

City of Philadelphia



(Bill No. 160003)

AN ORDINANCE

Amending Section 17-107 of The Philadelphia Code, entitled “Contractors: Labor-Management Relationships,” by requiring the City’s Labor Standards Unit to enforce the City’s contract requirements for Workforce Diversity and by providing penalties for contractor failure to make good faith efforts to meet Workforce Diversity goals, 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.

* * *

(5) *Labor Standards Unit or Unit.* As defined in Section 17-107(1) of the Code.

(6) *Director.* As defined in Section 17-107(1) of the Code.

(7) *City Work.* As defined in Section 17-107(1) of the Code.

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§ 17-1603. Economic Opportunity Plan: Contents.

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(3) *Workforce Diversity Contract Requirements.* Every contract for City Work that must include an Economic Opportunity Plan pursuant to the requirements of this Chapter, and that contains Workforce Diversity requirements pursuant to Section 17-1603(1)(a).(1)(B), shall contain provisions requiring the contractor to:

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(a) *post the applicable Workforce Diversity requirements in an area easily accessible by all employees on each job site;*

(b) *submit to the Labor Standards Unit a compilation contractor listing and a plan for meeting Workforce Diversity goals no later than seven (7) days before the starting date of work on any such contract, and to notify the Unit of any changes in the information contained in such listing within five (5) days of any such changes. Plans for meeting Workforce Diversity goals shall include specific availability and utilization strategies for meeting Workforce Diversity goals. The compilation listing shall include, for each contractor and subcontractor working on the contract, the information required under Subsection 17-107(2)(e) of the Code;*

(c) *keep an accurate record showing the name, address, social security number, demographic information, occupational classification, wages and other benefits paid or provided, and number of hours worked for each employee assigned to work on such contract, and such record shall be preserved at the current place of business of the employing contractor for two years from the date of final payment on the contract.*

(d) *make its accounting and employment records and records relating thereto available for inspection by authorized representatives of the Unit, at all reasonable hours, permit such representatives to interview employees during the hours on the job, all without prior notice, and prohibit any employee or other person from interfering with any such inspection or interview;*

(e) *maintain written evidence of the registration of approved programs under which apprentices are employed, including demographic information and the ratios and wage rates prescribed in the applicable programs;*

(f) *upon commencement of the work, submit to the Unit directly, or, if a subcontractor submitting based on the requirements of Subsection (g) below, through the prime contractor, certified payrolls on a weekly basis, not later than seven (7) days after completion of the work week, in the same manner as such records are required under Subsection 17-107(4) of the Code, with demographic information for each worker included with the certified payroll information; and*

(g) *require all subcontractors engaged in service work on the contract to comply with and be bound by the requirements of this Subsection 17-1603(3) as well as any requirements established pursuant to Subsection 17-1603(1)(a)(.2).*

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§17-1605. Enforcement.

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(4) *The Labor Standard Unit shall have the responsibility of administering oversight of the Workforce Diversity requirements of this Chapter and in connection therewith shall:*

(a) *Maintain a current schedule of the Workforce Diversity requirements relating to services and industries the work of which is subject to the requirements of this Chapter;*

(b) *Receive and refer to the Commissioner under whose supervision a contract subject to the requirements of this Chapter is being performed complaints against any contractor or subcontractor for alleged violations of the Workforce Diversity requirements of this Chapter. Thereafter, the Director shall investigate such complaints and in connection therewith or with respect to any investigation shall have full power and authority to subpoena any witness, books, records, or other data of any person for the purposes of obtaining information pertinent to such investigation. The Director shall make a finding in writing with respect to each complaint filed, and shall send a copy thereof to the complainant and the contractor and/or subcontractor and shall maintain it on file. Upon request, the Unit shall provide any affected contractor or subcontractor with a hearing, pursuant to the requirements of Subsection 17-107(8)(e) of this Code; and.*

(c) *Monitor the operations of contractors and subcontractors with respect to the Workforce Diversity requirements of contracts subject to Subsection 17-1603(3).*

(5) *A violation by any subcontractor shall be deemed a violation by both the subcontractor and the prime contractor.*

(6) *The violation of any Workforce Diversity requirement of this Chapter or provisions of a contract required thereby shall be considered a substantial breach of the contractor's obligation under the contract.*

(7) *Upon a finding by the Director of a failure by any contractor or subcontractor to comply with the Workforce Diversity requirements of this Chapter, the Director may direct the appropriate department(s) to pursue remedies, based on the potential remedies outlined in Section 17-1606, which potential remedies, including the possibility of liquidated damages, may be further defined by regulation. A request for a hearing from the Unit pursuant to Subsection 17-1605(4)(b) shall stay the pursuit of penalties under this Section, but not a decision to withhold payment under the contract.*

(8) *Upon a final determination of the Director, the contractor or subcontractor may appeal the decision to the Board of Labor Standards, pursuant to the requirements of Subsection 17-107(7) of this Code.*

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§ 17-1606. *Penalties and Other Remedies.*

* * *

(3) *No contract shall be awarded to any contractor or subcontractor, or any principal, affiliate, successor or assignee of any contractor or subcontractor, who has been found to have intentionally violated any of the Workforce Diversity requirements of a contract or subcontract regulated under this Chapter or who has been found to have violated such requirements with respect to more than one City contract or subcontract within the past three years, until three years have elapsed from the date of the determination of such violation, unless the Procurement Commissioner, after reviewing the recommendation of the Director, or the Board of Labor Standards on appeal, shall fix a shorter period in view of extenuating circumstances relating to the particular violation.*

(4) *No contractor shall hire as a subcontractor on a City contract a contractor that has been determined ineligible to receive a City contract award during any time period established under Subsection 17-1606(3).*

(5) *A contractor or subcontractor shall be subject to a fine of three hundred dollars (\$300) for each violation of the Workforce Diversity requirements of this Chapter, including a violation of Section 17-1609, relating to retaliation; failure to make good and best faith efforts to meet Workforce Diversity requirements; submitting a second or subsequent late or incomplete payroll report in connection with a contract; failure to provide to the Unit access to documents or employees; or allowing an employee or other person to interfere with such access or an interview with an employee.*

(6) *For the purpose of enforcing the Workforce Diversity requirements of this Section, notices of violation shall be issued by authorized inspectors within the Labor Standards Unit or any other persons authorized to enforce ordinances. Such notices of violation shall be issued under the procedures set forth in § [1-112](#), except that the amount required to be remitted in response to a notice of violation shall be one hundred dollars (\$100).*

* * *

§ 17-1609. *Protection Against Retaliation. No person shall take any adverse action, including discharge or other discrimination in employment, against any other person, including a person seeking work in connection with a contract subject to the requirements of this Chapter, for filing a complaint under this Chapter 17-1600 or for otherwise reporting any violation of the requirements of this Chapter or of any contract provisions or for instituting or testifying in any proceeding relating to any claim regarding a violation of any of the requirements of this Chapter or any contract under the Chapter.*

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SECTION 2. Effective Date. 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 March 31, 2016. The Bill was Signed by the Mayor on April 5, 2016.



Michael A. Decker
Chief Clerk of the City Council