

Legislation Text

File #: 000181-A, Version: 1

Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by adding a new Chapter 17-1000, entitled “Employment Of Low- And Moderate-Income Persons By City Contractors,” which requires persons performing work under certain construction contracts supported by City funds or City financial assistance to hire certain percentages of low- and moderate-income persons, 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 17-1000. EMPLOYMENT OF LOW- AND MODERATE-INCOME PERSONS BY CITY CONTRACTORS.

§17-1001. Definitions.

(1) City. Includes the City and its departments, boards, commissions or agencies.

(2) City-related Agency. All authorities, government agencies and quasi-public corporations which:

(a) receive appropriations from the City;

(b) have entered into continuing contractual or cooperative relationships with the City, including any agreement whereby the City funds an agency's debt service; or

(c) operate under legal authority granted to them by City ordinance.

(3) Construction Contract. Any agreement for the erection, repair, demolition or alteration of any building, structure, bridge, roadway or other improvement to real property.

(4) Covered Construction Contract. Any construction contract with a total value in excess of \$150,000 which:

(a) is paid for in whole or in part with City funds;

(b) is financed either wholly or partially by state or federal funds which are administered by the City;

(c) is funded in whole or in part by Financial Assistance; or

(d) is located on property for which the current owner or owners have received Financial Assistance from the City with respect to its purchase.

(5) Financial Assistance. Any grant, loan, incentive or abatement provided by, or with the authority or approval of, the City or a City-related agency, including but not limited to bond financing subsidies; Tax Increment Financing aid; industrial development bonds; use of the power of eminent domain; Community Development Block Grant loans or grants; airport revenue bonds; Enterprise Zone designations; and aid from the Philadelphia Workforce Development Corporation or other similar agencies.

(6) Low- or Moderate-Income Person. A person whose income does not exceed more than eighty percent (80%) of the median income for the Philadelphia metropolitan area, as determined or adjusted by the Secretary of Housing and Urban Development pursuant to 42 U.S.C. § 5302(a)(20). A person who no longer meets the income eligibility criteria set forth above because of employment by a party to a covered construction contract, but who met the criteria on his or her date of hire, shall be deemed a low- or moderate-income person for three years from the date of his or her hire.

§17-1002. Contract Requirements.

(1) Every covered construction contract shall contain a provision requiring that the business responsible for performing work under the contract must certify that at least forty-percent (40%) of the workers who work on the covered construction contract are low- or moderate-income persons.

(a) Apprentices and those working in on-the-job training positions shall be considered workers for purposes of this subsection.

(2) Every covered construction contract shall contain a provision requiring that the business responsible for performing work under the contract will procure the same certification from all subcontractors performing work pursuant to the covered construction contract.

§17-1003. Reporting Requirements.

(1) All bidders or contractors on any covered construction contract shall provide to the Procurement Commissioner, in the case of contracts to which the City is a party, or to the Director of Finance, in the case of contracts to which the City is not a party, such information as the Commissioner or the Director may need to assess the bidder's or contractor's ability to meet the hiring requirements set forth in § 17-1002, including:

(a) The percentage of current full-time employees who are low- or moderate-income persons.

(b) The percentage of workers previously hired on a temporary basis to work on construction contracts in the City who were low- or moderate-income persons.

(c) The bidder's or contractor's plans for achieving compliance with the hiring requirements, including any plans to utilize the services of the Philadelphia Workforce Development Corporation or any related entities, or training or apprenticeship programs such as the Philadelphia Housing Authority's Working Together for Jobs Agreement, the TOP/WIN program, the Congreso de Latinos Unidos Apprenticeship Prep for Trades APTitude Program, YouthBuild Philadelphia or other similar programs.

§17-1004. City-Related Agencies.

(1) Every contract, lease, grant, condition or other agreement entered into by the City with any City-related Agency shall contain a provision requiring the City-related Agency, in the execution of all covered construction contracts entered into pursuant to agreement between the City and the City-related Agency, to abide by the provisions of §§ 17-1002 and 17-1003, relating to Contract Requirements and Reporting Requirements, as though such contracts were directly subject to such provisions.

§17-1005. Exceptions.

(1) The Procurement Commissioner, with respect to Covered Construction Contracts to which the City is a party, or the Director of Finance, with respect to Covered Construction Contracts to which the City is not a party, may waive compliance with the provisions of this Chapter on one or more of the following grounds:

(a) The contract or subcontract is for the purchase of goods or services from a sole source and there are no other sources available following extensive search.

(b) The Procurement Commissioner, or where applicable, the Finance Director, certifies that the added cost of the contract or subcontract as a result of applying the provisions of this Chapter exceeds by ten percent (10%) or more what would have been the cost of the contract if it had been awarded to the otherwise lowest responsible bidder.

(c) The Procurement Commissioner, or where applicable, the Finance Director, certifies that applying the provisions of this Chapter will result in the loss of federal, state or similar funds or grants, or is otherwise prohibited by federal or state law.

(2) The Director of Finance may waive compliance by a City-related agency, in accordance with the foregoing exceptions, upon request of the agency and at the discretion of the Director of Finance.

§17-1006. *Penalties and Enforcement.*

(1) Unless a contracting party can demonstrate that it has made every good faith effort to comply, any contracting party that fails to comply with the certification required by § 17-1002 shall be subject to suspension of contract payments, termination of its contract and a bar on participation in future covered construction contracts. Suspension, termination, and the extent and duration of any contract bar, shall be subject to the discretion of the Procurement Commissioner or the Director of Finance, as appropriate, in light of the severity or frequency of any violation and the extent of the contracting party's good faith.

(2) The Procurement Commissioner or the Director of Finance, as appropriate, in assessing a contracting party's good faith compliance efforts, shall take into account the extent to which the contracting party has in place, and has attempted to comply with, the plans called for by § 17-1003(c); and the extent to which the contracting party has made use of appropriate job training, apprenticeship and recruitment programs similar to those set forth in § 17-1003(c).

SECTION 2. This Ordinance shall apply to all Covered Construction Contracts executed ninety (90) days or more after this Ordinance becomes law.

Explanation:

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