



City of Philadelphia

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

BILL NO. 120081

Introduced February 9, 2012

Councilmember Kenney

**Re-Referred to the
Committee on Law and Government**

AN ORDINANCE

Amending Title 17 of The Philadelphia Code, entitled "Contracts and Procurement," by providing for a price preference for American-made supplies, materials and equipment purchased by the City and recipients of City financial assistance; and making technical amendments all under certain terms and conditions.

WHEREAS, In the face of the most severe labor market downturn since the Great Depression, recovery of American jobs has been slow and not uniform across the country or across sectors. In particular, high-wage positions like manufacturing have fared worse in the Philadelphia metropolitan region than in surrounding regions; and

WHEREAS, The negative economic effects of the recession on American jobs are compounded by the increasing globalization of the production of goods. Nearly sixty percent of all goods consumed in America are made overseas. As a result, the United States has fewer manufacturing jobs in 2012 than in 1941. To bolster employment in this sector, economists recommend an increase in American-made goods: they estimate that if every American spent an extra \$3.33 on American-made goods per year, it would create almost 10,000 new American jobs; and

WHEREAS, Philadelphia's targeted use of its procurement policies can help bolster the number of Americans employed by the manufacturing industry. The City currently procures most goods by requiring vendors to bid, with the lowest bidder winning the contract. If the winning bid does not account for whether the products being purchased are American-made, American workers and businesses lose; and

WHEREAS, Such a policy rewards the lowest bidder without consideration of the origin of the provider's products. It emphasizes the short-term benefit to the City without due

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consideration of the long-term positive economic impacts that accrue to the country as a whole when purchasing American-made products; and

WHEREAS, In contrast, this Ordinance establishes a price preference policy that levels the playing field for goods that are made in Philadelphia, in the State of Pennsylvania, and in the United States of America. Such a policy leverages the City’s financial resources to help American workers achieve gainful employment, encourages American businesses to increase their output, and allows the City of Philadelphia to regain revenue from the wages and other assessments of those workers and businesses; and

WHEREAS, Many legislatures on the federal, state and local levels have already recognized the opportunity and implemented similar policies. The Buy American Act of 1933 and the American Recovery and Reinvestment Act of 2009 establish federal guidelines for procuring American-made goods. At the state level, more than twenty states have “Buy American” laws that affect public procurement, and many more have legal preferences for in-state or local bidders. And a great diversity of municipal governments, from Madison, Wisconsin to Los Angeles, California, have implemented local-preference procurement policies.

WHEREAS, This Ordinance is enacted to further leverage the City’s purchasing power, to serve as inspiration to the citizens of our City and nation to buy American products, and to support American workers and businesses as the country recovers from a devastating financial recession; now, therefore

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 17-600. PROCUREMENT PRICE PREFERENCES

§17-601. Definitions.

In this section the following definitions shall apply:

- (1) Reasonably Competitive shall mean: [a price no greater than ten percent (10%) higher than the price at which a comparable product may be purchased]

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- (a) *For recycled paper products, alternative fuel vehicles and hybrid-electric vehicles, a price no greater than ten percent (10%) higher than the price at which a comparable product may be purchased;*
- (b) *for products made in the City of Philadelphia, a price no greater than ten percent (10%) higher than the price at which a comparable product may be purchased;*
- (c) *for products made in the Commonwealth of Pennsylvania, a price no greater than seven percent (7%) higher than the price at which a comparable product may be purchased;*
- (d) *for products made in the U.S. and its Territories, but not in the Commonwealth of Pennsylvania, a price no greater than five percent (5%) higher than the price at which a comparable product may be purchased.*

* * *

- (6) *Made in the City of Philadelphia, the Commonwealth of Pennsylvania or the U.S. and its territories, shall mean goods, supplies, materials or equipment manufactured entirely or substantially entirely in the respective jurisdictions. Entirely and substantially entirely shall mean that all significant parts and processing that go into the product must be of City, State or U.S. origin.*
- (7) *Financial Assistance shall be defined as set forth in Chapter 17-1001(5) of The Philadelphia Code.*

§17-602. Price Preference for Certain Products.

(1) The Procurement Department and recipients of City Financial Assistance shall, wherever the price is Reasonably Competitive and the quality adequate for the purpose intended, purchase the following:

* * *

- (3) *Products Made in the City of Philadelphia, the Commonwealth of Pennsylvania or the U.S. and its Territories.*

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§17-603. Procurement Specifications.

The Procurement Department shall *wherever feasible*, review and revise all product procurement specifications in order to establish a preference for the products listed in §17-602[, wherever feasible]. *Recipients of City Financial Assistance shall as part of their request for Financial Assistance, commit to establish a preference for the products listed in §17-602. The Procurement Department and recipients of City Financial Assistance shall require providers under contract with them to certify that products delivered pursuant to the Price Preferences set forth herein were made in the City of Philadelphia, the Commonwealth of Pennsylvania or the U.S. and its territories.*

§17-604. Reports.

The *Procurement Department and recipients of City Financial Assistance* shall submit an annual report to the Council and the Mayor on *their* activities in increasing the purchase of the products listed in §17-602.

Explanation:

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