

City of Philadelphia



(Bill No. 100135)

AN ORDINANCE

Amending Chapter 17-1600 of The Philadelphia Code, entitled “Economic Opportunity Plans,” by establishing minimum standards of “best and good faith efforts” to be employed in the development and implementation of Economic Opportunity Plans.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

§ 17-1603. Economic Opportunity Plan: Contents.

(1) For a Covered Project or Contract subject to City Council approval (other than a Covered Project or Contract subject to Section 8-200(2) or 8-201 of the Home Rule Charter), an Economic Opportunity Plan prototype shall be produced by MBEC in conjunction with Council, and serve as the primary form for submission and compliance procedures in accordance with the provisions of this chapter:

* * *

(d) *Best and Good Faith Efforts.*

- (.1) *Best and good faith efforts are those efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and an appropriately diverse workforce and to achieve the objectives of Economic Opportunity Plans. Best and good faith efforts will be deemed adhered to when a Participant meets the criteria set forth hereunder, as well as in the plan, and demonstrates and documents its efforts throughout the duration of the Project or Contract.*
- (.2) *The contractor, developer or recipient of financial assistance shall commit to using best and good faith efforts, as defined hereunder and by the Plan to achieve meaningful and representative participation by M/W/DSBEs, and an appropriately diverse workforce, in all phases of the Covered Project or Contract.*
- (.3) *As evidence of Best and Good Faith Efforts, except where a Participant commits in the Plan to meet particular participation goals, each Participant must submit with its Plan a completed Best and Good Faith Efforts Form (BGFE). The BGFE form shall evidence how best and good faith efforts were made to achieve the goals of the Plan, even if the goals were not met. The*

City of Philadelphia

BILL NO. 100135 continued

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BGFE Form must include, at a minimum, (i) certification and evidence that the following actions were taken:

- (A) Solicitation directed to qualified M/W/DSBEs registered with OEO and qualified M/W/DSBEs certified by agencies approved by OEO. Participant must determine with reasonable certainty if the M/W/DSBEs are interested by taking appropriate steps to follow up on initial solicitation; one time contact, without follow up, is not acceptable.*
- (B) The Participant provided interested M/W/DSBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation;*
- (C) The Participant negotiated in good faith with interested M/W/DSBEs. A Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including M/W/DSBE subcontractors, and would take a firm's price and capabilities as well as the objectives of the Plan into consideration.*

(ii) documentation of the following:

- (D) Any commitments to use M/W/DSBEs in its bid for subcontracted services and materials supply even when the non-MBEs, WBEs and DSBEs Participant might otherwise prefer to perform/supply these items without subcontracting.*
- (E) Correspondence between the contracting firm and any M/W/DSBE firms.*
- (F) Attendance logs and/or records of any scheduled pre-bid or pre-proposal meeting; and*

(iii) certification and evidence that the following actions were taken or documentation of the following, or an explanation why these actions were not taken or why documentation does not exist:

- (G) Any arms length business assistance provided to interested M/W/DSBEs which may include access/introduction to major manufacturer/suppliers, lines of credit and union halls.*
- (H) Solicitation through job fairs, newspapers, periodicals, advertisements and other organizations or media that are owned by M/W/DSBE and/or that focus on M/W/DSBEs.*
- (I) Telephone logs.*

City of Philadelphia

BILL NO. 100135 continued

Certified Copy

(J) Notification of and access to bid documents at the contracting firm's office or other office locations for open and timely review.

(K) Participant sought assistance from the Greater Philadelphia Urban Affairs Coalition, Careerlink Philadelphia, Opportunity Industrial Center and the Philadelphia Workforce Development Corporation ("PWDC") to perform employment outreach.

(L) Participant published its policy of nondiscrimination in the hiring, retention and promotion of employees.

(M) Any agreement with an apprenticeship or training program that targets the employment of minority persons, disabled persons and women.

*(e) * * **

*[(e)] (f) * * **

Explanation:

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

City of Philadelphia

BILL NO. 100135 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 17, 2010. The Bill was Signed by the Mayor on September 1, 2010.



Michael A. Decker
Chief Clerk of the City Council