

ENROLLMENT(S)

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ENROLLED ORIGINAL

AN ACT
D.C. ACT 11-273

*Codification
District of
Columbia
Code
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
MAY 20, 1996

To exempt, on a temporary basis, from the requirements of the District of Columbia Procurement Practices Act of 1985 privatization initiatives of the Department of Corrections to contract-out food, medical, inmate finance, and canteen services, and time and attendance responsibilities, and to contract for the sale and lease-back of the Correctional Treatment Facility.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Corrections Privatization Facilitation Temporary Act of 1996".

Sec. 2. Mayor's contracting authority.

**Note, Section
1-1181.5b**

Notwithstanding the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1181 et seq.), and any regulations adopted pursuant to that act, the Mayor may contract for the sale and lease-back of the Department of Corrections Correctional Treatment Facility and the provision of services with respect to food, medical, inmate finance, and canteen services, and the performance of time and attendance responsibilities that are currently provided by employees of the Department of Corrections.

Sec. 3. Policy, criteria, and standards for privatizing government services in the Department of Corrections.

**Note, Section
1-1181.5b**

(a) In contracting out (including a lease or other agreement) for the services referred to in section 2, the Mayor shall use the most competitive process practicable under the circumstances to facilitate the expeditious completion of these initiatives.

(b) In contracting out (including a lease or other agreement or any contracting policies or procedures relating to such contracts) for the services referred to in section 2, the Mayor may make a written determination and findings that the contract will meet the following criteria:

(1) A cost savings to the District government or improved quality or quantity of service at the same or lower cost will result for the duration of the contract, including all options;

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(2) Increased economic development for the District in terms of entrepreneurial opportunities for District businesses or employment opportunities for District residents may result;

(3) Strengthening of one or more existing District businesses, creation of one or more new businesses in the District, or relocation of one or more businesses from outside to inside the District may result;

(4) Performance criteria for the services to be contracted-out can be specified with reasonable exactness;

(5) Cost, efficiency of operation, and quality and quantity of the service to be contracted-out can be measured with reasonable accuracy; and

(6) For a service which is essential to the health or safety of District residents, contracting-out the service will not adversely affect the recipients.

(c) The Mayor may base any determination and findings pursuant to subsection (b) of this section on a written cost/benefit analysis prepared by the Department of Corrections. At a minimum, these analyses shall include, for such service, comparison of the following:

(1) Current total cost to the District government versus projected total cost to the District government after the contracting-out, if quality and quantity of service remain substantially the same; and

(2) Current quality and quantity versus projected quality and quantity of service after the contracting-out, if current total cost to the District government remains substantially the same.

(d) The Mayor may issue rules necessary to implement the provisions of this act, including rules that address the following:

(1) Cost factors to be considered in evaluating the total cost to the District government of a service currently provided by the government if the service continues to be projected by the government, such as the costs of equipment, facilities, maintenance, personnel, and utilities;

(2) Cost factors to be considered in evaluating the total cost to the District government if a service currently provided by the government is contracted-out, such as the additional cost of improving any capital assets to be transferred to a contractor, the additional cost of any one-time severance of District government employees, the additional cost of contract administration, the value of any improvement to District government programs resulting from privatized programs which serve the District government, any income to the District government from the lease or sale of District government assets resulting from contracting-out a service and any tax revenue to the District based on income earned by a contractor who performs a service that is contracted-out; and

(3) Methods to be used to identify and measure quality and quantity of service so that accurate cost comparisons can be made between District government and private sector performance.

(e) When the Mayor contracts-out a service referred to in section 2, the Mayor may make

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reasonable efforts to assist affected District government employees and to promote employment opportunities for District residents based on the action to contract-out. If not already required by a collective bargaining agreement, the Mayor may make reasonable efforts to:

(1) Consult with union representatives concerning affected District government employees;

(2) Provide alternative employment in the District government to affected District employees who are qualified; and

(3) Encourage the contractor performing the service that is contracted-out to make bona fide offers of employment to all other qualified District residents before extending offers to qualified nonresidents.

(f) Any solicitation for proposed contracts issued pursuant to this act may include information concerning the procedure by which current District government employees may exercise the right to bid on the contracts.

