

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

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Robert C. White, Jr.,
Chair, Committee on Government Operations and Facilities
DATE: December 1, 2022
RE: Requests for December 6, 2022



I request the following in connection with the regular Legislative Meeting of the Council and possible additional meeting of the Committee of the Whole on December 6, 2022:

Permanent Legislation

I request that the following 3 permanent bills, appear on the agenda for the additional meeting of the Committee of the Whole, if one occurs, and that these bill and the referenced amendment appear on the agenda for the Legislative Meeting. 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). Waiver is appropriate because I filed the committee reports, complete with fiscal impact statements, legal sufficiency memoranda, racial equity impact assessments, and other items typically evaluated by the Committee of the Whole under Rule 231(c), on November 17, 2022.

▪ **B24-0129, the Inspector General Enhancement Amendment Act of 2022**

This legislation addresses a gap in the law between the responsibility of the Office of the Inspector General (OIG) to conduct independent criminal investigations and the powers they need to do so effectively. The Inspector General has requested clearly demarcated authority for the small force of criminal investigators at OIG to carry less lethal weapons in addition to the firearms they already carry, to make arrests when there is probable cause to do so, to seek and execute arrest warrants, and to enter into partnerships with other law enforcement agencies. These are all powers that similarly situated investigators in the District and other jurisdictions have.

As detailed in the attached report, the Committee has added a number of safeguards to ensure transparency and accountability. These include clarification that use of force restrictions apply to OIG employees, mandatory use of force reporting, limitations on law enforcement partnerships to protect our sanctuary city status, and the establishment of a body worn camera program for OIG criminal investigators.

▪ **R. White Amendment #1 to B24-0129, the Inspector General Enhancement Amendment Act of 2022**

An amendment to the Committee Print is necessary to add an applicability clause to reflect that a single subsection of the bill is subject to appropriations per a fiscal impact statement received from the Office of the Chief Financial Officer shortly before the Committee mark-up. A draft of the amendment is attached and the final version will be filed on Monday.

The John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

- **B24-0200, the Internet Equity Amendment Act of 2022**

As introduced, this measure would have directed the Office of the Chief Technology Officer (OCTO) to prepare a series of plans and reports regarding the availability of high-speed internet service on equitable, affordable terms across the District.

After the Committee on Government Operations and Facilities held a hearing on this legislation in the fall of 2021, Congress passed and President Biden signed the Infrastructure Investment and Jobs Act, also known as the bipartisan infrastructure law (BIL). As detailed further in the attached report, OCTO has developed detailed plans to make use of the anticipated federal funds under BIL and engage in a massive expansion of local internet infrastructure, which should have significant positive effects on digital equity in the District. OCTO will also be responsible for detailed planning and reporting pursuant to BIL's State Digital Equity Planning programs. These federal mandates and opportunities overlap many of the mandates in the bill as introduced.

The Committee worked closely with OCTO and interested Council offices to modify the bill as introduced to reflect these changing circumstances and the proposed Committee Print will advance public transparency and Council oversight over the District's investments in expanding internet equity during and after BIL implementation.

- **B24-0446, the Attorney General Civil Rights Enforcement Clarification Amendment Act of 2022**

This legislation is in significant part the permanent version of emergency and temporary legislation earlier passed by the Council. It clarifies the role and authority of the Office of the Attorney General (OAG) in bringing civil actions to enforce the Human Rights Act of 1977 (HRA). Over the past two years, the OAG has used this authority to bring landmark litigation to address housing discrimination, among other topics.

To ensure that OAG and the Office of Human Rights (OHR) do not duplicate efforts and to encourage coordination, this bill requires OAG to notify OHR in advance of litigation, and authorizes the two agencies to enter into a memorandum of understanding to delineate their respective roles and responsibilities. In recent months, the OAG and OHR negotiated updates to several provisions. The Committee on Government Operations and Committee on the Judiciary and Public Safety worked together to decide a few remaining points of disagreement between the agencies. In addressing those disputes, the Committees prioritized ensuring that victims of discrimination have the strongest possible options to seek remedies – either from OHR's administrative system or from civil action with the OAG.

Ceremonial Resolution

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

- **Earline Budd Recognition Resolution of 2022**

This resolution would honor Earline Budd, a longtime advocate for LGBTQ residents, sex workers, and those living with HIV/AIDS, on the occasion of the unveiling of a mural in her honor near the Helping Individual People Survive headquarters on H Street, N.E. I have attached a draft of the resolution and intend to file it no later than Monday, December 5.

Emergency Legislation at the Request of the Mayor

I request that the emergency contract packages listed below be placed on the consent agenda for the Legislative Meeting.

