

Legislation Text

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Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by adding provisions requiring the City to pay its vendors promptly and requiring City vendors to pay their subcontractors promptly, 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 17-1700. PROMPT PAYMENT OF CITY VENDORS AND THEIR SUBCONTRACTORS.

§17-1701. Definitions.

(1) Procurement Contract. A contract under which the City procures goods or services, whether or not such contract is subject to competitive bidding.

(2) Vendor. A person providing goods or services under a Procurement Contract.

§17-1702. Prompt Payment of City Vendors.

(1) It is the policy of the City of Philadelphia that a Vendor should be paid promptly. In furtherance of this policy, all Procurement Contracts shall include provisions, in form approved by the City Solicitor, to carry out the following Vendor “prompt payment” requirements:

(a) The City shall specify a time period (the “Prompt Payment Period”) within which it will pay invoices properly submitted by a Vendor. The Prompt Payment Period need not be uniform for all Procurement Contracts, but it shall not exceed thirty (30) days unless a greater period of time, not to exceed sixty (60) days, is reasonably required for the City to determine whether goods have been properly provided or services have been properly performed.

(b) If the City fails to make full payment within the Prompt Payment Period, the City shall pay interest on any unpaid amounts at the rate of one and one-half percent (1.5%) per month or part of a month until payment is made, beginning at the expiration of the Prompt Payment Period, except as follows:

(i) If the form of an invoice is incorrect, defective or otherwise improper, the City shall within ten (10) days after receiving the invoice notify the Vendor that it must resubmit a corrected invoice.

If the City fails to so notify the Vendor within such ten (10) day period, the invoice will be deemed correct as to form.

(ii) The City may refuse payment of an invoice, in whole or in part, to the extent the City in good faith believes that the Vendor failed to perform properly under the Procurement Contract, but only if the City, within the Prompt Payment Period, provides written notice to the Vendor detailing the Vendor's failure to perform properly.

(c) A Procurement Contract may include provisions for the resolution of any disputes arising under these "prompt payment" requirements.

§17-1703. Prompt Payment of Subcontractors.

(1) It is the policy of the City of Philadelphia that any subcontractor retained by a Vendor under a Procurement Contract should be paid promptly by the Vendor after the Vendor receives payment from the City. Council also finds with respect to Procurement Contracts subject to the "lowest responsible bidder" requirement that a Vendor who does not make prompt payments to its subcontractors is not a responsible bidder. In furtherance of that policy and that finding, all Procurement Contracts shall include provisions, in form approved by the City Solicitor, obligating the Vendor to carry out the following subcontractor "prompt payment" requirements:

(a) After a Vendor receives payment from the City for labor, services, or materials furnished by a subcontractor retained by the Vendor, the Vendor shall pay the subcontractor within the same time period that the City was required to pay the Vendor (the "Prompt Payment Period").

(b) If a Vendor fails to make payments to a subcontractor within the Prompt Payment Period, the Vendor shall pay interest on any outstanding amounts at the rate of one and one-half percent (1.5%) per month or part of a month, beginning at the expiration of the Prompt Payment Period, except as follows:

(i) If the subcontractor has submitted an invoice to the Vendor and the invoice is incorrect, defective or otherwise improper, the Vendor shall within ten (10) days after receiving the invoice notify the subcontractor that it must resubmit a corrected invoice. If the Vendor fails to so notify the subcontractor within such ten (10) day period, the invoice will be deemed correct as to form.

(ii) The Vendor may refuse to pay a subcontractor within the Prompt Payment Period if the Vendor in good faith believes that the subcontractor failed to perform its obligations to the Vendor in a proper manner, but only if the Vendor, within the Prompt Payment Period, provides written notice to the subcontractor detailing the subcontractor's failure to perform properly.

(c) The obligation of the Vendor to pay subcontractors promptly shall be passed along to all subcontractors and sub-subcontractors at any tier.

(d) Agreements between a Vendor and a subcontractor and a subcontractor and a sub-subcontractor at any tier may include provisions for the resolution of any disputes arising under these "prompt payment" requirements.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.