

Legislation Text

File #: 200382, **Version:** 0

Amending Chapter 17-500 of The Philadelphia Code, entitled “Goals for the Participation of Disadvantaged Owned Business Enterprises in City Contracts,” by adding a new requirement that City Council be notified of certain changes to existing City contracts valued over \$1 million to ensure expansions adhere to participation goals and standards, 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

* * *

CHAPTER 17-500. GOALS FOR THE PARTICIPATION OF DISADVANTAGED OWNED BUSINESS ENTERPRISES IN CITY CONTRACTS

* * *

§ 17-504. Participation Goals.

(1) The MBEC shall establish contract goals for levels or amounts of DBE participation for each contract, subject to the provisions of this Section, and unless exemptions have been granted under § 17-509.

(2) Considerations. In setting these goals MBEC shall consider:

(a) the availability in various industry classifications and professions of DBEs that are qualified and willing to provide goods, expertise, and services on the particular contract;

(b) the level of utilization of these firms in past contracts awarded by the City;

(c) the contract specifications;

(d) the adverse impact on non-DBEs; and

(e) any other relevant factors, including but not limited to City annual participation goal established under § 17-505.

(3) Consultation. In establishing goals on each contract, the MBEC must consult with the contracting agency, the Procurement Department, or both.

(4) Publication. The contract goals must be clearly published as part of the contract specifications in the invitation to bid or request for proposals.

(5) Applicability to Alternates, Modifications, etc. The contract goals apply to the initial contract amounts, to any alternates, and to all subsequent amendments, supplements, extra work orders, change orders, or other modifications that, whether individually or in the aggregate, increase the dollar value of the contract by more than 10%.

(6) Contract and Bid Specifications.

(a) Bid conditions, requests for proposals, and all other specifications for contracts awarded by the City must require that, where a contract goal is applicable, the bidders and all others seeking City contracts must:

(i) make every effort before the opening of bids to meet the contract goal; and

(ii) keep records of its efforts, adequate to permit a determination of compliance with this Chapter.

(b) Each contract must:

(i) incorporate this Chapter by reference;

(ii) provide that the failure of any bidder, contractor, or subcontractor to comply with this Chapter is a material breach of contract; and

(iii) require that, during its term, the contractor will:

(A) fulfill program commitments submitted with the bids;

(B) continue to make every effort to utilize DBEs; and

(C) maintain records reasonably necessary for monitoring compliance with this Chapter.

(c) Where one or more DBE is listed as a participant in the bid of a prospective contractor with the City, and one or more of those DBEs is not used in the contract's performance when such bidder secures the said City contract, the successful bidder shall be required to demonstrate to the satisfaction of the MBEC why such DBE was not used on the contract, or be held in non-compliance with his or her contract by the MBEC. In the event of such determination of non-compliance, the MBEC shall recommend that the City exercise its legal remedies, including, if appropriate, the termination of the contract involved.

(7) *Council Notification of Modified Contract.* A report shall be made to City Council if any contract with

an initial value of over \$1 million is increased 10% or more, in the aggregate, as described in 17-504(5). The report shall include information as to whether the modified contract meets the initial contract participation goals. If the initial goals are not met, an explanation as to why shall be included.

SECTION 2. This Ordinance shall take effect immediately.

Explanation:

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