(g) The Director of the Department of Corrections shall publish a Notice of Solicitation in the District of Columbia Register and 2 newspapers of general circulation at least 30 days prior to the letting of any contract for good or services under this act.

Sec. 4. Council review of contracts.

Note, Section
1-1181.5b

(a) Pursuant to section 451(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 803, D.C. Code §1-1130(b)), the Mayor shall submit to the Council of the District of Columbia for approval any proposal to contract-out services covered by this act involving expenditures in excess of \$1,000,000 during a 12-month period.

(b) Nothing in this act shall be construed to prevent the Mayor from relying upon the procedures of the District of Columbia Procurement Practices Act of 1985 as a guide in determining how best to promote competition and greater efficiencies in contracting out for the services specified in section 2.

Sec. 5. Repealer.

The Department of Corrections Procurement and Privatization Exemption Emergency Amendment Act of 1996, effective February 23, 1996 (D.C. Act 11-220; 43 DCR 1176), is repealed.

Sec. 6. Fiscal impact statement.

(a) The Department of Corrections ("Department") projects a 2-year cost savings of \$14,989,874, by streamlining the contracting procedures for food services, medical services, inmate finance and canteen services, the automated time-keeping system, and the sale and lease-back of the Correctional Treatment Facility. The costs savings are as follows:

(1) For food services, the Department estimates a savings of \$819,038, annually, for in-house costs when privatized. Exemption from the District of Columbia Procurement

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Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1181 *et seq.*), will allow this privatization initiative to be executed in 1 year or less, and the Department would have an estimated cost savings of \$1,638,076.

(2) For the privatization of inmate finance and canteen services, the Department will save \$928,163, annually, in in-house costs. The Department will save an estimated \$1,856,326 if these services are performed within 1 year or less.

(3) For the automated time-keeping system, the Department will save an estimated \$1,367,800, annually, if privatized. Passage of this act will allow the privatization initiative to be executed in 1 year or less, and the Department would have an estimated cost savings of \$2,512,600.

(4) According to the preliminary cost data for the Correctional Treatment Facility, the Department will save an estimated \$491,436, annually, in in-house costs when privatized. This estimate assumes the sale of the facility of \$64,634,000 (which has been adjusted for estimated renovation costs of \$466,000) to a private vendor. Passage of this act will allow the privatization initiative to be executed in 1 year or less, and the Department would have an estimated cost savings of \$982,872.

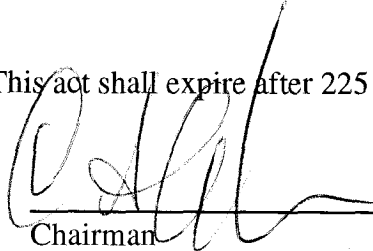
(b) Additional costs, if any, to implement this act shall be borne by the Department and any contracting parties.

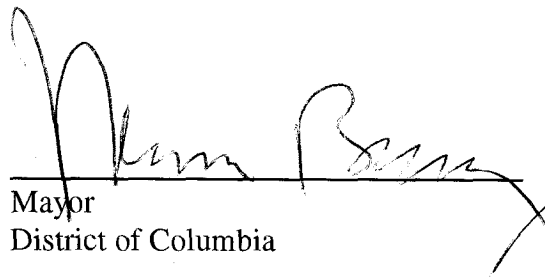
Sec. 7. Effective date.

(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), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia self-Government and governmental reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED: May 20, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No.

B11-653

[] ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

ADOPTED FIRST READING, 4-2-96

☒ VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

LIGHTFOOT AND RAY

ABSENT

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

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☒ ACTION & DATE

ADOPTED FINAL READING, 5-7-96

☒ VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

JARVIS, RAY AND THOMAS

ABSENT

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
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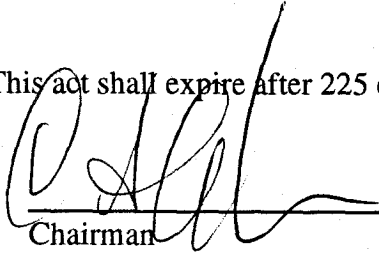
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X - Indicates Vote

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