

City of Philadelphia



(Bill No. 230435)

AN ORDINANCE

Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” to modify contractor reporting obligations related to women and minorities serving as board members and executive staff, to eliminate reporting requirements for subcontracted labor sources on certain City contracts for public works, other competitively bid services, bid goods, and professional services, to remove certain requirements for contractor reporting of demographic data, to modify the contract threshold triggering reporting obligations, to revise reporting deadlines, and to make certain technical changes, 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 17-100. PROCUREMENT CONTRACTS

* * *

§ 17-104. Prerequisites to the Execution of City Contracts.

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(3) Contractor Obligation to Disclose the Number of Women and Minorities Serving as Board Members and Executive Staff.

(a) [Bid conditions, requests for proposals, and all other specifications for contracts] *Contracts above the formal bidding threshold* awarded by the City [must] *shall* require that [bidders and] all [others seeking] *prospective* City [contracts must:] *contractors to disclose, prior to execution of the contract:*

(.1) [disclose] the current percentage of female and minority executive officers in the company and the current percentage of females and minorities on the company's executive and full boards;

(.2) the company's aspirational goals for the inclusion of females and minorities in executive positions and on the executive and full boards; and

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(.3) the intended efforts by the contractor to achieve the aspirational goals.

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§ 17-104.1. Contractor Obligation to Disclose Workforce Composition and City Contracting History.

(1) Definitions. For the purpose of this subsection, the following definitions shall apply:

(a) Demographic Data means statistical information on a group of individuals, aggregated by specific characteristics, including but not limited to race, ethnicity, gender identity, [job title,] salary range, [length of employment,] Philadelphia residence, and such other categories as may be established by regulation.

* * *

(c) [Labor Source means a defined pool of trained and qualified individuals from which workers can be secured by agreement or through other means from an entity other than the contractor itself, including but not limited to a business, union hiring hall, job training organization, or registered apprenticeship program.

(d) Report Date means [December 31st of the calendar year] *June 30th* immediately preceding the date the bid is filed.

[(e) Subcontractor means any person or entity the bidder engages, or intends to engage, for the specific purpose of performing a portion of the City contract subject to bid.

(f)] (d) Workforce means all individuals performing work for compensation on a regular basis.

(2) No contract for goods that is subject to the competitive bidding requirements of subsection 8-200(2) of the Home Rule Charter and valued [at one hundred thousand dollars (\$100,000) or more] *above the formal bidding threshold* shall be entered with a contractor who does not agree to [disclose, and agree to require all Subcontractors on the contract to disclose,] *disclose* the following and such other related disclosures as may be required by the Procurement Department by regulation:

(a) The contractor's [and each Subcontractor's] prior years of experience performing on City contracts in any capacity during the five calendar years prior to the date of the opening of bids for such contract;

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(b) Demographic Data on the Workforce of the contractor [and each Subcontractor,] as of the Report Date; and

(c) Demographic Data on all individuals serving as board members of the contractor [and each Subcontractor,] as of the Report Date.

(3) No services contract that is subject to the competitive bidding requirements of subsection 8-200(2) of the Home Rule Charter and valued [at one hundred thousand dollars (\$100,000) or more] *above the formal bidding threshold* shall be entered with a contractor who does not agree to [disclose, and agree to require all Subcontractors on the contract to disclose,] *disclose* the following and such other related disclosures as may be required by the Procurement Department by regulation:

(a) The contractor's [and each Subcontractor's] prior years of experience performing on City contracts in any capacity during the five calendar years prior to the date of the opening of bids for such contract;

(b) Demographic Data on the Workforce of the contractor [and each Subcontractor,] as of the Report Date;

(c) Demographic Data on all individuals serving as board members of the contractor [and each Subcontractor,] as of the Report Date;

[(d) Demographic Data on the Workforce of each Labor Source from which workers are likely to be drawn in performance of a contract for any City contract.

(.1) Submission to the Department of Labor of Demographic Data on a Labor Source by any contractor during the previous 6 months shall satisfy the disclosure requirements under subsection 17-104.1(3)(d) with respect to such Labor Source for all contractors. The Department of Labor shall provide notice no later than one week prior to the time of the opening of bids for each contract of all Labor Sources for which Demographic data has been provided during the previous 6 months.]

* * *

(6) No later than [April] *October* 1st of each year, the Director of Procurement, Director of Labor, or such other officer as designated by the Mayor shall provide an annual report to the Mayor and the Clerk of Council summarizing the disclosures received pursuant to this section during the previous [calendar] *fiscal* year. A copy of the report shall be posted on the City's official website. Further, for purposes of improving the City's capacity in terms of businesses and workforce diversity, the Director of Labor shall also provide copies of the report to area organizations that specialize in business growth and workforce development, including but not limited to:

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§ 17-112. Disclosures During Contract Performance.

