

County Council of Howard County, Maryland

2016 Legislative Session

Legislative day # 17

RESOLUTION NO. 181 - 2016

Introduced by: Calvin Ball

A **RESOLUTION** calling on the Equal Business Opportunity Commission to make certain studies related to the County's Equal Business Opportunity Program and purchasing practices, to study polices and experiences of other jurisdictions with respect to contracting and purchasing and the use of businesses owned by women, minorities, and individuals with disabilities; to recommend to the County Council measures to improve the County's purchasing policies and practices; and generally relating to fostering equal business opportunities for businesses owned by women, minorities, and individuals with disabilities in Howard County.

Introduced and read first time on November 7, 2016.

By order Jessica Feldmark
Jessica Feldmark, Administrator to the County Council

Read for a second time and a public hearing held on November 21, 2016.

By order Jessica Feldmark
Jessica Feldmark, Administrator to the County Council

This Resolution was read the third time and was Adopted , Adopted with amendments , Failed , Withdrawn by the County Council

on December 5, 2016.

Certified by Jessica Feldmark
Jessica Feldmark, Administrator to the County Council

NOTE: [[text in brackets]] indicates deletions from existing language; TEXT IN ALL CAPITALS indicates additions to existing language. Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, Section 4.101 of the Howard County Code provides that the purpose of the County’s
2 Purchasing policies and procedures is to “foster equal business opportunity for businesses
3 owned by minority individuals, women, and individuals with disabilities”; and
4 **WHEREAS**, the Equal Business Opportunity Commission (the “Commission”) was established to assist
5 the efforts of the County in procuring goods and services from businesses that are owned by
6 minorities, women, and individuals with disabilities; and
7 **WHEREAS**, the County Council wishes to learn about the experiences of other jurisdictions to
8 understand the measures they have taken to promote business opportunities for minorities,
9 women, and individuals with disabilities; and
10 **WHEREAS**, in 2011, the Maryland Department of Transportation (“MDOT”) commissioned a study to
11 assess the extent to which previous efforts have assisted minority-owned and women-owned
12 businesses in participating on a fair basis in the State’s contracting and procurement activities
13 and found statistical and anecdotal evidence of business discrimination against both groups; and
14 **WHEREAS**, according to a 2012 Census Bureau Survey of Business Owners, representing individual
15 proprietorships, partnerships, and other types of corporations, having receipts of \$1,000 or
16 more, of the 531,953 businesses in Maryland, 38.2% of them are minority-owned and of the
17 30,457 businesses in Howard County, 34.4% of them are minority-owned; and
18 **WHEREAS**, according to the United States Census Bureau’s 2015 population estimate, 40.8% of the
19 residents of Howard County are non-white and 26.2% of Maryland residents are non-white; and
20 **WHEREAS**, according to the United States Census Bureau’s 2015 population estimate, more than 51%
21 of the residents of the County and of the State are women; and
22 **WHEREAS**, according to the United States Census Bureau’s 2015 population estimate, 5.9% of the
23 individuals between 18 and 64 years of age in Howard County are disabled, and
24 **WHEREAS**, a 2013 analysis also commissioned by MDOT showed that minorities and women earn

1 substantially and significantly less than their non-minority male counterparts, concluding that
2 such disparities are symptoms of discrimination in the labor force and, in addition to its direct
3 effect on workers, reduce the future availability of minority-owned and women-owned
4 businesses by stifling opportunities for minorities and women to progress through those internal
5 labor markets and occupational hierarchies that are most likely to lead to entrepreneurial
6 opportunities; and

7 **WHEREAS**, the 2013 analysis also found large, adverse, and statistically significant business owner
8 earnings disparities for African Americans, Hispanics, Asians, Native Americans, and non-
9 minority women consistent with the presence of discrimination in these markets; and

10 **WHEREAS**, the MDOT analysis further found that anecdotal interview information strongly suggests
11 that minorities and women continue to suffer discriminatory barriers to full and fair access to
12 State and private sector contracts; and

13 **WHEREAS**, in fiscal year 2014, 12.52% of County purchasing was awarded to women-owned
14 businesses, in fiscal year 2015, 12.5% of County purchasing was awarded to women-owned
15 businesses and in fiscal year 2016, 11.6% of County purchasing was awarded to women-owned
16 businesses; and

17 **WHEREAS**, in fiscal year 2014, 18.58% of County purchasing was awarded to minority businesses, in
18 fiscal year 2015, 15.78% of County purchasing was awarded to minority businesses and in
19 fiscal year 2016, 13.17% of County purchasing was awarded to minority businesses; and

20 **WHEREAS**, in fiscal year 2014, 0.04% of County purchasing was awarded to individuals with
21 disabilities, in fiscal year 2015, 0.07% of County purchasing was awarded to individuals with
22 disabilities and in fiscal year 2016, 0.08% of County purchasing was awarded to individuals
23 with disabilities; and

24 **WHEREAS**, Howard County has established equal business opportunity participation percentage goals

