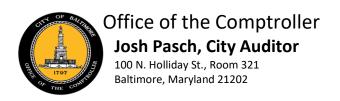




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Honorable Bill Henry, Comptroller and Other Members of the Board of Estimates City of Baltimore

EXECUTIVE SUMMARY

The Department of Audits (DOA) conducted a *Biennial Performance Audit of the Department of Law for the Fiscal Years (FYs) Ended June 30, 2021 and June 30, 2020.* The audit objectives for the Department of Law (DOL) were to:

- Evaluate DOL's monitoring of compliance with goals of Minority Business Enterprise (MBE) / Women's Business Enterprise (WBE); and
- Follow up on prior findings and recommendations included in the previous Biennial Performance Audit Report dated December 31, 2020.

Our audit concludes that Minority and Women's Business Opportunity Office (MWBOO) under the DOL made progress in the certification / recertification of MBE / WBE goals. However, MWBOO does not completely follow the Baltimore City Code, Article 5, Section 28 requirements related to monitoring compliance with MBE/ WBE goals throughout the term of a contract.

Of the five prior year recommendations that we followed up during this Biennial Performance Audit, one recommendation, or 20 percent, was fully implemented, three recommendations, or 60 percent were partially implemented, and one recommendation, or 20 percent, was not implemented. (See Table II on page 6).

We wish to acknowledge DOL's cooperation extended to us during our audit.

Respectfully,

Josh Pasch, CPA

City Auditor

Baltimore, Maryland

Josh Pasch

October 3, 2022

BACKGROUND INFORMATION

According to the Baltimore City Code, Article 5, Section 28, MWBOO is responsible for the certification of MBE / WBE, maintaining a directory of certified business enterprises, investigating alleged violations of the Code, certifying compliance with the Code before contracts are submitted to the Board of Estimates (BOE) for award, setting MBE and WBE participation goals on contracts, and establishing certain annual goals for MBE and WBE participation. Also, MWBOO is responsible for monitoring continued compliance with MBE / WBE goals during the term of a contract.

- A MBE is a business that is owned, operated, and controlled by one or more minority group members who have at least 51 percent ownership, and is located in the Baltimore City (City) Market Area. A minority is defined under Article 5, Subtitle 28 to include members of the following groups: African American, Hispanic American, Asian American, or Native American.
- A WBE is a business owned, operated and controlled by one or more women who have 51 percent ownership, and is located in the City Market Area.

Additionally, according to City Code, Article 5, Subtitle 28-3, it is the policy of the City to promote equal business opportunity in the City's contracting business by encouraging full and equitable participation by MBE / WBE in the provision of goods and services to the City on a contractual basis.

OBJECTIVES, SCOPE, AND METHODOLOGY

We conducted our performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The objectives of our audit were to:

- Evaluate DOL's monitoring of compliance with goals of MBE / WBE; and
- Follow-up on prior findings and recommendations included in the previous Biennial Performance Audit Report dated December 31, 2020.

The scope of our audit is for the periods of FY 2021 and FY 2020.

To accomplish our objectives, we:

- Researched the Baltimore City Code to identify governing policies, and rules and regulations associated with MBE and WBE participation goals;
- Interviewed DOL key individuals to obtain an understanding of the processes and procedures associated with MBE and WBE certification and participation goals;
- Analyzed whether the MWBOO complied with the identified policies, and rules and regulations associated with MBE and WBE participation goals;
- Evaluated the design of certain: (1) internal controls such as recording, reporting, documenting; (2) processes; and (3) procedures associated with the evaluation of implementing status for the relevant prior findings and recommendations; and
- Reviewed and evaluated: (1) management responses and timelines; (2) applicable records including Scorecards, and Budget Book details to gain an understanding of the reasonableness of MWBOO's implementation status of the relevant prior findings and recommendations.

SECTION I: CURRENT FINDING AND RECOMMENDATIONS

Finding I: The MWBOO Does Not Completely Follow the Baltimore City Code, Article 5, Section 28 requirements to Monitor Compliance with Goals throughout the Term of a Contract.

