



# MAYOR'S OFFICE OF EMPLOYMENT DEVELOPMENT

Biennial Performance Audit  
for Fiscal Years Ended June  
30, 2021 and 2020

City Auditor, Josh Pasch  
August 22, 2023



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## Office of the Comptroller

Josh Pasch, City Auditor

100 N. Holliday St., Room 321  
Baltimore, Maryland 21202

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 Mayor's Office of Employment Development for the Fiscal Years Ended June 30, 2021 and June 30, 2020*. The objectives of our performance audit were to:

- Determine whether the Mayor's Office of Employment Development (MOED) has effective processes, controls, and monitoring over local hiring contracts and reporting; and
- Follow up on prior findings and recommendations included in the previous biennial performance audit report, dated December 9, 2020 and *Confidential Management Comment Limited Use Letter: Mayor's Office of Employment Development Biennial Audit for Fiscal Years 2019 and 2018*, dated December 9, 2020.

Our audit concluded that a process does not exist to take action against contractors / subcontractors that do not meet the 51 percent local hiring requirement. Additional actions could include an improvement plan, identification of barriers to meeting the goal and / or reporting non-compliant contractor / subcontractors to the Board of Estimates (BOE) for potential penalties or debarment. Additionally, although the MOED is tracking BOE's minutes to identify City of Baltimore (City) contract awards that are subject to the Baltimore City Code Article 5, Subtitle 27, *Local Hiring (Law)*<sup>1</sup>, MOED's identification and enforcement of contractor / subcontractor compliance limited. As a result, the City cannot hold non-compliant contractors and subcontractors accountable.

The one prior recommendation that we followed up on as part of this biennial performance audit was implemented (see Section II on page 9). The follow up on security related recommendations was omitted from this public report. The decision to exclude this information was based on *Government Auditing Standards*, July 2018 Revision, Sections 9.64 - 9.66, *Reporting Confidential or Sensitive Information*.

The City is responsible for monitoring vendor compliance with the Law similar to monitoring vendor compliance with contract terms. To improve contractor / subcontractor compliance with the Law, we recommend Local Hiring Review Committee (LHRC) and the Interim Director of MOED implement the recommendations included in this report. Management's responses are included in Appendix I (see page 10).

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<sup>1</sup> [Baltimore City Code Article 5](#)

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

Respectfully,



Josh Pasch, CPA  
City Auditor, City of Baltimore  
August 22, 2023

## BACKGROUND INFORMATION

MOED's mission is to deliver economic justice to Baltimore City (City) residents. To MOED, economic justice means creating an equitable workforce system that responds to all residents' needs and provides viable economic opportunities to all residents, especially those who have been generationally and systemically disadvantaged. The MOED helps to develop the skills of local job seekers that will result in City residents filling job openings within the City.

The Law, Baltimore City Code Article 5, Subtitle 27, *Local Hiring*<sup>2</sup>, was enacted by Council Bill 12-159 in 2013, revised in October 2021 and in March, 2022. Code of Baltimore Regulations Annotated (COBRA) Title 17, Subtitle 04, *Mayor's Office of Employment Development, Chapter 01, Local Hiring Rules*<sup>3</sup> (Regulations) provide rules and regulations to clarify terms and carry out Subtitle 27. The Law is applicable to City-awarded contracts over \$300,000 and City-subsidized projects over \$5,000,000. The Law requires contractors and all of their subcontractors to:

- Meet with MOED within two weeks after the contract award date to complete an Employment Analysis (Contracting agency is responsible for submitting a vendor contact form to MOED);
- Post new jobs with MOED for a period of seven days before being publicly advertised; and
- Meet the goal of 51 percent of all new hires for City-funded contracts must be Baltimore City residents.

The Regulations require contractors and all of their subcontractors to:

- Submit monthly employment reports (monthly reports) by the fifth day of the following month.

The Regulations established a LHRC that meets quarterly and as frequently as needed to review the reports to make recommendations to MOED regarding the approval or denial of any waiver requests, and to recommend to the BOE potential penalties and debarment for persons and others subject to the Law that has not complied with the Law.