1 as follows:

- 2 a. for a contract with a value of \$50,000 or more, the prime contractors, including those
3 owned by minorities, women, or individuals with disabilities, will subcontract 10% of
4 each contract to other businesses owned by minorities, women, or individuals with
5 disabilities; and
- 6 b. each fiscal year, the County will award 15% of the County's total dollar amount of all
7 contracts directly to businesses owned by minorities, women, or individuals with
8 disabilities; and

9 **WHEREAS**, the people of Howard County and the members of the County Council, in an effort to
10 create economic opportunities and eliminate economic inequalities, desire to create an
11 environment where entrepreneurs and business enterprises are unimpaired in their efforts to
12 build wealth for future generations, and wish to promote diversity, fairness, and impartiality in
13 all things including in governmental relations and purchasing practices; and

14 **WHEREAS**, under section 4.601 of the County Code, the County Council may require the Commission
15 to conduct surveys and studies related to equal business opportunity; and

16 **WHEREAS**, section 4.601 also requires the Commission to recommend changes in existing laws,
17 policies, programs, and practices designed to ensure equal business opportunity for businesses
18 that are owned by minorities, women, and individuals with disabilities; and

19 **WHEREAS**, section 4.601 also provides that, by resolution of the County Council, the Equal Business
20 Opportunity Commission shall review and make recommendations on certain matters related to
21 equal business opportunity; and

22 **WHEREAS**, Section 404 of the Howard County Charter provides that entities like the Commission
23 “may conduct studies and reviews, advise and recommend, and assume other functions as
24 defined by law”.

1 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County, Maryland this
2 5th day of December, 2016, that the County Council directs the Equal Business

3 Opportunity Commission to:

4 (1) study the County's Equal Business Opportunity Program;

5 (2) study the practices, policies, and procedures of other jurisdictions with regard to their efforts
6 to promote the use of businesses owned by minorities, women, and individuals with disabilities
7 in governmental purchasing and contracting;

8 (3) perform an assessment and create a report of Howard County Procurement Spending:

9 (i) by Agency indicating which procurements were made by credit card;

10 (ii) that shows the number of contracts let;

11 (iii) that shows the number of contracts that met the Equal Business Opportunity 10%
12 sub-contracting goal on contracts valued at \$50,000 or more;

13 (iv) that shows the total amount of Equal Business Opportunity participation on contracts;

14 and

15 (v) that shows the total amount of procurement spending;

16 (4) perform an assessment of Howard County outreach and engagement for the Equal Business
17 Opportunity certified firms that shows:

18 (i) how outreach is administered to local and minority businesses;

19 (ii) how many outreach events were held in each of the past 10 years;

20 (iii) how outreach is administered to business and trade organizations, chambers of
21 commerce, and similar entities; and

22 (iv) the ways information is provided to persons interested in doing business with
23 Howard County;

24 (5) evaluate how County department forecasts of procurement opportunities are compiled and

1 disseminated to women-owned businesses, minority-owned businesses, and businesses owned
2 by disabled individuals in Howard County and throughout Maryland;

3 (6) assess the way that the subcontracting plans aimed at women-owned businesses, minority-
4 owned businesses, and businesses owned by individuals with disabilities are monitored and
5 enforced and how payments to subcontractors are verified;

6 (7) recommend capacity building programs the County should consider for women-owned
7 businesses, minority-owned businesses, and businesses owned by disabled individuals in the
8 County;

9 (8) evaluate the way that debriefings for losing bidders help businesses owned by minorities,
10 women, or individuals with disabilities understand why they lost, in order to assist them in
11 becoming stronger future bidders;

12 (9) analyze the way that sole source procurements are determined and awarded, and how often
13 sole source procurement has been utilized in each of the last three years; and

14 (10) review the number of contracts that have been given waivers and excluded from having a
15 women-owned business, minority-owned business, or business owned by an individual with
16 disability requirement in each of the last three years.

17 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County, Maryland that the
18 Equal Business Opportunity Commission shall:

19 (1) hold at least one public hearing, which shall be in addition to the Commission's regular bi-
20 monthly meeting schedule;

21 (2) provide the County Council with an interim progress report and briefing during March, 2017;

22 and

23 (3) complete its work and submit a final report to the County Council and County Executive on
24 or before June 19, 2017.

1 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County, Maryland that the

2 Equal Business Opportunity Commission in its investigation shall consult with:

3 (1) the Howard County Chamber of Commerce;

4 (2) the Howard County Chapter of the NAACP;

5 (3) the Howard County Muslim Council;

6 (4) the African American Community Roundtable of Howard County;

7 (5) the Korean American Community Association;

8 (6) the Howard County Commission for Women;

9 (7) the Commission on Disability Issues;

10 (8) Indian Origin Network of Howard County (IONHoCo); and

11 (9) Any other appropriate entity.

12 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County, Maryland that the

13 Howard County Economic Development Authority and all units of County government are

14 requested to cooperate fully with the Equal Business Opportunity Commission in its work.