



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 100494

Introduced June 17, 2010

**Councilmembers Green, Jones, Tasco, DiCicco, Goode, Sanchez, Greenlee,
Reynolds Brown, Kelly, Krajewski, Council President Verna,
Councilmembers O'Neill, Miller, Blackwell and Clarke**

**Referred to the
Committee on Commerce and Economic Development**

AN ORDINANCE

Amending Section 17-109 of The Philadelphia Code, entitled "Local Bidding Preferences," by revising the process for certifying Local Business Entities; requiring targeted goals to increase Local Business Entity participation in both competitively bid and non-competitively bid contracts; and requiring reporting on such goals in the Annual Report, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 17-109 of The Philadelphia Code is hereby amended to read as follows:

§17-109. Local Bidding Preferences.

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(5) Award of City Contracts – *Pricing Preference*.

(a) On any contract for which the City secures competitive bids pursuant to Section 8-200(1) of the Home Rule Charter, the Commissioner shall award a bid preference as set forth in subsection (d) to any Local Business Entity that submits with its bid:

(.1) A current certification from the Commissioner as a Local Business Entity, *or certification that the bidder has submitted the required application form and supporting documentation to be certified as a Local Business Entity before the deadline for submitting the bid, and is awaiting a decision by the Commissioner on such*

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application (such a bidder shall be known, for purposes of this Section, as an “LBE Applicant”). If there is an LBE Applicant for any bid, then the Commissioner shall consider and decide upon the LBE Applicant’s application, including requesting any additional documentation or information and considering the response to such request, prior to determining the lowest responsible bidder on the contract, and if the LBE Applicant’s application is approved, the LBE Applicant shall be considered as a Local Business Entity in such bid;

(.2) The Local Business Entity’s most recent annual affidavit under subsection 4(a);

(.3) A certification by the Local Business Entity (*or LBE Applicant*) that, throughout the entirety of the contract:

(A) The Local Business Entity (*or LBE Applicant*) or a subcontractor will perform the majority of any work on the subject contract within the geographic limits of the City;

(B) The Local Business Entity (*or LBE Applicant*) or a subcontractor will maintain within the City a majority of the inventory or equipment that will be used on the contract; and

(C) The Local Business Entity (*or LBE Applicant*) will satisfy subsection 3(a), subsection 3(b), and at least one of the requirements identified in subsection (3)(c).

(.4) If the Local Business Entity (*or LBE Applicant*) relies upon a subcontractor to meet the requirements in subparagraph (a)(.3)(A) or (a)(.3)(B) of this subsection:

(A) a current certification from the Commissioner that the subcontractor itself is a Local Business Entity; and

(B) the subcontractor’s most recent annual affidavit provided to the Commissioner pursuant to subsection 4(a).

* * *

(9) *Goals. Each year, the Commissioner, in conjunction with the Office of Economic Opportunity, shall set a goal for the number of businesses to be newly certified as Local Business Entities that year; shall set goals for the participation of Local Business Entities*

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in both competitively bid and non-competitively bid contracts, such goals being defined in terms of number, type, and dollar value of contract awarded; and shall develop procedures intended to increase annual participation levels by Local Business Entities in both competitively bid and non-competitively bid contracts.

[(9)](10) Annual Report. Not later than February 1 of each year, the Commissioner shall issue a report in writing to the Mayor, the President of City Council, and the Chief Clerk of City Council identifying, with respect to the [time period between January 1 and December 31 of the preceding] *prior calendar year*:

(a) *the total number and type of currently certified Local Business Entities, including how many certified Local Business Entities also are Disadvantaged Business Enterprises as defined in Code § 17-502 (hereinafter “DBEs”);*

(b) *the Local Business Entity certification goals for the year developed pursuant to the provisions of subsection (9);*

(c) *the number and type of businesses newly certified as Local Business Entities during the year, including how many of such entities also are DBEs;*

(d) *the Local Business Entity participation goals for competitively bid and non-competitively bid contracts developed pursuant to the provisions of subsection (9);*

(e) *the number, type, and dollar value of all competitively bid contracts awarded;*

[(a)](f) *the [types of contracts] number, type, and dollar value of all competitively bid contracts in which a Local Business Entity bid preference was [awarded] utilized and the contract was awarded to a Local Business Entity, as well as whether the awardee Local Business Entity also is a DBE;*

[(b)] *the number of each type; and]*

(g) *the number, type, and dollar value of all competitively bid contracts awarded to a Local Business Entity in which the Local Business Entity bid preference was not utilized, as well as whether any such awardee Local Business Entity also is a DBE;*

(h) *the number, type, and dollar value of all competitively bid contracts not awarded to a Local Business Entity due to the provisions of subsection (7);*

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[(c)](i) the name of all Local Business Entities in breach of contract pursuant to subsection 5(c);

(j) *the number, type, and dollar value of all non-competitively bid contracts awarded; and*

(k) *the number, type, and dollar value of all non-competitively bid contracts awarded to Local Business Entities, as well as whether any such awardee Local Business Entity also is a DBE.*

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Explanation:

Italics indicate new matter added.

[brackets] indicates matter deleted