The MWBOO's current process is to contact the prime contractors and subcontractors to obtain the supporting documentation and other information necessary to determine compliance with goals when BOE action is requested (i.e. additional funds, additional time, new contract, etc.). However, the MWBOO does not have a process to proactively track and monitor the status of the contracts and achievement of the MBE / WBE contract participation goals. As a result, there is no Citywide monitoring of MWBOO compliance for all City contracts. (see Table I page 5)

According to MWBOO, it is the responsibility of the contracting agency's contract administration to track the status of the contract MBE / WBE goals and submit all statistics and documentation that MWBOO requests. However, MWBOO does not enforce contracting agencies to submit written reports on compliance with goals.

Recommendation I: We recommend the MWBOO Chief:

- Establish and implement a process to track / monitor the status of the contracts and achievement of the MBE / WBE contract participation goals to evaluate the effectiveness of the MBE / WBE Program and the City's progress towards meeting the annual goals; and
- Enforce contracting agencies to maintain adequate, up-to-date documentation, and submit written reports to MWBOO on compliance with goals. The MWBOO should maintain documentation of reports submitted by contracting agencies for future review.

Table I

Auditors '	Criteria	Analy	/sis

Criteria ¹	Does MWBOO comply with the criteria? Yes/No	Comments
The MWBOO (Office) must establish appropriate MBE / WBE participation goals on each specific contract.	Yes	The Office utilized a spreadsheet containing a formula to calculate the goals by factoring the contract dollar amount, service codes, and total number of MBE / WBE certified in the program.
2) Annually, the Office must review MBE and WBE participation on all contracts and procurement to evaluate the effect of the Program and the City's progress towards meeting the annual goals. The Office must report its findings to BOE.	No	The Office issued the Calendar Year 2020 annual report; however, the report did not include MBE and WBE participation results.
3) All City agencies must submit to the Office, on an annual basis, a written report on the efforts made under this subsection.	No	
4) Each contracting agency must submit to the Office all statistics and documentation that the Office requests.	No	
5) During the term of a contract subject to this chapter (Chapter II - Part IX), the Office must monitor continued compliance.	No	
6) The Office may require contractors, bidders, contracting agencies, and the head of any City agency to submit any reports, documents, or other information reasonably necessary to determine compliance.	Yes	The Office contacts the prime contractors and subcontractors to obtain the necessary documents and other information necessary to determine compliance when BOE action is requested (i.e. additional funds, additional time, new contract, etc.). However, there is no citywide monitoring of MWBOO compliance for all city contracts.
7) A contracting agency must keep accurate records for each contract it awards.	No	
8) The Office must submit an annual report to the Mayor and the City Council on the City's progress toward the utilization goals established under the chapter.	No	

Source: ¹ Baltimore City Code, Article 5, Section 28

SECTION II: IMPLEMENTATION STATUS OF PRIOR AUDIT FINDINGS AND RECOMMENDATIONS

Table II

Summary of Implementation Status of Audit Finding and Recommendations from the Performance Audit Report for Fiscal Years Ending 2019 and 2018 for Service 862 – Transactions¹

_	Years I	Ending 2019 and 2018 for	Service 862 – Transactions	
N	o. Finding	Prior Recommendations	Management's Self- reported Implementation Status	Auditor's Assessment
1.	The performance metric does not measure the actual response time for the entire Public Information Act (PIA) process. Background: The City does not have a performance metric that measures the efficiency of the PIA process. The performance metric which was reviewed in this audit is for the DOL, which measures the DOL's efficiency in relation to PIA requests. The DOL is measuring the percent of PIA requests answered in a timely manner by tracking the time when DOL receives requests from agencies for DOL's consultation and the time when DOL responds to agencies or information requestors. Therefore, this measurement is a portion of the overall PIA process and does not measure whether the City, as a whole, is in compliance with the PIA requirements.	1) The City Administration should consider: (a) Centralizing the PIA process; and (b) Developing and implementing overarching guidance such as formal (written, approved, dated) policies and procedures to provide consistency, oversight, and Citywide tracking of PIA requests.	The City's Chief Data Officer is working on a process to centralize the PIA process by making agencies that receive PIA requests report them to the Chief Data Officer using a special software program that he has created or tailored to this need. After the last audit, the Comptroller and BOE recognized that the DOL cannot be the entity to centralize the PIA process across the City because DOL only gives legal advice about how to best respond to a PIA when requested. As a result of the new findings, we respectfully request that the Department of Audits remove this finding from DOL and move to the appropriate person(s) as we are not responsible for tracking the progress of the new initiative (with the Chief Data Officer).	During the course of the audit, we observed that the City started the new PIA process in August 2022. The new PIA process is currently being implemented for the following three pilot agencies: Department of Housing and Community Development, Department of Public Works, and Department of Transportation. The new PIA process is still in progress; as a result, auditors cannot conclude whether it is effective. Additionally, the City has not developed and implemented overarching guidance such as formal (written, approved, dated) policies and procedures to provide consistency, oversight, and Citywide tracking of PIA requests.

