

City of Philadelphia



(Bill No. 060855-A)

AN ORDINANCE

Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by adding a new Chapter defining and detailing the categories of Disadvantaged Business Enterprises and of City contracts that must be considered separately by the Finance Director in conducting the Annual Disparity Study and devising the Annual Participation Goals as required by Section 6-109 of the Philadelphia Home Rule Charter, and specifying additional matters that must be included in the Finance Director’s annual report required by that Section; 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.

* * *

CHAPTER 17-1500. ANNUAL DISPARITY STUDY AND PARTICIPATION GOALS.

§17-1501. Definitions.

- (1) African American. A person having origins in any of the black racial groups in Africa.*
- (2) Asian American. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands.*
- (3) Disabled person. An individual who has a physical or mental impairment which substantially limits one or more of his or her major life activities or has a record of such impairment. “Major life activities” means functions such as caring for oneself,*

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performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(4) *Hispanic American. A person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.*

(5) *Individual. A natural person.*

(6) *Native American. A person having origins in any of the original peoples of North America.*

(7) *Person. A corporation, partnership or association, or any combination thereof, as well as a natural person.*

(8) *Qualified Disadvantaged Business Enterprise or DBE.*

(a) *A Small Business Enterprise which is at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals; or*

(b) *A business (other than a Small Business Enterprise) in which at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; provided, however, that any such business that has received more than seventeen million dollars (\$17,000,000) in three consecutive years of contract work from the City shall not be considered a DBE, unless it can show that, as a result of prejudice or differential treatment based on the socially and economically disadvantaged status of its ownership, its ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who have not been subject to such prejudice or differential treatment.*

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(c) *A business certified by a government agency as a qualified minority, women, disabled or disadvantaged business, under criteria substantially similar to those set forth herein, shall be rebuttably presumed to qualify as a Qualified Disadvantaged Business Enterprise under this Chapter.*

(9) *Small Business Enterprise. A business which is independently owned and operated and which is not dominant in its field of operation as defined in the Small Business Size Regulations adopted by the U.S. Small Business Administration and published in the U.S. Code of Federal Regulations, including the industry size standards set forth in the table contained therein, which regulations are incorporated herein, and made a part hereof by reference.*

(10) *Socially and Economically Disadvantaged Individuals. Those individuals who have been subjected either to racial, sexual or ethnic prejudice because of their identity as a member of a group, or to differential treatment because of their disability without regard to their individual qualities, and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who have not been subject to such prejudice or differential treatment.*

(a) *In determining who are Socially and Economically Disadvantaged Individuals, the Finance Director may make a rebuttable presumption that all African Americans, all Hispanic Americans, all Asian Americans, all Native Americans, all women, and all disabled persons shall be so classified.*

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(b) *The Finance Director, in determining whether an individual shall be classified as a Socially and Economically Disadvantaged Individual, shall also consider, among other things, the extent of the liquid assets and net worth of such individual.*

§17-1502. DBE Categories That Must Be Separately Considered.

(1) In conducting the Annual Disparity Study and devising the Annual Participation Goals as required by Section 6-109 of The Philadelphia Home Rule Charter, the Finance Director shall separately consider the following categories of DBE's:

- (a) DBE's owned by African Americans;*
- (b) DBE's owned by Hispanic Americans;*
- (c) DBE's owned by Asian Americans;*
- (d) DBE's owned by Native Americans;*
- (e) DBE's owned by women;*
- (f) DBE's owned by disabled persons.*
- (g) DBE's operating within the City of Philadelphia.*

(2) In conducting the Annual Disparity Study and devising the Annual Participation Goals as required by Section 6-109 of The Philadelphia Home Rule Charter, the Finance Director shall separately consider the following categories of contracts:

- (a) Professional services contracts;*
- (b) Public works contracts.*

§17-1503. Other Matters That Must Be Included in Annual Report.

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(1) *The Finance Director's annual report required by Section 6-109 of the Philadelphia Home Rule Charter shall, in addition to the Annual Disparity Study and the Annual Participation Goals, include the following related matters:*

(a) *An up-to-date listing of qualified disadvantaged business enterprises. At least forty-five (45) days prior to filing said Annual Report, the Finance Director shall submit to the Council a preliminary, proposed listing along with an explanation of the steps taken to ensure completeness of the list. Council shall either approve said listing by resolution within thirty (30) days or shall set out, in an alternative resolution, the additional steps the Finance Director shall take to expand the reach of said listing, in which case the Finance Director shall supplement the Annual Report with a revised listing no later than forty-five (45) days after adoption of said alternative resolution.*

(b) *City contract participation goals for DBE's in not-for-profit City contracts related to for-profit subcontracting opportunities.*

§17-1504. Interpretation.

(1) *The provisions of this Chapter shall control over any conflicting provisions of Chapter 17-500 ("Goals For The Participation Of Disadvantaged Owned Business Enterprises In City Contracts").*

Explanation:

[Brackets] indicate 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 December 14, 2006. The Bill was Signed by the Mayor on January 23, 2007.



Patricia Rafferty
Chief Clerk of the City Council