(1) Definitions. For the purpose of this subsection, the following definitions shall apply:

* * *

[(d) Subcontractor. Any person or entity the bidder engages, or intends to engage, for the specific purpose of performing a portion of the City work subject to contract.]

(2) No services contract that is subject to the competitive bidding requirements of subsection 8-200(2) of the Home Rule Charter and valued [at one hundred thousand dollars (\$100,000) or more] *above the formal bidding threshold* shall be entered with a bidder who does not agree to [disclose, and agree to require all Subcontractors on the contract to disclose,] *disclose* the following *prior to execution of the contract* and such other related disclosures as may be required by the Procurement Department by [regulation:] *regulation, in addition to all other required disclosures:*

(a) Demographic Data of all employees who perform work under such contract;
and

(b) Prior years of experience performing on City contracts in any capacity during the five calendar years prior to the date of the opening of bids for such contract.

(3) [Submission of certified payroll records pursuant to subsection 17-107(4) of the Code shall satisfy the disclosure requirements of this section to the extent that such records provide the information required under subsection 17-112(2).

(4) Submission of prequalification information regarding prior City contracting pursuant to subsection 17-101(2) of the Code shall satisfy the disclosure requirements of this section to the extent that such records provide the information required under subsection 17-112(2).

(5)] Any disclosures required by this section shall be submitted to the Department of Labor, or such other office as designated by the Mayor, at such times as determined by regulation.

[(6)] (4) Violation of any requirement of this section or of the provisions of a City contract required thereby shall be considered a substantial breach of the contractor's obligation under the contract.

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[(7)] (5) No later than [April] *October* 1st of each year, the Director of Labor or such other officer as designated by the Mayor shall provide an annual report to the Mayor and the Clerk of Council summarizing the disclosures received pursuant to this section during the previous calendar year. A copy of the report shall be posted on the City's official website. Further, for purposes of improving the City's capacity in terms of businesses and workforce diversity, the Director of Labor shall also provide copies of the report to area organizations that specialize in business growth and workforce development, including but not limited to:

* * *

CHAPTER 17-1400. NON-COMPETITIVELY BID CONTRACTS; FINANCIAL ASSISTANCE

§ 17-1401. Definitions.

* * *

(9.1) Demographic Data. Statistical information on a group of individuals, aggregated by specific characteristics, including but not limited to race, ethnicity, gender identity, [job title,] salary range, [length of employment,] Philadelphia residence, and such other categories as may be established by regulation.

* * *

(17) Report Date. [December 31st of the calendar year] *June 30th* immediately preceding the date the application is filed.

[(18) Subcontractor. Any person or entity the Applicant engages, or intends to engage, for the specific purpose of performing a portion of the City contract subject to application.]

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§ 17-1402. Open and Public Process Required For Non-Competitively Bid Contracts.

(1) The Procurement Commissioner shall develop procedures to ensure that Non-Competitively Bid Contracts are advertised, awarded and approved in a timely, efficient and coordinated manner in the best interest of the City; in a manner that maximizes accessibility by vendors and maximizes transparency to the public; and in compliance with all applicable provisions of this Chapter. A Non-Competitively Bid Contract shall be awarded in compliance with the following:

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(b) Mandatory Disclosures.

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(.3) No Non-Competitively Bid Contract shall be awarded unless all [required] disclosure forms *required by subsection 17-1402(1)(b)(.1)* are completed, signed and attached to the application for such contract and on file with the Mayor, Finance Director, Procurement Department, and the Department of Records.

(.4) No Non-Competitively Bid Contract valued [at one hundred thousand dollars (\$100,000) or more] *above the formal bidding threshold* shall be entered with [an Applicant] *a prospective Contractor* who does not agree to [disclose, and agree to require all Subcontractors on the contract to disclose,] *disclose* the following *prior to execution of the contract* and such other related disclosures as may be required by the Finance Department by regulation:

(.a) The [Applicant's] *prospective Contractor's* and [each anticipated Subcontractor's] prior years of experience performing on City contracts in any capacity during the five calendar years prior to the date the application must be filed;

(.b) Demographic Data on all individuals employed by the Applicant [and each anticipated Subcontractor] on the Report Date; and

(.c) Demographic Data on all individuals serving as board members of the Applicant on the Report Date.

* * *

(i) No later than [April] *October* 1st of each year, the Finance Director or such other officer as designated by the Mayor shall provide an annual report to the Mayor and the Clerk of Council summarizing the disclosures received under subsection 17-1402(1)(b)(.4) during the previous [calendar] *fiscal* year. Further, for purposes of improving the City's capacity in terms of businesses and workforce diversity, the Finance Director shall also provide copies of the report to area organizations that specialize in business growth and workforce development, including but not limited to:

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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 June 22, 2023. The Bill was Signed by the Mayor on July 12, 2023.



Michael A. Decker
Chief Clerk of the City Council