¹ The selected performance measure for review was Percent of Public Information Act (PIA) Requests Answered on Time.

No.	Finding	Prior Recommendations	Management's Self- reported Implementation Status	Auditor's Assessment
		(2) The City Solicitor conduct an independent research on the industry standard and / or comparable cities to establish performance metrics that are applicable to DOL's goal and objectives.	According to DOL, it is currently conducting research, based on the DOA recommendation, of industry standards within comparable cities. The DOL considers this recommendation to be priority as it will greatly benefit the department in: 1) identifying and formulating performance metrics that are aligned and reflective of the department's mission and vision, and 2) providing an opportunity to network and create working relationships with other Law Departments in comparable cities. We acknowledge there was a delay in implementation of the recommendation due to the departure of a former City Solicitor (the recommendation was made during his tenure), and transition to a new City Solicitor. We plan to have the research completed by December 2022, in hopes of proposing new performance metrics to Bureau of Budget and the Management Research (BBMR) and full roll out and tracking of the new performance measures in FY2024. (Note: approval from BBMR is required for new performance metrics.)	Not Implemented.

Table III

Summary of Implementation Status of Audit Finding and Recommendations from the Performance Audit Report for Fiscal Years Ending 2019 and 2018 for Service 869 – Minority and Women's Business Opportunity²

No.	Finding	Prior Recommendations	Management's Self-reported Implementation Status	Auditor's Assessment
1.	Application Initial Review Turnaround	We recommend the City Solicitor:	The MWBOO implemented, in	Partially Implemented. The MWBOO implemented:
	Turnaround Time (days) and Application Review / Process Turnaround Time (Days) MWBOO's actual amounts could not be validated.	1) Develop and implement formal (written, approved, dated) policies and procedures that: (a) Clearly document how MWBOO performance measures and targets were developed and calculated; (b) Provide guidance and directions to employees for tracking, monitoring, and reporting the performance measure as well as maintaining adequate documentation;	August 2021, new policies and procedures to track and streamline the process to application review time. In addition, per the recommendation, the application and recertification process are now online through the MWBOO portal. In this portal, there is also guidance documents for all applicants on the process of new / renewal applications.	1) The Standard Operating Procedure (SOP) for Certification Application Processing, which took effective on February 12, 2021. However, that SOP does not provide guidance and directions to employees for tracking, monitoring, and reporting the performance measure, as well as maintaining adequate documentation. According to MWBOO, it will evaluate the effectiveness of the current performance measures during the budget process. After the previous audit, MWBOO implemented Smartsheet MWBOO Application Data Tracker (Smartsheet) to track, monitor, and report the actual performance measure. The Smartsheet has pre-established formulas and has the functionality to generate reports. However, without adequate SOP, it is likely that any successors of MWBOO may not be aware of which numbers should be reported in Budget Books. According to MWBOO it will be working to revise the SOPs to more accurately reflect its current practices, processes, and procedures.
		and (2) Fully transition to electronic application of MWBOO certification.		2) An online application through the Smartsheet on December 29, 2020 to track all certification applications. However, on August 18, 2022, MWBOO launched its new B2G Management Diversity System to replace the Smartsheet.

² The selected performance measure for review was Application Initial Review-Turnaround Time (days) and Application Review / Process Turnaround Time (days).

Table IV

Summary of Implementation Status of Audit Finding and Recommendation from the Performance Audit Report for Fiscal Years Ending 2017 and 2016 for Service 861 – Controversies³

No.	Finding	Prior Recommendation	Management's Self-reported Implementation Status	Auditor's Assessment
1.		reviewing the data submitted to BBMR for agreement to agency records to ensure	The DOL is working with BBMR to update the performance measures to be more reflective of the actual work that is performed within the department. In the interim (while we await final approval from BBMR), to address the discrepancies with this performance measure, we have clarified the exact data that should be used to measure this goal (we determine the number of lawsuits that were received in the current fiscal year versus the overall number).	Implemented.

³ The selected performance measure for review was Number of Lawsuits Handled.