- **PR24-1071, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A1 with A&E Heating and Air Conditioning, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-1109, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A1 with A&E Heating and Air Conditioning, LLC Approval and Payment Authorization Emergency Act of 2022**

- **PR24-1072, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC RFP-0013-A7 with Protec Construction, Inc Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-1111, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC RFP-0013-A7 with Protec Construction, Inc Approval and Payment Authorization Emergency Act of 2022**

- **PR24-1074, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A4 with Blue Skye Construction, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-1113, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A4 with Blue Skye Construction, LLC Approval and Payment Authorization Emergency Act of 2022**

- **PR24-1075, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A3 with Al's Twin Air, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-1114, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A3 with Al's Twin Air, LLC Approval and Payment Authorization Emergency Act of 2022**

- **PR24-1076, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A5 with DC General Construction, Inc Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-1115, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A5 with DC General Construction, Inc Approval and Payment Authorization Emergency Act of 2022**

- **PR24-1077, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A8 with RBK Construction, Inc Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **B24-1116, the Modification Nos. M02, M03, and M04 to Contract No. DCAM-20-NC-RFP-0013-A1 with RBK Construction, Inc Approval and Payment Authorization Emergency Act of 2022¹**
- **Modification Nos. M02, M03, and M04 to Contract DCAM-20-NC-RFP-0013-A6 with The Decca Development Corporation Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **Modification Nos. M02, M03, and M04 to Contract DCAM-20-NC-RFP-0013-A6 with The Decca Development Corporation Approval and Payment Authorization Emergency Act of 2022**

These measures all concern existing contracts between the Department of General Services (DGS) and local businesses that perform heating, ventilation, and air conditioning maintenance and repair services as needed. These contracts allow DGS to award specific work to specific contractors through task orders up to a certain “not-to-exceed” value (NTE).

In each case, DGS executed a base year contract in summer 2020 with NTE \$14,000,000. In 2021, DGS executed an option year modification with each of these contractors with NTE \$950,000. because the value was less than \$1,000,000, DGS did not seek Council approval for option year 1. In summer 2022, DGS extended each of these contracts for a partial option year through October 13 with NTE \$950,000, and then further extended each contract through December 31, 2022.

Now DGS seeks to raise the NTE for each contract to \$14,000,000 and extend the term to cover the remainder of option year 2, through June 25, 2023. DGS has explained that “Based on the increase in HVAC repairs needed across the District related to aging HVAC equipment at schools and municipal facilities[,] [DGS] anticipates an [uptick] in contract support service beyond the previous two years’ maximum spending of \$950,000 [per contractor] in response to citywide clean air initiatives at all District facilities.” DGS further noted that these contractors reflect a significant part of the agency’s contractor capacity to address current HVAC issues. Emergency legislation is necessary to avoid a gap in the Department’s ability to resolve ongoing heating issues in District buildings. In response to Committee questions that the Department has a process for addressing unsatisfactory contractor performance where it has occurred.

- **Modification Nos. M02, M03, and M04 to Contract DCAM-20-NC-RFP-0013-A6 with The Decca Development Corporation Approval and Payment Authorization Emergency Declaration Resolution of 2022**
- **Modification Nos. M02, M03, and M04 to Contract DCAM-20-NC-RFP-0013-A6 with The Decca Development Corporation Approval and Payment Authorization Emergency Act of 2022**

¹ The introduced version of B24-1116 contains several mistaken references to contract number “DCAM-20-NC-RFP-0013-A1,” including in the short title. The legislation actually concerns contract number “DCAM-20-NC-RFP-0013-A8.” The Office of the General Counsel has confirmed that, should the measure advance, these errors will be corrected through a technical edit.

These measures would authorize an increase in the contract price for the modernization of the Metropolitan Police Department's Blue Plains impound lot at 5000 Shepherd Parkway, S.W. The Council passively approved the underlying contract in May of this year with lump sum value \$7,062,423. DGS reports that they have since executed several modifications to the contract without additional Council approval because they did not raise the price by \$1 million. Modification 1 "descope[d] items in the base contract not needed until later in the contract's term [to] replace them with required time sensitive items"; the temporarily "descoped" work included canopies, fencing, and a prefabricated administrative structure. Modification 2 added security cameras, telecommunications connections, and a guard booth to the project scope at a cost of approximately \$300,000. Modification 3 extended the project completion deadline without changing the cost.

Now DGS seeks to execute modification 4, which would raise the contract value by an additional \$2,077,556.55. Because the aggregate value increase of modifications 2 and 4 exceeds \$1 million, Council approval is required. The increase would cover the work "descoped" in modification 1, plus items such as dealing with unforeseen large debris in the soil, updating the electrical system, and revising some fencing. Emergency legislation is necessary to timely complete the project.