

City of Philadelphia



(Bill No. 110559)

AN ORDINANCE

Amending Chapter 17-1600 of The Philadelphia Code, entitled “Economic Opportunity Plans,” to require that certain economic opportunity plans be submitted to Council and published on the City’s website and changing all references from “MBEC” to “certifying agency,” as defined; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 17-1600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 17-1600. ECONOMIC OPPORTUNITY PLANS.

§ 17-1601. Definitions.

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(2) [MBEC. The Minority Business Enterprise Council, any successor entity or such other] *Certifying Agency*. *The agency designated by [as] the Mayor [shall designate] to be responsible for ensuring non-discrimination in City contracting and for promoting the economic development of M/W/DSBEs through a certification program or otherwise.*

* * *

To the extent the [MBEC] *certifying agency* maintains a certification list of M/W/DSBEs in a particular industry and applies the instant definition, then a business must be certified by the [MBEC] *certifying agency* as an M/W/DSBE to qualify as such.

* * *

§ 17-1603. Economic Opportunity Plan: Contents.

(1) For a Covered Project or Contract subject to City Council approval (other than a Covered Project or Contract subject to Section 8-200(2) or 8-201 of the Home Rule Charter), an Economic Opportunity Plan prototype shall be produced by [MBEC] *the certifying agency* in conjunction with Council, and serve as the primary form for submission and compliance procedures in accordance with the provisions of this chapter:

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(a) The Economic Opportunity Plan prototype and associated contract or project specific details shall be developed and agreed to by the contracting agency, [MBEC] *the certifying agency*, representatives of City Council designated by the Council President; and, subsequently, by the contractor, developer or recipient of financial assistance. The contents therein shall constitute the entire Economic Opportunity Plan. Provisions for compliance shall include, though not necessarily be limited to, the following commitments:

* * *

(b) The contractor, developer and/or recipient of financial assistance shall be required to engage in an Oversight Process.

(.1) Where appropriate, based on the dollar value, size, scope, duration, financial assistance category of the Covered Project or Contract, and the consideration of other contract or project specific details, the Plan shall establish a Project or Contract Oversight Committee, consisting of, as appropriate, the contractor, developer or recipient of financial assistance and representatives of the Participants, [MBEC] *the certifying agency*, City Council, the contracting department or agency and appropriate community organizations. Such Committee shall meet regularly, beginning no later than the initiation of the design phase of the Covered Project or Contract, and shall be responsible for facilitating compliance with the Plan. The Oversight Committee, through the Oversight Process, shall have within its purview the reconciliation of all compliance related issues or grievances.

(.2) The Oversight Committee Process, as needed or as stipulated by the Plan, will involve convening individual consultation or periodic small group meetings to include any or all of the parties identified above in subsection (.1)(.a).

(c) The Plan shall contain, to the extent such information is available to the [MBEC] *certifying agency*: (.1) a statement of availability of M/W/DSBEs (expressed in percentage of contract and subcontract value) for various project, contract and subcontract categories; and, (.2) a statement of availability of minority, female and disabled workers in the relevant marketplace for employment, in various job categories. Percentages of availability contained in the Plan shall serve as a guideline for compliance and not the uppermost limit of meaningful participation which may be achieved during any Covered Project or Contract. The contractor, developer or recipient of financial assistance shall commit to using best and good faith efforts, as defined by the Plan, to achieve meaningful and representative participation by M/W/DSBEs, and meaningful and representative employment of minority, female and disabled workers, in all phases of the Covered Project or Contract. Best and good faith efforts, as further defined in the Plan, shall be of such scope, intensity and appropriateness designed to achieve the objectives of this Chapter.

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(e) The Plan shall contain a certification from [MBEC] *the certifying agency* that the contents of the Plan are in compliance with this Chapter or a certification from [MBEC] *the certifying agency* why compliance with any particular requirement of this Chapter is not feasible or appropriate. *Within fifteen (15) days of receiving such certification, the contractor, developer or recipient of financial assistance shall submit a full and final copy of the Plan to the Chief Clerk of Council and the certifying agency shall make a full and final version of the plan available for viewing and downloading on the City's website.*

* * *

(2) For a competitively bid contract subject to Section 8-200(2) or 8-201 of the Home Rule Charter:

(a) The Economic Opportunity Plan prototype shall be obtained by the bidder and submitted with the bid, in accordance with said prototype Plan provisions developed by the [MBEC] *certifying agency* and set forth in the bid specifications. In developing such prototype Plan and provisions for submission, the [MBEC] *certifying agency* shall work in conjunction with Procurement and the contracting agency. As closely as possible, and consistent with competitive bidding rules, the prototype Plan and provisions shall be substantially similar to and consistent with the provisions of subsection (1), above, relating to City Council approved Covered Contracts and Projects. To the extent feasible, such prototype Plan and provisions set forth in the bid specifications shall be uniform in content and structure for all contracts or for all contracts within any category of contracts. *Within fifteen (15) days of being awarded the bid, the winning bidder shall submit a full and final copy of the Plan to the Chief Clerk of Council and the certifying agency shall make a full and final version of the plan available for viewing and downloading on the City's website.*

* * *

§ 17-1605. Enforcement.

(1) The [MBEC] *certifying agency* and the Oversight Committee through the Oversight Process shall make such findings, recommendations and proposals that are necessary and appropriate to enforce this Chapter. If as a result of monitoring activities, it is determined by [MBEC]*the certifying agency* and or the Oversight Committee that the EOP submission and compliance policies and procedures set forth in this Chapter are not being met as required, then appropriate actions shall be recommended.

(2) The [MBEC] *certifying agency* and/or the Oversight Committee through the oversight process determines that a participant, contractor, project developer, applicant for or recipient of financial assistance has demonstrated full and complete EOP

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compliance with the provisions of this chapter and should be exempt from remedies or penalties as provided for herein, notwithstanding an unmet M/W/DSBE participation goal.

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§ 17-1606. Penalties.

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(2) If the [MBEC] *certifying agency* and/or the Oversight Committee determines non-compliance with the provisions set forth in this chapter, they may recommend that the City exercise, through appropriate channels, one or more of the following remedies, as deemed applicable:

* * *

SECTION 2. This Ordinance shall take effect immediately upon becoming law.

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 October 13, 2011. The Bill was Signed by the Mayor on October 26, 2011.



Michael A. Decker
Chief Clerk of the City Council