


COUNCIL OF THE DISTRICT OF COLUMBIA  
**COMMITTEE ON GOVERNMENT OPERATIONS AND FACILITIES**  
ROBERT C. WHITE, JR., CHAIR

**MEMORANDUM**

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**TO:** Chairman Phil Mendelson  
**FROM:** Councilmember Robert C. White, Jr.,  
Chair, Committee on Government Operations and Facilities   
**DATE:** June 2, 2022  
**RE:** Requests for the Potential Additional Committee of the Whole and Regular Legislative Meeting on June 7, 2022

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I request the following actions in connection with the regular Legislative Meeting of the Council and possible additional meeting of the Committee of the Whole on June 7, 2022:

**Measures from the Committee**

I request that each of the following 3 permanent bills appear on the agenda for the additional meeting of the Committee of the Whole, if one occurs, and on the agenda for the regular Legislative Meeting to follow.

Alternatively, if no additional meeting of the Committee of the Whole occurs, I request that each of these bills appear on the agenda for the Legislative Meeting accompanied by a motion to waive Rule 231(c).

▪ **B24-0174, the Procurement Agencies Alignment Act of 2022**

This measure encourages greater compliance with procurement laws and best practices by requiring the Department of General Services (DGS), which enjoys independent procurement authority, to engage more closely with the Office of Contracting and Procurement (OCP). Specifically, DGS would send its procurement personnel to OCP's training programs, undergo audits by OCP, and prepare annual acquisition plans. The committee print, FIS, REIA, and LSM are included in the attached committee report PDF.

▪ **B24-0215, the Sexual Harassment Data Collection and Reporting Act of 2022**

This measure seeks to resolve a lack of transparency into the volume of sexual harassment that our District government workers experience. It builds on an existing system of Sexual Harassment Officers (SHOs) that exists within many agencies by Mayoral order. The bill codifies a mandate that SHOs or other agency designees engage in methodical documentation of sexual harassment allegations, substantiated investigations, settlements, and similar events. The SHOs or other agency designees will then submit their data to the Office of Human Rights, which will compile it into an annual report for the Council. As detailed further in the committee report, the committee print contains incorporates several recommendations from the executive to improve administrative implementation and protect government employees' privacy. The committee print, FIS, REIA, and LSM are included in the attached committee report PDF.

▪ **B24-0229, the Sexual Harassment Data Collection and Reporting Act of 2022**

This measure makes 3 significant changes to our premier anti-discrimination statute, the Human Rights Act of 1977 (HRA). These changes come at the recommendation of people experiencing homelessness and at the recommendation of workers' rights advocates, with extensive input from the Office of Human Rights (OHR), the Office of the Attorney General, and local employment law experts.

First, the bill adds **homeless status** to the list of characteristics protected from discrimination. People experiencing homelessness and entities that provide them with services in the District of Columbia report instances of discrimination based on actual or perceived homeless status. These instances create meaningful barriers to employment and to places of public accommodation, among other areas in which the HRA prohibits discrimination. In recognition that law enforcement personnel are often called in to mediate confrontations between businesses and people experiencing homelessness, the bill directs OHR to train law enforcement personnel on the new protections.

Second, the bill codifies a definition of workplace **harassment**. Although courts consistently interpret the HRA and its federal equivalent, Title VII of the Civil Rights Act of 1964, to prohibit workplace harassment, they also dismiss cases that judges do not consider "severe or pervasive" under judicial standards tracing back to the 1980s. With the Human Rights Enhancement Amendment Act of 2022, DC will join jurisdictions including New York, California, and Montgomery County that have repudiated the judge-made "severe or pervasive" standard.

Third, the bill clarifies that even if a worker can be classified as an **independent contractor** for purposes of other laws, the HRA still protects them from employment discrimination. The bill clarifies that this protection does not encompass the relationship between a service vendor and an individual customer, and the committee report discusses the intended scope of the protection further.

The committee print, FIS, REIA, and LSM are included in the attached committee report PDF.

### **Ceremonial Resolution**

I request that the following measure be placed on the consent agenda for the Legislative Meeting:

- **Capital Pride Recognition Resolution of 2022**

This resolution honors the annual Capital Pride celebration and its organizers, condemns nationwide attacks on LGBTQ people, and affirms the District government's commitment to supporting and protecting LGBTQ residents. A draft is attached and the final will be timely filed for consideration.