Table V

Summary of Implementation Status of Audit Findings and Recommendations from the Performance Audit Report for Fiscal Years Ending 2017 and 2016 for Service 869 – Minority and Women's Business Opportunity ⁴

No.	Findings	Prior Recommendations	Management's Self- reported Implementation Status	Auditor's Assessment
1.	1) MWBOO FY 2017 actual performance measure data for the number of applications approved did not agree to the supporting list of FY 2017 New Application Approvals provided by MWBOO. 2) Additionally, after reviewing the list of FY 2017 New Applications Approvals, the following errors were noted: a) one firm had duplicate certifications; and b) another firm had an incorrect certification date. This last certification is part of FY 2018 New Applications Approved. 3) FYs 2017 and 2016 List of Waiver request was not provided for audit testing.	1) Establish procedures for reviewing the data submitted to BBMR for agreement to agency records to ensure reliability, completeness, and accuracy of data. 2) Establish procedures for recording and monitoring documentation.	Effective August 2021, MWBOO implemented the online application form, Smartsheet. The application allows MBE/WBE applicants to submit their applications electronically (and track the progress as well). The application also provides "real time" data for number of applications received and approved (data can be pulled for a specific date range). This allows the team to have correct data in response to this performance goal as it is no longer monitored manually. Instead, the data is pulled directly from the application (Smartsheet) and compiled into a template for reporting requirements. In addition, the MWBOO SOP establishes the procedures for recording and monitoring documentation through Smartsheet.	Partially Implemented. According to MWBOO, there are no formal procedures for review of data submitted to BBMR. The MWBOO has converted to a fully digital process where all actions of the office are tracked and fully accounted for digitally. The MWBOO will be relying upon the data entered into and /or reports generated by Smartsheet and B2G for all relevant data for BBMR performance measures. The DOL provided the SOP that documents the certification application process through Smartsheet. However, it did not address all the recommendations in the "Prior Recommendation" Column. The SOP addresses only one part of recommendation #2 (recording); specifically, it states that each staff will use forms / templates (Smartsheet) to record data for this performance measure. It does not address monitoring documentation.

⁴ The selected performance measure for review was Number of Applications Approved.

Table VI

Summary of Implementation Status of Audit Finding and Recommendations from the Performance Audit Report for Fiscal Years Ending 2011 - 2014 for Service 862 – Transactions⁵

No.	Finding	Prior Recommendations	Management's Self-reported Implementation Status	Auditor's Assessment
1.	The bill review process is currently supported with a Word document that does facilitate data analysis.	(1) Increase the use of technology to support the bill review activity.(2) Consider the use of Excel to track dates and facilitate data summarization and reporting.	The Advice & Opinions group implemented the use of an Excel spreadsheet to facilitate data summarization and reporting. We are actively researching a cost-effective software that will allow for appropriate tracking of the performance measure.	In FY 2022, DOL converted from a word document to an excel spreadsheet to record and track dates. The DOL provided raw data without pre-established formula to calculate the actual performance measure. Additionally, due to the short time frame since implementation, at this time we could not determine whether tracking in the excel spreadsheet is effective.

⁵ The selected performance measure for review was Percent of Bills Reviewed on Time.

APPENDIX I: MANAGEMENT'S RESPONSE TO THE AUDIT REPORT

Date: September 23, 2022

To: Josh Pasch, City Auditor

Subject: Management's Response to Audit Report:

Biennial Performance Audit Report on Department of Law

for the Fiscal Years Ended June 30, 2021 and 2020

Our responses to the audit report finding and recommendations are as follows:

Recommendation # I

We recommend the MWBOO Chief:

- Establish and implement a process to track / monitor the status of the contracts and achievement of the MBE / WBE contract participation goals to evaluate the effectiveness of the Program and the City's progress towards meeting the annual goals; and
- Enforce contracting agencies to maintain adequate, up-to-date documentation, and submit
 written reports to MWBOO on compliance with goals. MWBOO should maintain
 documentation of reports submitted by contracting agencies for future review.

