

Proposed Amendments to Bill No. 260059

Matter to be added by amendment in **Bold**  
Matter to be deleted by amendment in ~~Strikethrough~~

AN ORDINANCE

Amending Title 17 of the Philadelphia Code, entitled “Procurement Contracts,” and Title 21 of The Philadelphia Code, entitled “Miscellaneous,” to prohibit the acceptance of bids on City contracts from, or the execution of contracts with, entities that do business with immigration enforcement authorities; bar City participation in, resource expenditures to, and involvement in any agreements or activities in furtherance of immigration enforcement, including through the conduct of its employees, contractors and funding recipients; require annual reporting of City immigration-related activities, and provide for civil enforcement of violations, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 21 of The Philadelphia Code is hereby amended to read as follows:

TITLE 21. MISCELLANEOUS

\* \* \*

CHAPTER 21-3600. Non-Intervention with Respect to Immigration Enforcement.

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*§ 21-3604. Prohibition of Immigration Enforcement Including 287(g) Agreements.*

*(1) Definitions. The following definitions shall apply to this Section:*

*(a) 287(g) Agreement. A written Memorandum of Agreement, contract, or arrangement entered into pursuant to Section 287(g) of the Immigration and Nationality Act (8 U.S.C. §1357(g)), authorizing local law enforcement officers to perform the functions of immigration enforcement agents.*

*(b) City Agency. Any **City department, agency, division, commission, council, authority, committee, board, or officer of the City of Philadelphia, or other body established by authority of ordinance, executive order, or Charter** ~~board, commission, authority, or officer of the City of Philadelphia, including the Philadelphia Police Department.~~*

*(c) Employee. Any individual employed by or acting on behalf of a City Agency.*

*(d) Immigration detainer request. A request by a federal immigration enforcement agent to a federal, state, or local law enforcement agency that the law enforcement agency*

*provide notice of release or maintain custody of an individual for purposes of civil immigration law enforcement, including Form I-247-A “Immigration Detainer - Notice of Action”, Form I-247D “Immigration Detainer – Request for Voluntary Action”, I-247X “Request for Voluntary Transfer”, Form I-247N “Request for Voluntary Notification of Release”, or any successor forms, as well as informal and verbal requests.*

*(e) Immigration enforcement agent. Any federal employee or agent engaged in immigration enforcement operations, including, but not limited to, agents of United States Customs and Border Patrol (CBP), the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and members of the National Guard or United States Armed Forces involved in immigration enforcement operations as applicable. Law enforcement officers from local agencies who have signed such agreements are considered immigration enforcement agents for the purposes of this chapter.*

*(f) Immigration enforcement operation. Any operation that has as its main objective the identification or apprehension of a person or persons in order to subject them to civil immigration detention, removal or deportation proceedings or removal or deportation from the United States, or to criminally prosecute a person or person for offenses related to immigration status, including, but not limited to, violations of Sections 1253, 1304(e), 1306(a) and (b), 1325, or 1326 of Title 8 of the United States Code, or violations of Sections 1028A or 1546 of Title 18 of the United States Code.*

*(g) Perceived citizenship or immigration status. Characteristics that suggest a person may be a non-citizen or of uncertain immigration status, such as actual, perceived, or assumed place of birth, country of origin, ancestry, native language, looking or sounding “foreign,” absence of a Social Security number or United States Passport, or any other indicator of citizenship or immigration status.*

*(h) Contact information. The home address, work address, telephone number, electronic mail address, social media contact information, or any other means of contacting an individual.*

***(i) City Designee. The highest-ranking manager or official designated by a City Agency to serve as the authorized representative for purposes of communicating with immigration enforcement agents regarding requests under this Chapter, and at least one alternate manager or official to serve in their absence.***

***(j) Law Enforcement Officer. Any “peace officer” as defined in 18 Pa.C.S. § 501 (relating to definitions), including but not limited to local, state or federal officers.***

***(k) Administrative warrant. A document issued by an immigration enforcement official, including those from the United States Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE), or an administrative immigration judge (IJ), relating to suspected violations of immigration law, including an I-200 “Warrant for Arrest of Alien”, I-205 “Warrant of***

**Removal/Deportation”, and any successor or similar forms. The term shall include civil administrative warrants, administrative subpoenas, detainer requests, removal orders, entries in databases maintained by National Crime Information Center or other entities, and any similar civil order for the arrest or detention of an individual or for information but shall not include a judicial warrant or court order.**

**(l) Contractor or subcontractor. Any person or entity that receives City funds or is party to, or a subcontractor for, an agreement to provide services or goods to, or on behalf of, the City**

**(m) Citizenship or immigration status. The status of a being a person who: (a) is a citizen or national of the United States, including a person who holds United States citizenship in addition to citizenship of another country; or (b) has migrated to and is neither a citizen nor national of the United States, including, but not limited to, persons with status as lawful permanent residents, refugees, asylees, unauthorized immigrants, and persons having temporary protected status.**

**(n) Judicial warrant. A warrant based on probable cause and issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to Section 631 of Title 28 of the United States Code.**

**(2) No City Agency or Employee shall enter into, renew, or participate in a 287(g) Agreement with the federal government.**

**(3) No City funds, personnel, equipment, or facilities shall be used to support the activities of a 287(g) Agreement.**

**(4) No City agency, official, or employee shall stop, arrest, detain, or continue to detain a person after that person becomes eligible for release from custody or would otherwise be free to leave an encounter with an agency, official, or employee, based on any of the following:**

**(a) An immigration detainer;**

**(b) An administrative warrant; or**

**(c) Information or suspicion that a person is not present legally in the United States, or that the person has committed an immigration violation, or suspicion of violating 8 USC 1253, 1304(c), 1306(a) and (b), 1325, and 1326.**