### **Emergency Contract Legislation at the Request of the Mayor**

I request that the following 3 measures be placed on the consent agenda for the Legislative Meeting:

- **Modification Nos. 1, 2 and 6 to Contract No. DCAM-21-CS-IFB-0001 with Fort Myer Construction Company Approval and Payment Authorization Emergency Act of 2022**
- **Modification Nos. 1, 2 and 6 to Contract No. DCAM-21-CS-IFB-0001 with Fort Myer Construction Company Approval and Payment Authorization Emergency Act of 2022**

In May 2021, the Council passively approved contract DCAM-21-CS-IFB-0001 for the Department of General Services (DGS). Pursuant to the contract, Fort Myer Construction Company is performing infrastructure work along a stretch of Pecan Street SE on the St. Elizabeths East campus. The new and renovated infrastructure will support the new hospital and other construction on the campus. Major elements include road construction and the removal of a large elevated water tank.

The original contract value, determined through a competitive bidding process, was \$9,976,694.65. After construction began, DGS and the contractor identified the need for additional work beyond that originally contemplated. Specifically, soil contamination necessitated extra excavation and embankment fill work. DGS and the contractor executed modifications 1 and 2, increased the price by a total of \$882,133.64, and which did not require Council approval because the value was less than \$1 million. They have also executed various zero-dollar modifications.

Proposed modification 6 would further increase the contract price by \$519,491.26. Because this would bring the aggregate increase above \$1 million, Council approval is required. The attached summary does not fully explain this increase, so the Committee on Government Operations and Facilities requested additional information. In response, DGS has explained that the excavation work previously added to the project scope has in turn necessitated additional work on utility lines, signage, and other infrastructure. Emergency approval is necessary to ensure prompt completion.

- **Modification Nos. 1 and 2 to Contract No. DCAM-20-CS-RFQ-0001Q with Citadel Firm, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **Modification Nos. 1 and 2 to Contract No. DCAM-20-CS-RFQ-0001Q with Citadel Firm, LLC Approval and Payment Authorization Emergency Act of 2022**

As discussed at a recent legislative meeting, DGS has failed to submit a significant number of option year contract modifications timely for passive approval, leading to unnecessary emergency actions. While the Committee on Government Operations and Facilities continues to be concerned with these lapses, it recommends approval of the affected indefinite delivery, indefinite quantity (IDIQ) contracts at issue here to preserve flexibility for the District to obtain facility services on an as-needed basis.

In this case, the contract allows DGS to order on-call construction, repair, and replacement services from the Citadel Firm, a certified business enterprise (CBE). DGS can award task orders for general construction and facility maintenance projects, including electrical, mechanical, plumbing, concrete, masonry, painting, fire safety, and life safety services. These projects would take place

at schools, parks, recreation facilities, municipal buildings, fire stations, police stations, short-term family housing, pools, playgrounds, and other public locations. The contract also contemplates task orders to respond to emergent situations such as vandalism or structural failures.

The base year contract set a total value not to exceed \$5,000,000. The Council provided passive approval, but the base year contract expired in 2021. Rather than seek prompt passive approval of a full option year 1, DGS executed a Modification No. 1 to partly exercise option year 1 through October 31, with the value not to exceed \$990,000. Because the value was less than \$1 million, DGS executed the modification without Council approval.

DGS now seeks to exercise the remainder of option year 1 and raise the not-to-exceed value for each contract by \$4,010,000 for a total of \$5,000,000, consistent with the base year value. Emergency approval is necessary to ensure continuity of service.

- **PR24-0725 -Modification Nos. 1 and 2 to Contract No. DCAM-20-CS-RFQ-0002N with Adrian L. Merton, Inc. LLC Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-0789 -Modification Nos. 1 and 2 to Contract No. DCAM-20-CS-RFQ-0002N with Adrian L. Merton, Inc Approval and Payment Authorization Emergency Act of 2022**

Similar to the measures discussed above, this package would approve an option year extension that could have been adopted through passive approval. Here, the contract allows DGS to order on-call maintenance, replacement, and installation services for heating, ventilation, and air conditioning systems. The base year contract set a total value not to exceed \$10,000,000. The Council provided passive approval, but the base year contract expired in 2021. Rather than seek prompt passive approval of a full option year 1, DGS executed a Modification No. 1 to partly exercise option year 1 through October 31, with the value not to exceed \$990,000. Because the value was less than \$1 million, DGS executed the modification without Council approval.

DGS now seeks to exercise the remainder of option year 1 and raise the not-to-exceed value for each contract by \$9,010,000 for a total of \$10,000,000, consistent with the base year value. Emergency approval is necessary to ensure continuity of service.