

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia  
Official Code*

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To amend, on a temporary basis, the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 to clarify that the dollar volume subcontracting requirement may include purchases from small business enterprises that provide materials, goods, and supplies, to extend many of the benefits of the act afforded to small, local, and disadvantage business enterprises to all certified business enterprises, and to provide the Department of Small and Local Business Development with grant-making authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007”.

Sec. 2. The Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) Section 2302 (D.C. Official Code § 2-218.02) is amended by adding new paragraphs (1A) and (1B) to read as follows: Note,  
§ 2-218.02

“(1A) “Business enterprise” means a business entity organized for profit.

“(1B) “Certified business enterprise” means a business enterprise or joint venture certified pursuant to part D.”.

(b) Section 2312 (D.C. Official Code § 2-218.12) is amended as follows: Note,  
§ 2-218.12

(1) Subsection (d) is amended by striking the phrase “local, small, and disadvantaged” and inserting the word “certified” in its place.

(2) Subsection (f) is amended by striking the phrase “local, small, and disadvantaged” and inserting the word “certified” in its place.

(c) Section 2313 (D.C. Official Code § 2-218.13) is amended as follows: Note,  
§ 2-218.13

(1) Subsection (c) is amended as follows:

(A) Paragraph (1)(F) is amended by striking the phrase “contracting with, and procuring from, certified business enterprises” and inserting the phrase “the achievement of the goals set forth in section 2341” in its place.

(B) Paragraph (2) is amended as follows:

(i) The lead-in language is amended by striking the phrase “Contracting Opportunities” and inserting the phrase “Business Opportunities and Access to Capital” in its place.

(ii) Subparagraph (A) is amended by striking the phrase “local, small, and disadvantaged” wherever it appears and inserting the word “certified” in its place.

(iii) Subparagraph (E) is amended by striking the phrase “local, small, and disadvantaged” and inserting the word “certified” in its place.

(iv) Subparagraph (I) is amended by striking the phrase “local, small, and disadvantaged” and inserting the word “certified” in its place.

(v) Subparagraph (J) is amended by striking the phrase “local, small, and disadvantaged” and inserting the word “certified” in its place.

(vi) Subparagraph (K) is amended by striking the phrase “local, small, and disadvantaged” wherever it appears and inserting the word “certified” in its place.

(2) A new subsection (c-1) is added to read as follows:

“(c-1) The Department shall have the authority to issues grants to local businesses (whether or not certified pursuant to this subtitle), community and neighborhood groups or other nonprofit organizations as necessary to effectuate the mission of the Department and the purposes of this subtitle.”.

(d) Section 2323 (D.C. Official Code § 2-218.23) is amended by striking the phrase “local, small, and disadvantaged” wherever it appears and inserting the word “certified” in its place.

Note,  
§ 2-218.23

(e) Section 2325 (D.C. Official Code § 2-218.25) is amended as follows:

Note,  
§ 2-218.25

(1) The existing language is designated as paragraph (1).

(2) A new paragraph (2) is added to read as follows:

“(2) The Department may promulgate, amend, repeal, and enforce any bylaws and internal rules of operation, consistent with the provisions of this subtitle, as may be necessary or appropriate to carry out its responsibilities under this subtitle.”.

(f) Section 2331(2A) (D.C. Official Code § 2-218.31(2A)) is amended by striking the phrase “Meets 3 of the 4” and inserting the phrase “Meets 1 of the 4” in its place.

Note,  
§ 2-218.31

(g) Section 2342 (D.C. Official Code § 2-218.42) is amended by striking the phrase “local, small, and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business enterprises with principal offices located in an enterprise zone” and inserting the phrase “certified business enterprises” in its place.

Note,  
§ 2-218.42

(h) Section 2343(a) (D.C. Official Code § 2-218.43(a)) is amended as follows:

Note,  
§ 2-218.43

(1) Paragraph (1)(B) is amended by inserting the word “a” before the word “resident-owned”.

(2) Paragraph (2)(B) is amended by inserting the word “a” before the word “resident-owned”.

(i) Section 2346(a) (D.C. Official Code § 2-218.46(a)) is amended to read as follows:

Note,  
§ 2-218.46

“(a)(1) All construction contracts in excess of \$250,000 shall include the following requirements:

“(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

“(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

“(2) All non-construction contracts in which a portion of the work is subcontracted shall include the following requirements:

“(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

“(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.”.

(j) Section 2348 (D.C. Official Code § 2-218.48) is amended by striking the phrase “local, small, or disadvantaged businesses” both times it appears and inserting the phrase “certified business enterprises” in its place.

