

City of Philadelphia



(Bill No. 050613)

AN ORDINANCE

Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by prohibiting persons from receiving City financial assistance if they or certain related parties have made certain contributions to elected City officers or candidates for City offices, and requiring certain disclosures by persons seeking financial assistance, all under certain terms and condition.

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 17-1200. NON-COMPETITIVELY BID CONTRACTS; *FINANCIAL ASSISTANCE.*

§17-1201. Definitions.

* * *

(16) *Financial Assistance.* Any grant, loan, tax incentive, bond financing subsidy for land purchase or otherwise, or other form of assistance that is realized by or provided to a Person in the amount of fifty thousand dollars (\$50,000) or more through the authority or approval of the City, including, but not limited to, Tax Increment Financing (TIF) aid, industrial development bonds, use of the power of eminent domain, Community Development Block Grant (CDBG) aid or loans, airport revenue bonds, and Enterprise Zone or similar economic development zone designations (such as Keystone Opportunity Zones, Keystone Opportunity Expansion Zones, Keystone Opportunity Improvement Zones, and Economic Development District Zones), but not including any assistance to which a Person is entitled under a law enacted before the Person applied for or requested such assistance.

* * *

§17-1203. Public Information; Reporting.

* * *

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

(2) At least thirty (30) days before the start of each fiscal year, a written report, signed by the Mayor, shall be filed by the Mayor with the President and Chief Clerk of Council, with copies sent to the Procurement Commissioner, the Finance Director, the Commerce Director, and the Department of Records and published on the City's official website, listing for each City Agency (other than Council) the number of Non-Competitively Bid Contracts the City Agency anticipates awarding in the upcoming fiscal year (to the extent known at the time the report is filed) and for each such contract:

- (a) The subject matter of the contract;
- (b) The term of the contract; and
- (c) The total dollar amount of the contract.

The report shall also include, for each City Agency (other than Council) the dollar amount of each type of Financial Assistance the City Agency anticipates awarding in the upcoming fiscal year (to the extent known at the time the report is filed). The Procurement Commissioner, Finance Director and Commerce Director shall each make a copy of the report available for public inspection during regular business hours at the same place the registry of notices required by subsection 17-1202(1)(a) is kept.

(3) On January 31, April 30, July 31 and October 31 of each year, a written report, signed by the Mayor, shall be filed by the Mayor with the President and Chief Clerk of Council, with a copy to the Department of Records and a copy published on the City's official website, setting forth for each Non-Competitively Bid Contract (except for contracts awarded by Council) under which goods were provided or services were rendered to the City during the three month period ending one month prior to the date the report must be filed, and for each contract for which reporting is required by §17-1206(1)(d):

- (a) The parties to the contract and the subject matter of the contract;
- (b) The term of the contract and the length of the term remaining;
- (c) The total dollar amount of the contract and the total of all payments that have been made under such contract to date; and
- (d) A copy of any disclosure forms filed in compliance with the requirement of §17-1202(1)(e) since the date of the last report.

The report shall also detail each provision of Financial Assistance made during the reporting period, and for each provision of Financial Assistance: (i) the City Agency

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

providing such assistance; (ii) the type of Financial Assistance awarded; (iii) the recipient of such assistance; and (iv) the dollar amount of such assistance.

(4) By September 30 of each year, the Mayor shall file an annual report with the President and Chief Clerk of Council, and the Department of Records (with a copy also published on the City's official website) summarizing the award of Non-Competitively Bid Contracts (other than contracts awarded by Council) during the prior fiscal year. Such report shall be signed by the Mayor, and shall list for each City Agency (other than Council) the number of contracts awarded by type of contract, the total dollar amount of such contracts, and the total payments made under such contracts. The report shall also include the Finance Director's analysis of the City's experience with the requirements of this Chapter during the previous fiscal year, and the Finance Director's recommendations, if any, to amend the requirements of this Chapter or otherwise to improve the procurement process to ensure efficiency, economy and productivity, including the use of innovative means of procurement that will be competitive and in the best interest of the City. *The report shall also summarize the provision of Financial Assistance, detailing for each City Agency the number and dollar amount of each type of Financial Assistance the City Agency awarded during the prior fiscal year.*

* * *

§17-1204. Eligibility for Non-Competitively Bid Contracts *and Financial Assistance.*

(1) Determining Eligibility.

