

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT

ROBERT C. WHITE, JR., CHAIR

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Robert C. White Jr.
Chair, Committee on Facilities and Procurement
DATE: November 12, 2020
RE: Request to Agendize for November 17, 2020



I request that the following measures be added to the agenda for the November 17, 2020 Meeting of the Committee of the Whole, and Additional Legislative Meeting. These measures were marked up by the Committee on Facilities and Procurement on November 9, 2020, and have been filed with the Secretary's office.

Measures from the Committee

- **B23-0107, the “Nonprofit Fair Compensation Act of 2020”**

B23-0107 follows the lead of other jurisdictions and the Federal government by ensuring that nonprofit organizations who do business with the District government receive adequate and consistent compensation for their overhead costs as part of their contract or grant. The bill accomplishes this by ensuring that nonprofit organizations with a Federal Negotiated Indirect Cost Rate Agreement (NICRA) can apply that same rate when receiving grants or contracts from the District. The legislation provides nonprofit organizations with four options for indirect cost compensation if an organization does not have a NICRA. The bill allows nonprofit organizations to elect compensation at a de minimis rate of 10% of total direct costs, an approach identical to that used by the Federal government. Alternatively, the organization can negotiate a new percentage rate of total direct costs or elect use of a rate previously negotiated with a District agency within the past two years. Nonprofit organizations also have the option to elect a rate as determined by a Certified Public Accountant (CPA) using the organization's most recently audited financial statements. These various options provide nonprofit organizations of various sizes and complexities with opportunities to obtain an indirect cost rate that matches their needs.

B23-0107 also codifies the requirement of District agency compliance with federal regulatory requirement 2 C.F.R. 200.331 for compensating recipients of federal grant money passing through District agencies. Complying with this requirement ensures that nonprofits are not disadvantaged simply because the District government serves as a conduit of federal funding.

Finally, the bill staggers applicability of the proposed compensation structure to ease implementation and spread the fiscal impact across fiscal years. With this implementation structure, the Chief Financial Officer has determined that funds are sufficient in the financial plan to implement the bill.

- **B23-0245, the “Advisory Neighborhood Commissions Participation in Planning and Development Amendment Act of 2020”**

B23-0245 would require, for future Comprehensive Plan cycles, that the Mayor provide notice and great weight to Advisory Neighborhood Commissions prior to transmitting the Comprehensive Plan, or an element of the Comprehensive Plan, to the Council for review. This reform was requested by numerous Advisory Neighborhood Commissions, which raised concerns that their resolutions were given only cursory review and response by the Office of Planning prior to the submission of the Framework Element of the Comprehensive Plan to the Council. Treating these resolutions similarly to other public input undercuts the critical role of Advisory Neighborhood Commissions as elected representatives. Failure to provide great weight to Commissions also results in a Comprehensive Plan being transmitted to the Council without the critical insights that Advisory Neighborhood Commissions are particularly well-positioned to provide.

B23-0245 also amends the responsibilities of the Office of Advisory Neighborhood Commissions to require that the Office provide advice, staff support, and analysis to Advisory Neighborhood Commissions on issues including zoning, planning, design, development, and PUD negotiations. This addresses the inherent challenges faced by volunteer Advisory Neighborhood Commissioners who are asked to negotiate for improved community benefits and amenities with developers who benefit from robust legal teams, accountants, and economic analysts. Finally, B23-0245 requires the Office to establish a central database for community benefits agreements, so that these agreements are more consistently tracked and publicly available. This database will ensure transparency and that these agreements can be accessed and enforced despite potential turnover and record-keeping challenges within the Commissions themselves.

The Chief Financial Officer has determined that B23-0245 will cost \$227,000 in fiscal year 2021 and \$849,000 over the four-year financial plan.

- **B23-0661, the “Surplus Green Space Retention Amendment Act of 2020”**

B23-0661 requires the Mayor to include an analysis of the square footage of green space with surplus resolutions. This policy proposal arose from constituents concerned about the lack of formal recognition and consideration given to green space in the District’s property decision-making. This bill ensures that the Administration takes green space into account in the surplus and disposition process.

B23-0661 also requires the Department of General Services to submit an annual report to the Council that details the square footage of green space within the District’s property portfolio. The report must include a breakdown by ward and by agency of the total square footage of green space owned by the city. It will also include a summary of measures taken over the previous year to increase access to green space for residents. This will allow the city to identify the communities that need green space and help the District meet its sustainability goals.

The Chief Financial Officer has determined that funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement B23-0661.

- **B23-0665, the “Public Facilities Environmental Safety Amendment Act of 2020”**

B23-0665 requires the Department of General Services to conduct robust testing of potential environmental risks for each public building every ten years. The community has raised numerous concerns with the Committee about DGS's current environmental testing practices. This provision will ensure regular surveillance of potential environmental threats in publicly owned buildings and protect residents from exposure.

The bill also ensures that residents are consistently informed about any environmental hazard found on a site that is undergoing construction, excavation, demolition, or substantial renovation. Numerous residents have demanded more transparency and improvement community engagement around environmental hazards associated with District projects. As such, this bill establishes a rigorous timeline for DGS to conduct testing, remediate hazards, and notify and engage the community and impacted ANC's on any hazards found and the steps taken to address them.

Finally, B23-0665 protects children from lead exposure and other harmful toxins found on public playground surfaces. Parents across the city have expressed their concerns about the demonstrated presence of lead on recreational spaces. Exposure to lead can cause mental and health complications, particularly for young children. To address this issue, the bill requires that DGS test all synthetic playground surfaces every three years. This will ensure that maintenance and remediation limit the exposure to lead on recreational spaces. Also, B23-0665 ensures that the city is using the safest and most durable playground materials by requiring DGS to submit a report to the Council that analyzes all available public field and playground materials on the market and publish the warranties for existing and future synthetic fields and playgrounds.

The Chief Financial Officer has determined that B23-0665 will cost \$8.6M in fiscal year 2021 and \$33.7M over the four-year financial plan.