**(5) Absent presentation of a valid and properly issued judicial warrant, any City agency, official, employee, person, ~~vendor~~ contractor or subcontractor recipient of funds is prohibited from supporting or assisting an immigration enforcement agent in any capacity with immigration enforcement operations, including, but not limited to:**

(a) *Providing information, including contact information, for the purpose of immigration enforcement operations, except as provided in this Chapter;*

(b) *Investigating or interrogating any person for the purpose of immigration enforcement;*

(c) *Establishing traffic perimeters or conducting crowd control for the purpose of **allowing federal agents to effectuate immigration enforcement operations;***

(d) *Permitting immigration enforcement agents to access a person being detained by, or in the custody of, the agency, official, or employee;*

(e) *Transferring any person into the custody of an immigration enforcement agent;*

(f) *Permitting immigration enforcement agents to use information or equipment for investigative interviews or other investigative purposes, or for the purposes of executing an immigration enforcement operation;*

(g) *Extending time to respond to immigration enforcement agent inquiries or to communicate with immigration enforcement agents regarding a person's custody status, release date, home address, work address, or other information, except as authorized under this Chapter; **or***

(h) *Otherwise being present to assist or support an immigration enforcement operation.*

(6) *Any City official, employee, **or agent**, ~~vendor or subcontractor recipient of City funds~~ who receives a request to support or assist in an immigration enforcement operation shall report the request to their supervisor **or City Designee**, who shall decline the request and document the declination in an interoffice memorandum to the agency director and the City Solicitor, or their designees. **Any City contractor or subcontractor recipient of City funds who receives a request to support or assist in an immigration enforcement operation shall decline the request and document the declination in a memorandum to their principal City contact.***

(7) *No City agency, official, or employee shall enter into an agreement under Section 287(g) of Immigration and Nationality Act (8 U.S.C. § 1357(g)) or any other federal law that permits state or local governmental entities to enforce federal immigration laws.*

(8) *No City agency, official, or employee shall enter into any contractual agreement with an Immigration Enforcement agency to house immigration detainees in the agency's jail facilities, including an Intergovernmental Service Agreement, an Intergovernmental Agreement, a Basic Ordering Agreement, or any similar agreement or contractual provision.*

(9) *Any City official that receives a warrant or subpoena from federal immigration agents shall immediately convey it to the City Solicitor, who will evaluate the City's obligation to comply.*

(10) *Consistent with the Posse Comitatus Act, which prohibits federal military personnel, including the National Guard when federalized, from engaging in civilian law enforcement*

activities, no City agency, official, or employee shall train or deputize federal military personnel for the purposes of domestic law enforcement.

(11) Nothing in this Chapter shall prohibit a City agency, official, or employees from approving certifications requests for crime victims or witnesses applying for U or T visas, or other benefits.

(12) Reporting. The Office of the City Solicitor, or such other agency as designated by the Mayor, shall file a report ~~annually with the Department of Records~~ **quarterly with City Council** that shall include:

(a) The number of cooperation requests made by immigration enforcement agencies, the recipient of the request, and the response to the request;

(b) The number of incidents when the ordinance ~~is~~ **was** violated by City employees.

(c) The total amount of money spent on any immigration enforcement-related activity, including public safety measures taken during immigration enforcement actions such as crowd control, traffic intervention, or other activity.

(d) The number of trainings relating to immigration enforcement offered to employees or contractors; the subject of such trainings; and the number of attendees, classified by location and job type where possible.

(e) Any other activity relating to immigration enforcement, or actions that lead to an immigration enforcement.

(13) Certification. The Police Commissioner, Sheriff, and any other official with custody of individuals on behalf of the City shall ~~annually~~ **certify on a quarterly basis** to the Mayor and City Council that their agencies are not parties to any 287(g) Agreement or any immigration enforcement activity, have not allocated any resources toward such activities, and have not participated in such activities during the preceding ~~year~~ **quarter**. Where such officials are unable to so certify, they shall provide a report of resources spent on such activity and the legal justification for such expenditure.

(14) ~~Exclusive right of enforcement. The City Solicitor shall possess the exclusive right to~~ **Private right of action. The City Solicitor or any individual aggrieved by a violation of this Section or any entity a member of which is aggrieved by a violation of this Section may bring a civil action in a court of competent jurisdiction against a county, city, department or agency that employs a person violating this Chapter Section and no individual City employee or agent acting within the scope of employment, and without authority as a City Designee, shall be subject to liability under this subsection.** The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date the complainant knew or should have known of the alleged violation.

(15) Remedies.÷ A court of competent jurisdiction may order the following remedies:

*(a) An order requiring the county, city, department or agency to cease and desist the unlawful practice;*

*(b) Payment of compensatory or punitive damages, provided that an aggrieved person shall make a reasonable effort to mitigate any damages;*

*(c) Payment of reasonable attorneys' fees;*

*(d) Payment of court costs;*

*(e) Payment of a fine not to exceed two thousand dollars for each violation (\$2,000); ~~and~~*

***(f) Revocation of a contract with a City contractor or subcontractor, or the barment of future contracts for a period of time not to exceed five years; and***

~~*(fg) Other equitable relief, including, but not limited to, the dismissal or removal from office of the law enforcement officer.*~~

*(16) Construction.*

*(a) Nothing in this Chapter shall prohibit City Agencies or Employees from cooperating with federal authorities in the investigation or prosecution of criminal activity when required by law.*

*(b) Nothing in this Chapter shall be construed to restrict compliance with federal or state law where such compliance is mandatory.*

*(17) Severability. If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.*

SECTION 2. This Ordinance shall take effect 60 days after it becomes law.