(a) If an individual makes contributions in excess of \$2,500 (as such amount is adjusted from time to time under §17-1204(1)(c)) in the aggregate during a calendar year to a candidate for nomination or election to any elective City office or to an Incumbent, then, during the term of office to which such candidate is elected or during the Incumbent's term of office, the individual shall not be eligible to apply for or to enter into any Non-Competitively Bid Contract in excess of \$10,000, nor shall said individual be eligible to be a sub-contractor (at any tier) of any such contract, *nor shall the individual be eligible to receive Financial Assistance.*

(b) If a Business makes a contribution in excess of \$10,000 (as such amount is adjusted from time to time under §17-1204(1)(c)) in the aggregate during a calendar year to a candidate for nomination or election to any elective City office or to an Incumbent, then, during the term of office to which any such candidate is elected or during the Incumbent's term of office, the Business shall not be eligible to apply for or to enter into any Non-Competitively Bid Contract in excess of \$25,000, nor shall said Business be eligible to be a sub-contractor (at any tier) of any such contract, *nor shall the Business be eligible to receive Financial Assistance.*

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

* * *

(3) *Disclosure by Applicants for Financial Assistance.*

(a) *A Person seeking Financial Assistance shall file with the City Agency providing such assistance all disclosure forms that Applicants seeking Non-Competitively Bid City Contracts must file under §17-1202(1)(b).*

(b) *The City Agency providing the Financial Assistance shall forward a copy of all disclosure forms it receives to the Finance Director, and the Department of Records.*

(c) *No Financial Assistance shall be provided unless all required disclosure forms are completed, signed and filed with the City Agency providing such assistance and are on file with the Finance Director, and the Department of Records.*

(d) *If Council approval of the Financial Assistance is required by law, the ordinance approving such Financial Assistance must include as exhibits copies of all disclosure forms required by this subsection (3).*

(e) *Every recipient of Financial Assistance shall, for a period of five years after receiving such assistance, be subject to the provisions of §17-1202(1)(e), requiring certain covenants and disclosures, as if such recipient were a Contractor executing a Non-Competitively Bid Contract. The City Agency providing the Financial Assistance shall enter into such agreements with the recipient of Financial Assistance as the City Solicitor deems necessary to carry out the purpose and intent of this subsection.*

* * *

§17-1205. Attribution Rules. The following attribution rules shall apply throughout this Chapter to determine what contributions shall be considered to be contributions of an Applicant, Consultant, [or] Contractor or Person seeking Financial Assistance:

* * *

§17-1206. Sole Source Contracts, Emergencies, and Other Exceptions.

(1) Any provision of this Chapter may be waived if the Finance Director certifies in writing that compliance with such provision may lead to the loss of federal, state or similar grant funds, or if the City Solicitor certifies in writing that application of such provision would violate federal or state law.

* * *

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

(6) The provisions of this Chapter shall not apply to a Non-Competitively Bid Contract with a governmental agency or with a not-for-profit corporation established by the City, *or to Financial Assistance provided to such agencies or corporations*, except that all such contracts *and provisions of Financial Assistance* shall be included in the reports required by §17-1203.

* * *

§17-1207. Prohibited Conduct; Penalties; Remedies.

* * *

(2) No Applicant shall make a material misstatement or omission in the disclosures required by §17-1202(1)(b); and no Contractor shall make a material misstatement or omission in the disclosures required by §17-1202(1)(e); *and no Person seeking Financial Assistance shall make a material misstatement or omission in the disclosures required by §17-1204(3)(a)*. If an Applicant makes material misstatements or omissions in the disclosures required by §17-1202(1)(b), or if a Contractor makes material misstatements or omissions in the disclosures required by §17-1202(1)(e), such Applicant or Contractor shall be prohibited from entering into any Non-Competitively Bid Contract for a period of from one to three years, and such act shall be subject to a fine of the Maximum Fine Amount, as defined herein. *If a Person seeking Financial Assistance makes material misstatements or omissions in the disclosures required by §17-1204(3)(a), such act shall be subject to a fine of the Maximum Fine Amount, as defined herein.* For purposes of this subsection (2), the “Maximum Fine Amount” shall be seven hundred dollars (\$700) for violations committed during calendar year 2005; eleven hundred dollars (\$1,100) for violations committed during calendar year 2006; fifteen hundred dollars (\$1,500) for violations committed during calendar year 2007; nineteen hundred dollars (\$1,900) for violations committed during calendar year 2008; and two thousand dollars (\$2,000) for violations committed thereafter.

* * *

SECTION 2. Effective Date; Applicability.

(a) This Ordinance shall take effect July 1, 2006.

(b) The amendment to §17-1204(1) of The Philadelphia Code in Section 1 of this Ordinance prohibiting the provision of financial assistance to persons who made certain contributions to candidates and incumbents, shall apply only with respect to contributions made on and after January 1, 2006. However, contributions made prior to January 1, 2006

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

shall be subject to the disclosure requirements of §17-1204(3) of The Philadelphia Code added by Section 1 of this Ordinance.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

City of Philadelphia

BILL NO. 050613 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 1, 2005. The Bill was Signed by the Mayor on December 15, 2005.

A handwritten signature in black ink, reading "Patricia Rafferty". The signature is written in a cursive style with a large, stylized "P" and "R".

Patricia Rafferty
Chief Clerk of the City Council