Note,  
§ 2-218.48

(k) Section 2350 (D.C. Official Code § 2-218.50) is amended as follows:

Note,  
§ 2-218.50

(1) Subsection (b)(1) is amended to read as follows:

“(b)(1)(A) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to each major phase of the development and construction of a project undertaken by the government corporation, including contracts for professional services, architectural, engineering, and other construction-related services and construction trade work, shall provide that at least 35% of the work on the project shall be awarded to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises.

“(B) If there are insufficient qualified small business enterprises to fulfill the small business enterprise contracting requirement, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume of the project to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.”

(2) Subsection (f)(3) is amended by striking the phrase “local, small, and disadvantaged” and inserting the word “certified” in its place.

(3) Subsection (g)(2) is amended by striking the phrase “Local, small, and disadvantaged” and inserting the word “Certified” in its place.

(l) Section 2351(e) (D.C. Official Code § 2-218.51(e)) is amended by striking the phrase “local, small, or disadvantaged” wherever it appears and inserting the word “certified” in its place.

Note,  
§ 2-218.51

(m) Section 2353 (D.C. Official Code § 2-218.53) is amended as follows:

(1) Subsection (a) is amended as follows:

Note,  
§ 2-218.53

(A) Paragraph (1)(D) is amended by striking the phrase “local, small, or disadvantaged”.

(B) Paragraph (2)(A) is amended by striking the phrase “Local, small, and disadvantaged” and inserting the word “Certified” in its place.

(C) Paragraph (3)(A) is amended by striking the phrase “Local, small, and disadvantaged” and inserting the word “Certified” in its place.

(2) Subsection (b)(2)(A) is amended by striking the phrase “Local, small, and

disadvantaged” and inserting the word “Certified” in its place.

(n) Section 2354 (D.C. Official Code § 2-218.54) is amended as follows:

Note,  
§ 2-218.54

(1) The existing language is designated as subsection (a).

(2) Paragraph (1)(D)(iv) of the newly designated subsection (a) is amended by striking the phrase “local, small, or disadvantaged”.

(3) Paragraph (2) of the newly designated subsection (a) is amended as follows:

(A) Subparagraph (C) is amended by striking the word “and” at the end.

(B) Subparagraph (D) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(C) A new subparagraph (E) is added to read as follows:

“(E) The actual dollar amount expended with each business enterprise.”.

(4) New subsections (b) and (c) are added to read as follows:

“(b) Within 45 days of its receipt of the annual reports required by section 2350(g), the Department shall submit to the Council and the Commission a report containing the following information with respect to each government corporation for the current and prior fiscal years:

“(1) The expendable budget of the government corporation;

“(2) The government corporation's achievement with respect to the requirements of section 2350; and

“(3) A list of each contract or procurement of the government corporation, which shall include the following:

“(A) A description of the contract or procurement;

“(B) The dollar amount of the contract or procurement;

“(C) The name of the business enterprise from which the goods or services were contracted or procured;

“(D) Whether the business enterprise was a certified business enterprise, and, if it was:

“(i) The category or categories under which the business enterprise is certified; and

“(ii) The identification number of the business enterprise assigned by the Department;

“(E) The source of funding for the contract (local, federal, other, or capital); and

“(F) The actual dollar amount expended with each business enterprise.

“(c)(1) Beginning with the first full quarter after October 25, 2006, the Department shall submit to the Council, within 60 days of the end of each quarter, a copy of the quarterly reports of each agency required by section 2353(a) and a copy of the quarterly reports of each government corporation required by section 2350(f).

“(2) Beginning with the first full quarter after October 25, 2006, the Department shall submit to the Council the following:

“(A) A summary of the information that each agency is required to submit pursuant to section 2353 and the information that each government corporation is required to submit pursuant to section 2350(f), in a format that shows the cumulative progress of each agency's or government corporation's annual certified business enterprise contracting and procurement goals to date and the actual dollar amount expended with each business enterprise for the current fiscal year; and

“(B) A list of all agencies or government corporations that have not submitted a report for that quarter and a detailed explanation of what actions were taken by the

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Department to effectuate compliance with the reporting requirement.”.

(o) Section 2361(b) (D.C. Official Code § 2-218.61(b)) is amended by inserting the word “longtime” before the phrase “resident business” wherever it appears. Note,  
§ 2-218.61

(p) Section 2371(a) (D.C. Official Code § 2-218.71(a)) is amended by striking the phrase “local, small, and disadvantaged” wherever it appears and inserting the word “certified” in its place. Note,  
§ 2-218.71

Sec. 3. Section 2375 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 2-218.75), is amended as follows: Note,  
§ 2-218.75

(a) Subsection (c)(2) is amended by inserting the word “section” before the term “2363(c)”.

(b) Subsection (d) is designated as subsection (e).

(c) The second subsection designated as subsection (c) is re-designated as subsection (d).

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia