

**AMENDMENTS TO REGULATIONS RELATING TO
THE DR. WALTER P. LOMAX, JR., TRANSPARENCY IN BUSINESS LEGISLATION,
SECTIONS 17-104.1, 17-112, 17-1401 AND 17-1402 OF THE PHILADELPHIA CODE**

The Regulations Relating to the Dr. Walter P. Lomax, Jr., Transparency In Business Legislation, Sections 17-104.1, 17-112, 17-1401 and 17-1402 of The Philadelphia Code promulgated by the City of Philadelphia Procurement Department are hereby amended as follows:

Deletions in ~~Strikethrough~~
Additions in *Italics*

~~The City of Philadelphia Procurement Department hereby promulgates the following regulations as of July 1, 2021:~~

Section 1. Summary.

On January 27, 2021, Bills 200588-A, 200589-A, and 200590-A, adding ~~new~~ disclosure requirements for *certain City contracts valued over \$100,000, contracts*, became law in Philadelphia. *These requirements were subsequently amended by Bill 230435, which became law on July 12, 2023.*

~~Under these new requirements, City of Philadelphia Bills 200588-A, 200589-A, 200590-A, and 230435 collectively (“The Bills”) require contractors will-awarded City of Philadelphia contracts above the City’s formal bidding threshold to report their prior experience working on City contracts as well as the demographic data for their workforces and board members. These contractors must also submit similar information on behalf of their subcontractors and labor sources.~~ On certain City service contracts, contractors must also submit demographic data for employees performing work on the contract.

This Regulation is promulgated by the City of Philadelphia Procurement Department pursuant to its authority under Sections 6-500 and 8-407 of the Philadelphia Home Rule Charter and Sections 17-104.1(1), 17-112(1), and 17-1401 of The Philadelphia Code.

Section 2. Definitions.

Unless otherwise provided herein, capitalized terms shall have the meanings set forth in Sections 17-104.1(1), 17-112(1), and 17-1401 of ~~the~~ *The Philadelphia Code*, as amended.

- a. City. The City of Philadelphia, Pennsylvania, including its agencies, departments, boards, and commissions.
- b. Contractor. The entity submitting the Required Disclosures.

- c. Code Provisions. The sections of the Philadelphia Code added or amended by bills 200588-A, 200589-A, and 200590-A: 200590-A, and 230435: Sections 17-104.1, 17-112, 17-1401, and 17-1402, as amended.
- d. 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, and Philadelphia residence.
- e. Gender Identity. Self-identified gender, reported for each individual as one of the following categories: *individual, including, but not limited to: “Male,” “Female,” “Cisgender Man,” “Cisgender Woman,” “Non-Binary,” “Transgender Man,” “Transgender Woman,” and “Prefer not to disclose.”*
- f. ~~Job Title.~~ The position an employee holds at a company, reported for each individual as one of the following categories: “Executive,” “Administrative Support,” “Management,” “Laborer,” and “Sales.”
- g. ~~Length of Employment.~~ The number of years worked for the Contractor, subcontractor, or Labor Source, based on their most recent start date, rounded up and reported for each individual as one of the following categories: 0—5 years, 6—10 years, 11—15 years, 16—20 years, and 20 years or more.
- h. Philadelphia Residence. A permanent address of residence located within the City of Philadelphia.
- i. Procurement Commissioner. The head of the City Procurement Department.
- j. Procurement Department. The City Procurement Department.
- k. Race/ethnicity. Racial or ethnic affiliation, reported for each individual as one of the 2 following categories: “Hispanic or Latino,” “White (Not Hispanic or Latino),” *race or ethnicity. Ethnicity refers to the designation of either individual, including, but not limited to: “Hispanic/Latino” or “not Hispanic/Latino.” Race refers to the racial identity reported for each individual, including, but not limited to: “White,” “Black or African American (Not Hispanic or Latino),” American, or African,” “Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino),” Islander,” “Asian (Not Hispanic or Latino),” or Asian American,” “American Indian or Indian, Alaskan Native (Not Hispanic or Latino),” Native, Indigenous, or Native American,” “Middle Eastern or North African, or “Two or More Races (Not Hispanic or Latino).” Races”*
- l. Reporting Group. Any group for which the Code Provisions require a Contractor to disclose aggregated Demographic Data: the board of the Contractor and any subcontractors; Contractor; the workforce of the Contractor and any subcontractors; the workforce of any Labor Sources on a competitively bid services contract valued at one hundred thousand dollars (\$100,000) or more; Contractor; and the employees working on a competitively bid services contract valued at one hundred thousand dollars (\$100,000) or more. *above the formal bidding threshold.*
- m. Required Disclosures. *The Required Workforce Disclosures and Required Contract Performance Disclosures, as applicable.*

