

## HIGH LEVEL PROPOSED CBE LAW CHANGES

### WEEDING OUT NON-LOCAL CBEs

IDENTIFIED PROBLEM	PROPOSED SOLUTION	REASON FOR AMENDMENT
Beneficiaries are subcontracting to enterprises that they have an ownership or otherwise financial interest in.	Add requirement that a beneficiary cannot meet CBE subcontracting requirements by subcontracting to an enterprise it has an ownership or financial interest in. Financial interest would entail an actual or potential ownership, investment, or compensation arrangement in or with any entity or individual with which the organization has, or is negotiating, a transaction or arrangement.	Amendment would prevent a beneficiary from steering subcontracting work back to itself or profiting from subcontracting work.  <i>See section/code to be amended at: 2-218.46</i>
A business that is majority-owned, financed and/or controlled by out-of-state parent companies is able to get certified as a local, District-based business.	Add a requirement that a local business enterprise be "independently owned" and "independently operated."  Remove the "asset test" as a qualifying criterion for becoming a local business enterprise.	Amendments would ensure that applicants seeking certification cannot be subsidiaries of larger, out-of-state parent enterprises and/or materially controlled by larger, out-of-state parent enterprises.  Currently, enterprises, if qualifying through the asset test, could gain CBE status simply by purchasing a piece of equipment (e.g., a laptop computer) to meet the requirements. This test currently creates the simplest means for non-bona fide local businesses to gain entry into the CBE Program.

*See section/code to be amended at: 2-218.31*



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### STRENGTHENING PROMPT PAYMENT REQUIREMENTS FOR ALL CBE SUBCONTRACTORS

IDENTIFIED PROBLEM	PROPOSED SOLUTION	REASON FOR AMENDMENT
Beneficiaries are not invoicing the District and paying subcontractors timely thereby creating financial hardship for CBEs performing subcontracting work.	Update the Quick Payment Act to add protections for all subcontractors (CBE and non-CBE) by mandating beneficiaries to invoice the District for undisputed work performed on a government-assisted project every 30 days, and following receipt of payment by the District, to pay subcontractors for work properly invoiced and satisfactorily performed, further guaranteeing that CBE subcontractors are paid timely and at a regular cadence.	<p>This amendment would resolve CBE subcontractor concerns of beneficiaries not invoicing the District for long periods of time thereby holding up subsequent subcontractor payments.</p> <p>Failure to adhere could make the beneficiary subject to penalties under the Quick Payment Act.</p> <p>This amendment also complements upgrades proposed by the Executive to the DES system which would give the Department greater visibility over payments and allow CBE subcontractors to affirmatively verify that they have indeed received payments from a beneficiary in a timely manner.</p> <p><i>See section/code to be amended at: 2-221.02</i></p>



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### PROTECTING DISTRICT CBE SPEND

IDENTIFIED PROBLEM	PROPOSED SOLUTION	REASON FOR AMENDMENT
Equity sponsors could be subject to disproportionate project costs greater than their investment.	Add amendment that protects equity sponsors (i.e., small investors, disadvantage investors, certified equity participants) from bearing disproportionate project costs while ensuring that proportionate voting rights are guaranteed.	Amendment would protect equity sponsors from bearing disproportionate costs and ensure proportionate voting rights in a government-assisted project.  <i>See section/code to be amended at: 2-218.49a</i>
Beneficiaries who fail to use commercially reasonable best efforts to meet subcontracting requirements are not subject to penalties that make the District whole for failure to meet the 35% requirement.	The current penalty that can be assessed for a beneficiary or certified joint venture's failure to use commercially reasonable best efforts in meeting the 35% subcontracting requirement are only equal to 10% of the dollar volume of the contract that the beneficiary or certified joint venture was required but failed to subcontract.	The new proposed penalty structure would make the District whole by ensuring that the total 35% dollar volume that should have been subcontracted is, nonetheless, retrieved from the beneficiary or certified joint venture in the event of an a failure to meet the subcontracting requirement:  The proposed new formula is as follows: "1.1 times the difference between the amount the beneficiary or certified joint venture was required to subcontract to certified business enterprises under section 2346 and the actual dollar volume subcontracted to certified business enterprises."  <i>See section/code to be amended at: 2-218.63</i>