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<sup>2</sup> [Baltimore City Code Article 5](#)

<sup>3</sup> [COBRA Title 17](#)

## 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:

- Determine whether MOED has effective processes, controls, and monitoring over local hiring contracts and reporting; and
- Follow up on prior findings and recommendations included in the previous biennial performance audit report, dated December 9, 2020 and *Confidential Management Comment Limited Use Letter: Mayor's Office of Employment Development Biennial Audit for Fiscal Years 2019 and 2018*, dated December 9, 2020.

The scope of our audit is for the periods of FY 2021 and FY 2020. However, certain other matters, procedures, and transactions outside that period were reviewed to understand and verify information during the audit period.

To accomplish our objectives, we:

- Reviewed the Law<sup>4</sup> and Regulations<sup>5</sup> ;
- Interviewed key individuals from MOED to obtain an understanding of the policies and procedures and systems that are utilized to obtain contractor / subcontractor information and document receipt of and information from the monthly reports;
- Identified the related risks and evaluated the design of certain internal controls, processes, and procedures over tracking and monitoring of the monthly reports submission; and
- Judgmentally selected samples and reviewed supporting documentation to validate contractor / subcontractor onboarding and submission of work plans and the subsequent submission of monthly reports.

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<sup>4</sup> [Baltimore City Code Article 5](#)

<sup>5</sup> [COBRA Title 17](#)

## SECTION I: CURRENT FINDINGS AND RECOMMENDATIONS

### Finding I: Enforcement of the 51 Percent Local Hiring Requirement Is Restricted By the Law <sup>6</sup>.

A process does not exist to take action against contractors / subcontractors that do not meet the 51 percent local hiring requirement. Additional actions could include an improvement plan, identification of barriers to meeting the goal or recommendation to the BOE for potential penalties or debarment. The current processes the City has are as follows:

- Agency Level - MOED reports non-compliance twice per year to agencies with direction to follow-up with each vendor. Non-compliance is reported on a contract by contract basis as it relates to each agency. Agencies are directed to inform non-complaint vendors about their non-compliance with the Law. After notification from MOED, no further actions are taken against non-performing contractors / subcontractors.
- City-wide Level – According to MOED, due to the limitation in current Law, the MOED cannot report non-compliance to the BOE who can make the final decision to debar, approve, or renew contracts. The criteria written in Law, includes language that prevents MOED to take action against underperforming contractors / subcontractors. The Law requires intentional violation in order to act.

According to Law, Section 27-11, "Penalties. (a) Debarment for 1 year. If the Board of Estimates, on recommendation from MOED, and after notice and hearing, determines that any beneficiary has violated the provisions of this subtitle and that the **failure was intentional**, no contract may be awarded to that beneficiary, or to any firm, corporation, or partnership in which that beneficiary has an interest, until 1 year has elapsed from the date of the determination. (b) Criminal penalties. An **intentional violation** of any provision of this subtitle is a misdemeanor, and, on conviction, is subject to a fine of not more than \$500 for each offense."

**Recommendation I:** We recommend the LHRC: (1) review and follow up with vendors on deficiencies in meeting the 51 percent hiring requirement; (2) report deficient vendors to the BOE; and (3) evaluate other methods to improve compliance with the Law.

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<sup>6</sup> [City Code, Article 5](#), Section 27-11, *Penalties*



**Finding II: Mayor's Office of Employment Development's Completion of Contractor / Subcontractor Employment Analysis Meeting Within the Established Timeframe and Monthly Report Submissions Needs Improvement.**

Although MOED is tracking BOE's minutes to identify City contract awards<sup>7</sup> that are subject to the Law<sup>8</sup>, MOED's identification and enforcement of contractor / subcontractor compliance is limited. As a result, the City cannot hold non-compliant contractors and subcontractors accountable.

