

Legislation Text

File #: 200590-A, Version: 2

Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by amending Chapter 17-100, entitled “Procurement Contracts,” and Chapter 17-1400, entitled “Non-Competitively Bid Contracts; Financial Assistance,” to add disclosure requirements related to prior contracting experience and the demographic characteristics of employees, other sources of labor, and board members of contractors and subcontractors for City contracts for public works, other competitively bid services, and professional services, and by adding reporting requirements, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 17 of The Philadelphia Code is amended to read as follows:

TITLE 17. CONTRACTS AND PROCUREMENT

CHAPTER 17-100. PROCUREMENT CONTRACTS

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§ 17-104.1. *Contractor Obligation to Disclose Workforce Composition and City Contracting History.*

(1) Definitions. For the purpose of this subsection, the following definitions shall apply:

(a) Demographic data means statistical information on a group of individuals, aggregated by specific characteristics, including but not limited to race, ethnicity, gender identity, job title, salary range, length of employment, Philadelphia residence, and such other categories as may be established by regulation.

(b) Gender Identity means an individual’s gender as reported to the employer.

(c) Labor Source means a defined pool of trained and qualified individuals from which workers can be secured by agreement or through other means from an entity other than the contractor itself, including but not limited to a business, union hiring hall, job training organization, or registered apprenticeship program.

(d) Report date means December 31st of the calendar year immediately preceding the date the bid is filed.

(e) Subcontractor means any person or entity the bidder engages, or intends to engage, for the specific purpose of performing a portion of the City contract subject to bid.

(f) Workforce means all individuals who performing work for compensation on a regular basis.

(2) No services contract that is subject to the competitive bidding requirements of subsection 8-200(2) of the Home Rule Charter and valued at one hundred thousand dollars (\$100,000) or more shall be entered with a

contractor who does not agree to disclose, and agree to require all Subcontractors on the contract to disclose, the following and such other related disclosures as may be required by the Procurement Department by regulation:

- (a) The contractor's and each Subcontractor's prior years of experience performing on City contracts in any capacity during the five calendar years prior to the date of the opening of bids for such contract;*
- (b) Demographic Data on the Workforce of the contractor and each Subcontractor, as of the Report Date;*
- (c) Demographic Data on all individuals serving as board members of the contractor and each Subcontractor, as of the Report Date;*
- (d) Demographic Data on the Workforce of each Labor Source from which workers are likely to be drawn in performance of a contract for any City contract.*

(.1) Submission to the Department of Labor of Demographic Data on a Labor Source by any contractor during the previous 6 months shall satisfy the disclosure requirements under subsection 17-104.1(2) (d) with respect to such Labor Source for all contractors. The Department of Labor shall provide notice no later than one week prior to the time of the opening of bids for each contract of all Labor Sources for which Demographic data has been provided during the previous 6 months.

(3) The disclosures required by this subsection shall be provided at such times as determined by regulation.

(4) Violation of any requirement of this section or of the provisions of a City contract required thereby shall be considered a substantial breach of the contractor's obligation under the contract.

(5) No later than April 1st of each year, the Director of Labor or such other officer as designated by the Mayor shall provide an annual report to the Mayor and the Clerk of Council summarizing the disclosures received pursuant to this section during the previous calendar year. A copy of the report shall be posted on the City's official website. Further, for purposes of improving the City's capacity in terms of businesses and workforce diversity, the Director of Labor shall also provide copies of the report to area organizations that specialize in business growth and workforce development, including but not limited to:

- (a) Philadelphia Industrial Development Corporation;*
- (b) The Enterprise Center;*
- (c) Urban Affairs Coalition;*
- (d) The Chamber of Commerce for Greater Philadelphia;*
- (e) African American Chamber of Commerce for PA, NJ and DE;*

(f) *Greater Philadelphia Hispanic Chamber of Commerce;*

(g) *Asian American Chamber of Commerce for Greater Philadelphia;*

(h) *University City District;*

(i) *Delaware Valley Regional Planning Commission; and*

(j) *Urban League of Philadelphia.*

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CHAPTER 17-1400. NON-COMPETITIVELY BID CONTRACTS; FINANCIAL ASSISTANCE

§ 17-1401. Definitions.

* * *

(9.1) *Demographic Data. Statistical information on a group of individuals, aggregated by specific characteristics, including but not limited to race, ethnicity, gender identity, job title, salary range, length of employment, Philadelphia residence, and such other categories as may be established by regulation.*

* * *

(10.1) *Gender Identity. An individual's gender as reported to the employer.*

* * *

(17) *Report Date. December 31st of the calendar year immediately preceding the date the application is filed.*

(18) *Subcontractor. Any person or entity the Applicant engages, or intends to engage, for the specific purpose of performing a portion of the City contract subject to application.*

* * *

§ 17-1402. Open and Public Process Required For Non-Competitively Bid Contracts.

(1) The Procurement Commissioner shall develop procedures to ensure that Non-Competitively Bid Contracts are advertised, awarded and approved in a timely, efficient and coordinated manner in the best interest of the City; in a manner that maximizes accessibility by vendors and maximizes transparency to the public; and in compliance with all applicable provisions of this Chapter. A Non-Competitively Bid Contract shall be awarded in compliance with the following:

* * *

(b) Mandatory Disclosures.

* * *

(4) No Non-Competitively Bid Contract valued at one hundred thousand dollars (\$100,000) or more shall be entered with an Applicant who does not agree to disclose, and agree to require all Subcontractors on the contract to disclose, the following and such other related disclosures as may be required by the Finance Department by regulation:

(a) The Applicant's and each anticipated Subcontractor's prior years of experience performing on City contracts in any capacity during the five calendar years prior to the date the application must be filed;

(b) Demographic Data on all individuals employed by the Applicant and each anticipated Subcontractor on the Report Date; and

(c) Demographic Data on all individuals serving as board members of the Applicant on the Report Date.

* * *

(f) Every Non-Competitively Bid Contract shall include a representation and covenant by the Contractor that the Contractor's disclosures required by subsection (1)(b) contain no material misstatements or omissions. *Material misstatements or omissions in disclosures pursuant to subsection 17-1402(1)(b)(4) under two or more contracts shall constitute a breach of such representation and covenants.* Breach of [such] representation and covenant *under this subsection* shall render the contract voidable at the City's option, and shall subject the Contractor to liquidated damages to the City in the amount of ten percent (10%) of the total value of the payments to be made to the Contractor under the contract.

(i) No later than April 1st of each year, the Finance Director or such other officer as designated by the Mayor shall provide an annual report to the Mayor and the Clerk of Council summarizing the disclosures received under subsection 17-1402(1)(b)(4) during the previous calendar year. Further, for purposes of improving the City's capacity in terms of businesses and workforce diversity, the Finance Director shall also provide copies of the report to area organizations that specialize in business growth and workforce development, including but not limited to:

(.1) Philadelphia Industrial Development Corporation;

(.2) The Enterprise Center;

(.3) Urban Affairs Coalition;

(.4) The Chamber of Commerce for Greater Philadelphia;

(.5) African American Chamber of Commerce for PA, NJ and DE;

(.6) Greater Philadelphia Hispanic Chamber of Commerce;

(.7) Asian American Chamber of Commerce for Greater Philadelphia;

(.8) University City District;

(.9) Delaware Valley Regional Planning Commission; and

(.10) Urban League of Philadelphia.

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SECTION 2. Effective date. This Ordinance shall take effect upon July 1, 2021.