



City of Philadelphia

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

BILL NO. 160152

Introduced February 25, 2016

Councilmember Oh

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

AN ORDINANCE

Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by adding a new category of Disadvantaged Business Enterprises and of City contracts entitled “Lesbian, Gay, Bisexual, and Transgender Persons,” that must be considered separately by the Finance Director in conducting the Annual Disparity Study and devising the Annual Participation Goals as required by Section 6-109 of The Philadelphia Home Rule Charter; and also adding a rebuttable presumption that Lesbian, Gay, Bisexual, and Transgender Persons are Socially and Economically Disadvantaged Individuals; and further adding a definition of “Lesbian, Gay, Bisexual, and Transgender Persons;” and finally recognizing religious prejudice as a form of prejudice because of identity as a member of a group whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who have not been subject to such prejudice or differential treatment; all under certain terms and conditions.

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.

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CHAPTER 17-1500. ANNUAL DISPARITY STUDY AND PARTICIPATION GOALS.

§17-1501. Definitions.

City of Philadelphia

BILL NO. 160152 continued

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(1) African American. A person having origins in any of the black racial groups in Africa.

(2) Asian American. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands.

(3) Disabled person. An individual who has a physical or mental impairment which substantially limits one or more of his or her major life activities or has a record of such impairment. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(4) Hispanic American. A person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

(5) Individual. A natural person.

(6) Native American. A person having origins in any of the original peoples of North America.

(7) Person. A corporation, partnership or association, or any combination thereof, as well as a natural person.

(8) *Lesbian, Gay, Bisexual, and Transgender Persons.* Any persons identifying themselves based on sexual attraction to members of the same sex or members of both sexes, or identifying themselves with a gender differing from the one which corresponds to their sex at birth.

[(8)] (9) Qualified Disadvantaged Business Enterprise or DBE.

(a) A Small Business Enterprise which is at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals; or

(b) A business (other than a Small Business Enterprise) in which at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; provided, however, that any such business that has received more than seventeen million dollars (\$17,000,000) in three consecutive years of contract work from the City shall not be considered a DBE, unless it can show that, as a result of prejudice or differential treatment based on the socially and economically disadvantaged status of its ownership, its ability to compete in the free enterprise system has been impaired due to

City of Philadelphia

BILL NO. 160152 continued

diminished capital and credit opportunities as compared to others in the same business who have not been subject to such prejudice or differential treatment.

(c) A business certified by a government agency as a qualified minority, women, disabled or disadvantaged business, under criteria substantially similar to those set forth herein, shall be rebuttably presumed to qualify as a Qualified Disadvantaged Business Enterprise under this Chapter.

[(9)] (10) Small Business Enterprise. A business which is independently owned and operated and which is not dominant in its field of operation as defined in the Small Business Size Regulations adopted by the U.S. Small Business Administration and published in the U.S. Code of Federal Regulations, including the industry size standards set forth in the table contained therein, which regulations are incorporated herein, and made a part hereof by reference.

[(10)] (11) Socially and Economically Disadvantaged Individuals. Those individuals who have been subjected either to racial, sexual, [or] ethnic[,] *or religious* prejudice because of their identity as a member of a group, or to differential treatment because of their disability without regard to their individual qualities, and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who have not been subject to such prejudice or differential treatment.

(a) In determining who are Socially and Economically Disadvantaged Individuals, the Finance Director may make a rebuttable presumption that all African Americans, all Hispanic Americans, all Asian Americans, all Native Americans, all women, [and] all disabled persons, *and all Lesbian, Gay, Bisexual, and Transgender Persons*, shall be so classified.

(b) The Finance Director, in determining whether an individual shall be classified as a Socially and Economically Disadvantaged Individual, shall also consider, among other things, the extent of the liquid assets and net worth of such individual.

§17-1502. DBE Categories That Must Be Separately Considered.

(1) In conducting the Annual Disparity Study and devising the Annual Participation Goals as required by Section 6-109 of The Philadelphia Home Rule Charter, the Finance Director shall separately consider the following categories of DBE's:

(a) DBE's owned by African Americans;

(b) DBE's owned by Hispanic Americans;

City of Philadelphia

BILL NO. 160152 continued

(c) DBE's owned by Asian Americans;

(d) DBE's owned by Native Americans;

(e) DBE's owned by women;

(f) DBE's owned by disabled persons.

(g) *DBE's owned by Lesbian, Gay, Bisexual, and Transgender Persons.*

[(g)] (h) DBE's operating within the City of Philadelphia.

(2) In conducting the Annual Disparity Study and devising the Annual Participation Goals as required by Section 6-109 of The Philadelphia Home Rule Charter, the Finance Director shall separately consider the following categories of contracts:

(a) Professional services contracts;

(b) Public works contracts.

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SECTION 2. This Ordinance shall take effect on July 1, 2017.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.