- I. Meetings with Contractors / Subcontractors:** The MOED did not follow up with the contractors and subcontractors to meet within two weeks of contract award dates. For example, of 30 contractors and subcontractors that were judgmentally selected for testing, only eight of 30 samples selected for review, or 27 percent met with MOED prior to or within two weeks of contract award as required by the Law. The remaining 22 of 30 samples selected for review, or 73 percent did not meet timely with MOED (see Table I below). According to MOED, timely meetings with contractors / subcontractors improved in FY 2022 and FY 2023.

**Table I**

**Summary of Contractors / Subcontractors Not Meeting with MOED Timely**

Days Range from Contract Award	Number	Percentage
No meeting occurred	2	7
Met prior to contract award	2	7
Met within two weeks of contract award	6	20
Met within 15 - 60 days	11	37
Met within 61 - 90 days	4	12
Met over 90 days	5	17

**Source:** Samples were selected from a list of active contractors / subcontractors between FY 2021 and FY 2020

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<sup>7</sup> This is a mitigating control established by MOED since agencies are not consistently completing vendor contact forms to notify MOED.

<sup>8</sup> [City Code, Article 5, Section 27](#)



**II. Monthly Employment Reports:** The MOED did not require / validate the contractor / subcontractor submission of monthly reports by the fifth work day of the following month as specified by the Regulations<sup>9</sup>. Instead, MOED sends reports twice per year to agencies listing the contractors and subcontractors that did not submit monthly reports timely or at all. However, agencies were not following up with contractors and subcontractors regarding submission by the fifth work day.

**III. Limitations of Data:** Analysis of missing reports for the period June 2022 through November 2022 indicated limitations in the data set. A comparison of the data when the report was generated on December 29, 2022 to the data when the report, comprising the same period, was run on March 7, 2023 identified fewer missing reports. Specifically, 131 of 952 contracts, or approximately 14 percent, were identified as having missing reports when run in December 2022. These were not listed as missing reports when the same report was run in March 2023. The reason for overstated missing reports in the December 29, 2022 data set was because MOED subsequently received and entered data for missing monthly reports in their system after December 29, 2022.

According to the Regulations<sup>10</sup>,

- “Upon the execution of a contract or approval of an agreement for subsidy that is subject to the local hiring law, the involved City agency shall complete a MOED vendor contact form providing contact information for
  - (1) each vendor or contractor awarded, or
  - (2) each beneficiary of a qualifying City subsidized project.”
- “The party awarded a contract or the beneficiary of an agreement for subsidy shall work with a representative of MOED to complete an Employment Analysis.
  - (1) The Employment Analysis shall begin within two weeks of
    - (a) the contract award,
    - (b) approval of an agreement for a City subsidized project covered by the law, or
    - (c) the receipt of a vendor contact form once a contract becomes subject to the local hiring law.”

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<sup>9</sup> [COBRA Title 17](#), 17.04.01.05

<sup>10</sup> [COBRA Title 17](#), 17.04.01.03 E & H and COBRA 17.04.01.05

- “Vendors and others subject to the law must submit monthly employment reports by the fifth business day of the month for the preceding month ... City agency directors will be notified of persons or others subject to the local hiring law that are not in compliance with the law’s requirements. Persons or entities subject to the law who remain noncompliant will be reported to the LHRC.”

**Recommendation II:** We recommend the Interim Director of MOED:

- Monitor to make sure meetings are conducted with contractors and subcontractors within two weeks of the contract award date and document efforts taken to establish the meeting when it exceeds two weeks; and
- Review and follow-up with contractor / subcontractor submission of the monthly reports by the fifth workday of the following month.

