

City of Philadelphia



(Bill No. 020827)

AN ORDINANCE

Amending Title 17 of The Philadelphia Code, entitled "Contracts and Procurement," to improve compliance with certain participation, affirmative action and reporting requirements, including by amending Chapter 17-500, entitled "Goals For The Participation Of Minority, Female And Disabled Owned Businesses In City Contracts," by imposing reporting requirements on the Minority Business Enterprise Council relating to the participation of Minority, Female, and Disabled Owned Businesses and Socially and Economically Disadvantaged Individuals in contracts of the City of Philadelphia, its Agencies and all Quasi-Public Agencies and by prohibiting Council approval of certain City or Quasi-Public Agency projects; by amending Chapter 17-900, entitled "Neighborhood Benefit Strategy," by barring from participation in certain City contracts contractors that fail to comply with certain Affirmative Action requirements; and by amending Chapter 17-1000, entitled "Employment Of Low- And Moderate-Income Persons By City Contractors," by barring from participation in certain City contracts contractors that fail to comply with certain low- and moderate-income hiring requirements and adding certain reporting requirements; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 17 of The Philadelphia Code is hereby amended to read as follows:

TITLE 17. CONTRACTS AND PROCUREMENT.

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CHAPTER 17-500. GOALS FOR THE PARTICIPATION OF MINORITY, FEMALE AND DISABLED OWNED BUSINESSES IN CITY CONTRACTS.

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§17-504. Minority Business Enterprise Council.

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(2) MBEC's authority and responsibility shall be to:

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(n) Issue a report to City Council every six months that outlines the participation of Minority, Female, and Disabled Owned Businesses and Socially and Economically Disadvantaged Individuals in contracts of the City of Philadelphia, its Agencies and all Quasi-Public Agencies. This requirement shall continue to apply notwithstanding the expiration of the effective date of this Chapter, or any judicial determinations concerning the legality of any of the substantive requirements of this Chapter.

(.1) In each such report, MBEC shall certify whether or not each covered Agency or Quasi-Public Agency has provided to MBEC within the preceding six months the necessary information for MBEC to prepare such report.

(.2) Council shall not approve any City participation in or contribution to any development or other project in which a Quasi-Public Agency participates or provides contributions unless MBEC shall have certified, in its most recent semi-annual report, that the Quasi-Public Agency has provided to MBEC the necessary information for MBEC to prepare such report.

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CHAPTER 17-900. NEIGHBORHOOD BENEFIT STRATEGY.

§17-903. Implementation and Applicability.

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(1) Each project sponsor, developer or builder required by OHCD or DOC or their agents or designees, including the Philadelphia Redevelopment Authority ("RDA"), the Philadelphia Housing Development Corporation ("PHDC"), the Philadelphia Industrial Development Corporation ("PIDC") and the Philadelphia Commercial Development Corporation ("PCDC"), to submit an Affirmative Action Plan pursuant to Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. §1701u, as amended by Section 915 of the Housing and Community Development Act of 1992, P.L. 102-550, or any successor statute ("Section 3 of the HUD Act") or pursuant to local legislation or Executive Orders relating to affirmative action or equal employment opportunities, shall submit as part of that Affirmative Action Plan, a "Neighborhood Benefit Strategy," which shall describe the sponsor's, developer's or builder's proposed efforts to hire low-income project area individuals and businesses along with projected percentages of low-income project area resident new hires.

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(3) Each project sponsor, developer or builder shall be subject to monitoring requirements as set forth by OHCD and DOC in order to monitor compliance with this chapter. *A project sponsor, developer or builder subject to the requirements of subsection (1) who fails to comply with those requirements shall not be considered "responsible" under section 8-200(1) of the Philadelphia Home Rule Charter in connection with future OHCD or DOC project bids.*

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§17-904. Contracting Goals.

(1) Each project sponsor, developer or builder working on a covered project shall certify and covenant that he or she is in compliance with all applicable requirements of Section 3 of the HUD Act, including but not limited to:

(a) Any requirements to provide opportunities for training and employment to low-income residents of the metropolitan area, and to give priority to low-income project area residents, all to the greatest extent feasible; and

(b) Any requirements to award contracts to businesses that provide economic opportunities for low-income residents of the metropolitan area, and to give priority to businesses that provide economic opportunities for low-income residents of the project area, all to the greatest extent feasible.

* * *

(3) [Failure] *A project sponsor, developer or builder working on a covered project who fails to comply with subsection (1) above, relating to certification and covenants, or [failure] fails to comply with such certification or covenant, shall not be considered "responsible" under section 8-200(1) of the Philadelphia Home Rule Charter in connection with future OHCD or DOC project bids.*

(4) *The failure of a project sponsor, developer or builder working on a covered project [, or failure] to achieve the numerical goals set forth in subsection (2)(a) above, may affect whether project sponsors, developers or builders are considered "responsible" under section 8-200(1) of the Philadelphia Home Rule Charter in future OHCD or DOC project bids; provided, however, that failure to meet the numerical goals shall not be grounds for determining a sponsor, developer or builder not responsible where the sponsor, developer or builder is able to demonstrate compliance by other means with the certification and covenant requirements of subsection (1) above. Furthermore, pursuant to Section 3 of the HUD Act, a failure to comply with Section 3*

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hiring and contracting goals may result in a noncompliance complaint filed against the noncomplying party with the U.S. Department of Housing and Urban Development.

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CHAPTER 17-1000. EMPLOYMENT OF LOW- AND MODERATE-INCOME PERSONS BY CITY CONTRACTORS.

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§17-1003. Reporting Requirements.

(1) All bidders or contractors on any covered construction contract shall provide to the Procurement Commissioner *and the Economic Opportunity Task Force*, in the case of contracts to which the City is a party, or to the Director of Finance *and the Economic Opportunity Task Force*, in the case of contracts to which the City is not a party, such information as the *Task Force*, Commissioner or the Director may need to assess the bidder's or contractor's ability to meet the hiring requirements set forth in §17-1002, including:

(a) The percentage of current full-time employees who are low- or moderate-income persons.

(b) The percentage of workers previously hired on a temporary basis to work on construction contracts in the City who were low- or moderate-income persons.

(c) The bidder's or contractor's plans for achieving compliance with the hiring requirements, including any plans to utilize the services of the Philadelphia Workforce Development Corporation or any related entities, or training or apprenticeship programs such as the Philadelphia Housing Authority's Working Together for Jobs Agreement, the TOP/WIN program, *the DAP program*, the Congreso de Latinos Unidos Apprenticeship Prep for Trades APTitude Program, YouthBuild Philadelphia or other similar programs.

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§17-1006. Penalties and Enforcement.

(1) Unless a contracting party can demonstrate that it has made every good faith effort to comply, any contracting party that fails to comply with the certification required by §17-1002 shall be subject to suspension of contract payments, termination of its contract and a bar on participation in future [covered construction] *City-funded* contracts or *Financial Assistance*. Suspension, termination, and the extent and duration of any contract bar, shall be subject to the discretion of the Procurement Commissioner or the

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Director of Finance, as appropriate, in light of the severity or frequency of any violation and the extent of the contracting party's good faith.

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Explanation:

[Brackets] indicates matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 3, 2003. The Bill was Signed by the Mayor on April 24, 2003.



Patricia Rafferty
Chief Clerk of the City Council