Managen	nent Response/Corrective Action Plan: See Attachment on page – 13
Agree	x Disagree
Implemer	ntation Date: June 30, 2023
Responsi	ible Personnel: Christopher Lundy, Chief of MWBOO, DOL

The Baltimore City
Minority and
Women's Business
Opportunity Office
(MWBOO) Audit
Response



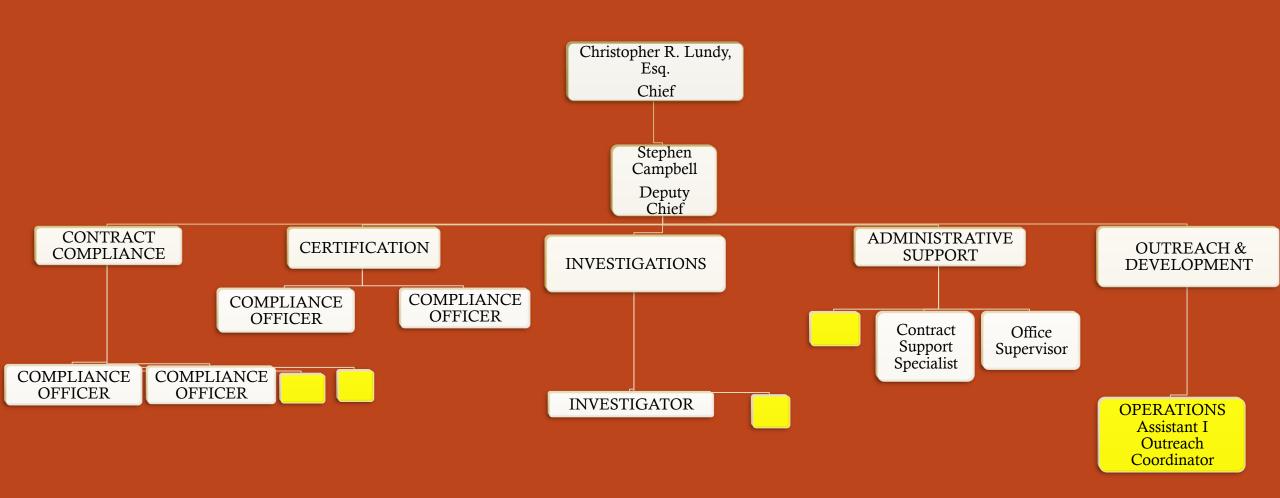
MWBOO Article 5, § 28-10 Duties

- (1) certification of business enterprises covered by this subtitle;
- (2) maintaining a directory of business enterprises certified under this subtitle;
- (3) providing information and needed assistance to business enterprises covered by this
- subtitle to increase their ability to compete effectively for the award of City contracts;
- (4) investigating alleged violations of this subtitle and, when appropriate, making written recommendations for remedial action;
- (5) developing and distributing all necessary forms, applications, and documents necessary to comply with this subtitle;

MWBOO Article 5, § 28-10 Duties Continued

- (6) maintaining statistics on and reviewing regularly the progress of agencies towards achieving the annual goals for the utilization of minority business enterprises, women's business enterprises, small business enterprises, and local business enterprises;
- (7) recommending to appropriate City officials methods to further the policies and goals of this subtitle;
- (8) monitoring contractors throughout the duration of their contracts to ensure that all efforts are made to comply with this subtitle; and
- (9) certifying compliance with this subtitle before contracts are submitted to the Board of Estimates for award.

Organization Chart



B2G Diversity Management System is Live

New & Renewal Certification Applications

- Application process is streamlined;
- B2G Clearly details all of the materials that are required upfront;
- There is no need to print or notarize any documents;
- You can save your progress and return to the complete the application at a later time;
- You will receive several renewal reminders via email over a 6 month period to ensure you remain certified and listed in the active certified MBE/WBE directory;
- MWBOO's processing and review of applications, change in contract information, and expansion of services will be even more efficient;
- The system will result in a more efficient review process to get businesses certified faster!

B2G Diversity management system is live

M/WBE Certification Directory

 New destination to locate M/WBEs to participate on City or private development projects;

Much improved user interface and search functionality;

 The directory now lists City M/WBE certification status & State MDOT certification (if applicable).

B2G Diversity management system is live

Outreach & Events

- o MWBOO can now communicate with the entire City business community.
- We now have the ablity to market events to subsets such as MBE, WBE, City, County, or by NAICS service code.
 - o Particularized outreach events for technology, telecommunications, food services, etc.;
 - Ensure MBE/WBEs certified in the codes utilized on particular contracts are made aware of the opportunity via pre-bid events once forecasted by the agencies & BOP.
- Able to expand the voice of MWBOO to
 - Small Non-M/WBE businesses who can benefit from the information and business development;
 - Disparity Study recommended expansion of the Baltimore City Market Area;
 - All MDOT M/WBEs that are not currently certified with the City;
 - This will improve availability and limit the need for waivers due to the lack of availability of certified M/WBEs.