## SECTION II: IMPLEMENTATION STATUS OF PRIOR AUDIT FINDING 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 796 – Workforce Services of Ex-Offenders<sup>11</sup>

No.	Finding	Prior Recommendations	Management's Self-reported Implementation Status	Auditor's Assessment
1.	The Department of Public Safety and Correctional Services (DPSCS), the funder, and the Bureau of Budget and Management Research (BBMR) have established different goals for this performance metric. The MOED consistently meets the target of 400 ex-offenders stipulated by the agreement between MOED and DPSCS. The BBMR has set the target higher than the 400 ex-offenders DPSCS target. The BBMR acknowledges that those targets may be unattainable. MOED has consistently not met the BBMR goals. Missing unrealistic targets are typically not researched for why they were missed and therefore not improved. In this case, meeting the funder's goals is all that is monitored.	<p>We recommend the Directors of MOED and BBMR:</p> <ul style="list-style-type: none"> <li>a) Improve the methodology to set realistic targets;</li> <li>b) Consider using other governmental entities with similar programs to set the targets; and</li> <li>c) Establish multi-year goals (targets) and related plans to meet those goals (targets).</li> </ul>	<p>BBMR: FY 2022 Budget published with targets based on historical performance, resource availability, and policy goals as basis.</p> <p>MOED: MOED will work with BBMR to establish a goal recommended by the state agency funding the program.</p>	<b>Implemented</b>

<sup>11</sup> The selected performance measure for review was the Number of Ex-Offenders Who Received at Least One Service and Obtained Employment.

## APPENDIX I: MANAGEMENT'S RESPONSE TO THE AUDIT REPORT

**Date:** August 16, 2023

**To:** Josh Pasch, City Auditor

**Subject:** Management's Response to Audit Report:  
Biennial Performance Audit Report on Mayor's Office of Employment  
Development for the Fiscal Years Ended June 30, 2021 and 2020

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

### **Recommendation I:**

We recommend the LHRC: (1) review and follow up with vendors on deficiencies in meeting the 51 percent hiring requirement; (2) report deficient vendors to the BOE; and (3) evaluate other methods to improve compliance with Law.

### **Management Response/Corrective Action Plan:**

☒

Agree

☐

Disagree

With the first step, referring the non-compliant vendors to members of the LHRC (representing their agencies) and the directors of the agencies, we do take the step of referring those vendors at minimum twice per year.

Our next action plan step would be to meet with the Law Department, BOE, and stakeholders to discuss the appropriate process for handling these referrals.

**Implementation Date:** August 16, 2024

**Responsible Personnel:** John Ford, Operating Officer II

## **Recommendation II:**

We recommend the Interim Director of MOED:

- Monitor to make sure meetings are conducted with contractors and subcontractors within two weeks of the contract award date and document efforts taken to establish the meeting when it exceeds two weeks; and
- Review and follow-up with contractor / subcontractor submissions of the reports by the fifth work day of the following month.

## **Management Response/Corrective Action Plan:**

☒ Agree    ☐ Disagree

Since the audit period, the rules and regulations for Local Hiring were revised (in effect June 2022) to include when MOED receives the required vendor contact information to initiate contact or when a contract becomes subject to the law (in the case of increases or on-call task assignments) also as events that may begin the two-week timeline. This brings the rules closer to the intent of putting a timeline on the vendors to respond to MOED once MOED has the information to initiate contact and once the law applies to the contract. MOED does agree to document all attempts to hold contractors and subcontractors to meeting within the two-week requirement and now has a better process and additional staff in place to address any role MOED has in the delays. Some contracts will still fall outside of the requirement if the vendors are not responsive, but the two-week requirement will allow MOED to trigger sending notification of non-compliance and instructions to withhold funds to awarding City agencies in those cases.

Since the audit period, MOED put new process in place and hired a compliance officer to address the second recommendation. MOED now sends a notification every month to every vendor and subcontractor who owed a monthly report but did not send one into our inbox or self-enter a report by the cutoff of the end of the fifth business day of the month. While the twice-annual agency compliance letters did address vendors who never sent in a report, this new process also accounts for the reports being sent timely by the fifth business day by using that submission time as a cutoff; it does also successfully result in some vendors contacting MOED to come into compliance.

MOED's next action plan step is to monitor the compliance metrics over the following year for improvement. If the steps recently put into place do not significantly improve the timeliness of employment analyses or monthly employment reports, MOED's local hiring compliance officer will work with the LHRC to implement additional steps.

**Implementation Date:** August 16, 2023

**Responsible Personnel:** John Ford, Local Hiring Operations Officer II