al., [“Who is Driving Black Business Growth? Insights from the Latest Data on Black-owned Businesses.”](#) Brookings, May 24, 2023.

¹² Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted. Estimates for Native American and Pacific Islander constituents not available for all data points presented in impact statement.

¹³ Joseph Parilla and Darrin Redus, [“How A New Minority Business Accelerator Grant Program Can Close the Racial Entrepreneurship Gap.”](#) Brookings, December 9, 2020.

¹⁴ [“Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020.”](#) Federal Reserve Bank of Boston, December 2020.

¹⁵ Joyce Klein, “Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap,” Aspen Institute, 2017.

¹⁶ 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.

¹⁷ [“Kaufmann Compilation: Research on Race and Entrepreneurship.”](#) Kaufmann Foundation, November 23, 2016.

¹⁸ Alicia Robb, [“Minority-Owned Employer Businesses and their Credit Market Experiences in 2017.”](#) Office of Advocacy, U.S. Small Business Administration, July 22, 2020.

¹⁹ Robert Fairlie and Alicia Robb, [“Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs.”](#) U.S. Department of Commerce, January 2010.

²⁰ Table DP1, Profile of General Population and Housing Characteristics, 2020 Decennial Census, Census Bureau.

²¹ Total Dollars & Value of RFPs by MFD Group’ table (page 9), [MFD Program FY23 Annual Report](#), Montgomery County Office of Procurement.

²² The success rate for submitted proposals was calculated by OLO as the number of awards divided by the number of proposals submitted for each group in ‘Total Dollars & Value of RFPs by MFD Group’ table (page 9), MFD Program FY23 Annual Report.

²³ Griffin and Strong, [Disparity Study of Montgomery County](#), Office of the County Attorney, 2014.

²⁴ Ibid.

²⁵ MFD Program FY23 Annual Report

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²⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council