MWBOO AUDIT RESPONSE ACTION PLAN

Implement B2G Contract Compliance Module

- □ The lack of Citywide contract compliance monitoring of M/WBE participation has been identified as a deficiency in MWBOO by both this Audit & the August 2022 MGT Disparity Study Report.
- □ This deficiency is due to the lack of staffing and software that is necessary for effective Citywide monitoring of all contracts.
- MWBOO impressively reviews all contracts over \$50,000 that are pending BOE action for compliance reviews.
- ☐ There are dozens of City Agencies, Offices, & The Bureau of Procurement that each have contract administrators and/or buyers that vastly outnumber MWBOO's small team.
- □ B2G Contract Compliance is contingent upon all contracts and payment data being in Workday. There have been challenges encountered that make it unclear as to when we will be able to move forward with the implementation of B2G Contract Compliance Monitoring.

Conduct Second Agency MWBOO Training: Compliance & Project Management

- □ This will take place following the implementation of B2G contract compliance.
- □ This will detail the new process and agency monitoring requirements to ensure all primes are making prompt payments to their M/WBE subcontractors & entering payment information into B2G to be confirmed by the subcontractor.
- § 28-70 requires that all contracting opportunities must be evaluated in an effort to divide/segment the total requirements of a contract to provide reasonable opportunities for participation by MBE/WBEs.
- § 28-68 requires that each agency head or designee must assume primary responsibility for achieving the goals of the program and on a continuing basis, review all aspects of the program's operations to assure that the purpose is being attained.

Request Agency Written reports regarding efforts under Minority & Women's Business Program for FY22

- □ MWBOO will seek agencies to provide annual report "All City agencies must submit to the Office [MWBOO], on an annual basis, a written report on the efforts made under this subsection[Article 5, Subtitle 28 The Minority & Women's Business Program]." City Code Article 5, § 28-50(c)(1).
- □ Agencies have not provided their annual reports to MWBOO nor has this provision been previously enforced to mandate agency compliance.
- MWBOO will be requesting that all agencies provide an annual written report and will continue to make the annual request in conformity with the Code.
- □ This will enable the City to better gauge the particularized efforts that an agency is undertaking to segment their contracts and seek M/WBE participation.
- □ Agency efforts will be more readily apparent via Citywide contract monitoring in B2G that will allow for agency level M/WBE participation reports.

Provide MWBOO Annual Report for FY22

- MWBOO has previously done the Annual Report on a calendar basis, the next report will convert to coincide with the fiscal year.
- MWBOO will ensure that the report reaches City leadership & publicly available.
- □ The upcoming report will not be able to provide an analysis of Citywide M/WBE participation, but this will be possible following B2G contract compliance implementation.

- MWBOO implemented Standard Operating Procedures in 2021.
- MWBOO has made numerous process improvements since that time and implemented B2G Diversity
 Management System for the certification process.
- We will be working to revise the SOPs to more accurately reflect our current practice, process, and procedures.



• The finding is based upon a lack of software and personnel to monitor & fulfill MWBOO's code duties.

 We will further our developmental efforts by merging with the Mayor's Office of Minority & Women's Business Development (MWBD) & by implementing the Disparity Study recommendations.

• As evidenced by the Audit & Disparity Study, there is a great need to continue to evidence the City's commitment to the small M/WBE business community via budget enhancements that allow MWBOO to enhance compliance efforts in conformity with the City Code.

- MWBOO is very appreciative of the administration's commitment via the FY23 \$500,000 budget enhancement.
- MWBOO's budget enhancement was granted in part for FY23.
- The two Certification Compliance Officers will be able to be retained as FTE and we will add a compliance officer, investigator, and outreach coordinator. These positions are approved and pending posting of the vacant position.
- MWBOO will again seek additional compliance officers to monitor contracts actively in our FY24 budget request submission.



CONTACT INFORMATION

Baltimore City Minority and Women's Business Opportunity Office

100 N. Holliday Street, Room 101, City Hall

410-396-4355

The "Contact MWBOO" link on the website is the most efficient way to contact MWBOO with questions.

MWBOO Website & FAQs:

https://law.baltimorecity.gov/mwboo

https://law.baltimorecity.gov/mwboo-faq