

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: April 9, 2013

SUBJECT: Fiscal Impact Statement – “Certified Business Enterprise Compliance
Emergency Act of 2013”

REFERENCE: Draft legislation, shared with the Office of Revenue Analysis on April 4,
2013

Conclusion

Funds are sufficient in the FY 2013 budget and the proposed FY 2014 through FY 2017 budget and financial plan to implement the bill.

Background

The bill mandates that the Department of Small and Local Business Development (DSLBD) send notices by certified mail to all 247 public-private development construction projects that have a 35 percent Certified Business Enterprise (CBE) subcontracting requirement.¹ For the 54 developers that had not met their CBE expenditure goal as of September 30, 2012, and for the 168 developers that failed to submit CBE expenditure reports by that date, the notice will allow the developer thirty days to respond to DSLBD with a plan for compliance. DSLBD will report the names of those developers who do not respond appropriately within 30 days to:

- the Office of Attorney General (OAG), to pursue civil penalties against the developer for being in willful breach of the subcontracting plan, and
- the Office of Contracting and Procurement (OCP), to begin debarment and suspension proceedings against the developer for a willful violation of the contracting provisions that require 35 percent of the work to be subcontracted to a CBE.

Developers who were in compliance with the CBE law as of September 30, 2012 will receive letters thanking them for their compliance.

¹ The numbers of projects included in the bill (247 total projects, etc.) are taken from an analysis by the Office of the D.C. Auditor as of September 30, 2012.

The Honorable Phil Mendelson

FIS: "Certified Business Enterprise Compliance Emergency Act of 2013," Draft legislation, shared with the Office of Revenue Analysis on April 4, 2013

Financial Plan Impact

Funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The cost to DSLBD of sending the required letters and making subsequent referrals to OAG and OCP is *de minimis*.

The Director of DSLBD already has the authority to refer contractors in violation of their executed CBE agreements to the Attorney General and the Chief Procurement Officer. The bill requires such a referral when contractors do not respond to the Director's letters, as required. These referrals would be in the form of requests to the OAG and OCP, and neither agency is required to take any action not authorized by law, nor is either agency obligated to take follow-up action at all. Each of the 247 public-private development construction projects referenced in the bill have an executed CBE Agreement with DSLBD, and in some cases, the contracted remedy may be different from what the bill requires.