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Chairman Phil Mendelson
at the request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Small and Certified Business Enterprise Development and Assistance Act of 2005 to: require applicants for CBE status to certify the truthfulness of their applications under penalty of perjury; authorize the Department of Small and Local Business Development to refer, and the Attorney General to pursue civil actions for, any violation of section 2363(a)(1) of the Act; establish civil penalties for any violation of section 2346 of the Act; eliminate the requirement that reports alleging violations of the Act be notarized; require training for employees operating the Department's violation report hotline; allow anonymous reports over the hotline; and expand the Attorney General's authority to investigate violations of the Act.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this bill be cited as the "Small and Certified Business Enterprise Protection and Enforcement Amendment Act of 2019".

Sec. 2. The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) Section 2302 (D.C. Official Code § 2-218.02) is amended by adding a new paragraph (18) to read as follows:

“(18) “Willfully” means intentionally.”.

(b) Section 2361(b)(2)(A) (D.C. Official Code § 2-218.61(b)(2)(A)) is amended to read as follows:

30 “(A) A certification, under penalty of perjury, that, to the best of the
31 business enterprise’s knowledge after due diligence, the information provided is accurate.”.

32 (c) Section 2363 (D.C. Official Code § 2-218.63) is amended as follows:

33 (1) Subsection (b) is amended as follows:

34 (A) Paragraph (1) is amended by striking the phrase “; or” and inserting a
35 semicolon in its place.

36 (B) Paragraph (2) is amended by striking the period at the end and
37 inserting the phrase “; or” in its place.

38 (C) A new paragraph (3) is added to read as follows:

39 “(3) The Attorney General for the District of Columbia, pursuant to subsection (h)
40 of this section and section 101 of the Attorney General for the District of Columbia Clarification
41 and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C.
42 Official Code § 1-301.81).”.

43 (2) Subsection (c) is amended as follows:

44 (A) Paragraph (1)(C)(i) is amended to read as follows:

45 “(i) For each offense thereafter, the Director shall refer the matter
46 to the Attorney General for the District of Columbia; provided, that the Director may refer any
47 violation of subsection (a)(1) of this section to the Attorney General, and the Attorney General
48 may, pursuant to paragraph (3)(A), bring a civil action for any violation of subsection (a)(1) of
49 this section with or without a referral from the Director; provided, also, that if the Attorney
50 General for the District of Columbia does not bring an action under paragraph (3)(A) of this
51 subsection, the Department shall assess a civil penalty of not more than \$25,000 against the
52 beneficiary, certified business enterprise, or certified joint venture; and”.

53 (B) Paragraph (3) is amended as follows:

54 (1) Subparagraph (B)(ii) is amended by striking the semicolon at
55 the end and inserting the phrase “; provided, that” in its place.

56 (2) A new subparagraph (C) is added to read as follows:

57 “(C) If, in a civil action brought pursuant to subparagraph (A) of this
58 paragraph, the court finds that the individual, beneficiary, certified business enterprise, or
59 certified joint venture violated subsection (a)(3)(A) of this section, the Office of Contracting and
60 Procurement shall proceed to debar the individual, beneficiary, certified business enterprise, or
61 certified joint venture from consideration of award of contracts or subcontracts with the District
62 government for a period of no more than 5 years.”.

63 (C) Paragraph (4) is amended to read as follows:

64 “(4) Has violated the subcontracting requirements established in section 2346, the
65 Department, notwithstanding the penalties in paragraph (1) of this subsection, shall assess a civil
66 penalty equal to 10% of the dollar volume of the contract that the beneficiary or certified joint
67 venture was required but failed to subcontract; and”.

68 (3) Subsection (e) is amended as follows:

69 (A) Paragraph (1) is amended as follows:

70 (i) Subparagraph (A) is amended by striking the phrase “writing,
71 sworn to by the complainant, and notarized” and inserting the phrase “writing and sworn to by
72 the complainant” in its place.

73 (ii) Subparagraph (B) is amended to read as follows:

74 “(B) The Department shall establish a fraud hotline for reporting
75 violations of this section, and shall train Department employees who respond to hotline calls on
76 the requirements of this section. Reports made to the hotline may be made anonymously.”.

77 (B) Paragraph (2)(A) is amended by striking the phrase “, including the
78 name, address, and telephone number of the person filing the complaint”.

79 (4) A new subsection (h) is added to read as follows:

80 “(h) In the course of an investigation to determine whether to seek relief under subsection
81 (c)(1)(C)(i) or (c)(3)(A) of this section, the Attorney General for the District of Columbia may
82 subpoena witnesses, administer oaths, examine an individual under oath, and compel production
83 of records, books, papers, contracts, and other documents.”.

84 Sec. 3. Effective date.

85 This Act shall take effect following approval of the Mayor (or, in the event of a veto by
86 the Mayor, action by the Council of the District of Columbia to override the veto), a 30-day
87 period of congressional review as provided in § 602(c)(1) of the District of Columbia Home Rule
88 Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-206.02(c)(1)), and
89 publication in the District of Columbia Register.