- n. Required Workforce Disclosures. The disclosures required by the Code Provisions:
 - 1. ~~For competitively bid goods contracts: Demographic Data of the board of the Contractor and any subcontractors; Demographic Data of the workforce of the Contractor and any subcontractors; and prior years of experience of the Contractor and any subcontractors, as set forth in Section 3.g. Provisions for any contracts valued at or above the formal bidding threshold: Demographic Data of the board of the Contractor Demographic Data of the workforce of the Contractor and prior years of experience of the Contractor, as set forth in Section 3.g.~~
 - o. Required Contract Performance Disclosures. The disclosures required contracts by Section 17-112 of The Philadelphia Code
 - 2. ~~For for competitively-bid services contracts: Demographic Data of the board of the Contractor and any subcontractors; Demographic Data of the workforce of the Contractor, any subcontractors, and any Labor Sources; prior years of experience of the Contractor and any subcontractors, as set forth in Section 3.g; and Demographic Data of the individuals performing work on the contract.~~
 - 3. ~~For Non-Competitively Bid contracts: Demographic Data of the board of the Contractor and any subcontractors; Demographic Data of the workforce of the Contractor and any subcontractors; and prior years of experience of the Contractor and any subcontractors, as set forth in Section 3.g.~~
- n. Salary. Employee compensation, paid on a fixed regular basis but often expressed as an annual sum.

Section 3. Disclosures.

- a. Aggregate Data. The Contractor shall submit all Required Disclosures aggregated by specific characteristics for each Reporting Group.
- b. Electronic Submission. The Contractor shall submit the Required Disclosures electronically using the City's online portal referenced in the contract application or using such electronic system as otherwise provided by the City.
- c. Contract Value. Only awarded City contracts valued at \$100,000 or more above the formal bidding threshold are subject to the disclosure requirements of the Code Provisions. The value of a contract shall be the amount stated in the contract or, if greater, the amount expected to be realized by the Contractor through the contract. For example, if a City contract for towing services allows the Contractor to collect from the owners of towed vehicles, the value of the contract shall be the amount the Contractor expects to collect from those vehicle owners during the contract term, in addition to any payments received from the City.
- d. Time of Initial Disclosure. The Contractor shall submit all Required Disclosures after it has been notified of its selection for the contract award and prior to formal written agreement to the contract.
- e. Disclosures for Competitively Bid Service Contracts. Time of Supplemental Contract Performance Disclosures. For competitively-bid service contracts, the Contractor shall

~~submit Demographic Data of the individuals performing work on the contract, as required under Section 17-112 of the Philadelphia Code, as amended, after the Contractor has been notified of its selection for the contract award and prior to formal written agreement to the contract.~~

- ~~1. The Contractor shall submit Demographic Data of the individuals performing work on the contract *Required Contract Performance Disclosures* at each renewal term or additional performance period in the form of a supplemental disclosure.~~
 - ~~2. For public works Contractors and service Contractors who are required to pay prevailing wage, submission of certified payroll records shall satisfy the disclosures requirement for Demographic Data of the individuals performing work on the contract.~~
- f. Contractor Responsibility. The Contractor is responsible for submitting the Required Disclosures on behalf of its subcontractors and other Labor Sources, as applicable. The Procurement Commissioner shall not hold a Contractor accountable for any misstatements or omissions in a disclosure concerning subcontractors or Labor Sources if such disclosure is attested to by a duly authorized agent who has made reasonable inquiry to determine all facts that must be disclosed and who has fully and accurately disclosed all facts revealed by such reasonable inquiry. Disclosures.
- g. Prior Years of Experience. The Code Provisions require disclosure of the Contractor's and each Subcontractor's number of years of experience performing on City contracts in any capacity during each of the five preceding calendar years prior to the date of opening of bids for the contract ~~or, for non-competitively bid contracts, or the date the application must be filed.~~ As an example, if the Contractor submits its bid or application in 2021, it must disclose, for each of the calendar years 2020, 2019, 2018, 2017, and 2016, whether it has performed any work on City contracts, either as the primary contracting entity or as a subcontractor at any tier. ~~The Contractor must also disclose whether each Subcontractor on the project has performed any work on City contracts, either as the primary contracting entity or as a subcontractor at any tier, during each of the calendar years 2020, 2019, 2018, 2017, and 2016.~~
- h. Hardship Request. The Contractor may request an accommodation when it cannot timely file or is unable to file the required disclosures. The City shall only grant such accommodation at the sole discretion of the Procurement Commissioner.

Section 4. Penalties.

Failure to timely, accurately, and completely file the Required Disclosures shall be grounds for the City, at the sole discretion of the Procurement Commissioner, to impose any of the following penalties:

- a. Termination. The City may terminate the contract or rescind its notice of award of contract or renewal thereof at no liability to the City.
- b. Suspension and Debarment. The City may suspend or debar the Contractor under the City of Philadelphia Policy and Procedures for the Debarment and Suspension of Vendors and Contractors.

- c. Other Penalties and Remedies. The City may pursue such other penalties and remedies as may be provided by law or by contract.

Section 5. Effective Date.

These regulations shall take immediate effect and apply to all bids opened and proposals received on or hereafter.