

Report on public hearing held on July 2, 2020  
By the City of Philadelphia Procurement Department on proposed regulations entitled:

“Regulations of the Procurement Department Pursuant to Philadelphia Code Sec. 17-1402(1)  
‘Professional Services Small Purchase Regulations’”

July 17, 2020  
**Dated:** \_\_\_\_\_

July 17, 2020  
**Dated:** \_\_\_\_\_

DocuSigned by:  
*Monique Nesmith-Joyner*  
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Procurement Department  
Monique Nesmith-Joyner  
Commissioner

DocuSigned by:  
*Lewis Rosman*  
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Law Department  
Lewis Rosman  
Chief Deputy, Legislation

**HEARING REPORT****CITY OF PHILADELPHIA  
PROCUREMENT DEPARTMENT****REGULATIONS OF THE PROCUREMENT DEPARTMENT  
PURSUANT TO PHILADELPHIA CODE SEC. 17-1402(1)  
“PROFESSIONAL SERVICES SMALL PURCHASE REGULATIONS”****Background**

On May 22, 2020, the City of Philadelphia Procurement Department filed regulations with the Department of Records entitled “Regulations of the Procurement Department Pursuant to Philadelphia Code Section 17-1402(1) ’Professional Services Small Purchase Regulations’” (“Regulations”). On June 24, 2020 the City received a request for a hearing on the proposed Regulations. The Office of the Chief Administrative Officer (“CAO”) and the Procurement Department accordingly scheduled a public hearing pursuant to Section 8-407 of the City of Philadelphia Home Rule Charter. A hearing was held on July 2, 2020 at 9 a.m. on the WebEx platform. The hearing panel was comprised of Stephanie Tipton, Chief Administrative Officer; Monique Nesmith-Joyner, Procurement Commissioner; Iola Harper, Deputy Commerce Director and Director of the Office of Economic Opportunity (OEO); and Lewis Rosman, Chief Deputy Solicitor, Legislation & Legal Counsel Unit, who attended as the representative for the Law Department. Matthew Fisher, Chief of Staff to the CAO facilitated the virtual hearing.

The following individuals attended the virtual hearing per WebEx:

<b>FirstName</b>	<b>LastName</b>	<b>Company</b>
Erica	Gibson	City of Philadelphia
Blane	Stoddart	BFW Construction Project Managers
Michelle	Flamer	City of Philadelphia
Lisa	Lim	Lisa Lim Repair
Tayyib	Smith	1509 Naudain
Saif	Abbas	East West Systems, Inc.
India	Thomas	Sitting Pretty Tables & Chairs Rental
Linda	Medley	City of Philadelphia
Trevor	Day	City of Philadelphia
Christopher	Holland	Connexus Technology
Sanjeev	Agarwal	Princeton Engineering Services
Todd	Hestand	The Enterprise Center
Jason	Coles	Katika
Trena	Woodson	Scoops Promotional and Marketing
Kim	Carter	TEC
Lawrence	James	Connexus Technology

Damani	Johnson	BFW Group LLC
Dariel	Janerette	Dariel Janerette, J.D., LL.M., Ph.D.
James	Smith	Smith Flooring, Inc.
Ian	Smith	Ian Smith Design Group LLC
Krishan	Saini	KAKS & Company, LLC
Ramee	Williams	Raw power Electric
Ayo	Jemiri	CG Global Management Solutions, LLC
Carrie	Strehle	Promatech, Inc.
Angela	Dowd-Burton	DowdBurton and Associates, LLC
Vince	Gumbs	
Michelle	Chung	
Thomas	Munlyn	Sci-Tek Consultants, Inc.
David	Maynard	City Council
Michelle	Gumbs	
Michael	Johns	Mdesigns MWJ Consulting LLC
MARLA	S HAMILTON	PIDC
Mark	Nesbitt	INTVNETWORK,LLC
Daniel	Lodise	
Ji	Jun	City of Philadelphia
Peter	Kim	City of Philadelphia
Sloane	Folks	7th Councilmanic District

The CAO is charged with the oversight of the City's core administrative departments and functions, including the Office of Innovation and Technology, the Records Department, the Office of Administrative Review and Bureau of Administrative Adjudication, Human Resources and Talent, the Procurement Department and the Contracts Unit, among others. The mission of the CAO is to ensure that City's services are efficient and effective, inclusive and equitable, transparent, and conducted with integrity.

### **Conclusions**

The City appreciates the public participation in the process of providing input and recommendations to its regulations and will continue to work with stakeholders to provide greater opportunities to improve the City's contracting process while maintaining the integrity of the process.

The City considered all feedback in developing its Final Regulations attached to this report as Exhibit "A". A blacklined version showing the changes made to the originally filed regulations is attached as Exhibit "B." The Final Regulations also include a technical clarification not raised during public comment regarding the contract term for Micro Purchases.

The Final Regulations will go into effect ten (10) days after they are filed with the Department of Records.

### **Summary of Hearing, Public Comment, and Responses of the Department**

Stephanie Tipton, Chief Administrative Officer, called the hearing to order and provided background information regarding the Regulations summarized below:

The CAO, Procurement, and OEO have worked closely with Councilmember Derek Green, who sponsored the changes to Section 8-200 of the Philadelphia Home Rule Charter that prompted these regulations and the companion amendment to Chapter 17-1400 of the Philadelphia Code, in developing these Regulations and doing outreach to various Chambers of Commerce and stakeholders. Collectively, these legislative, regulatory, and operational changes are called the Local Business Purchasing Initiative (“LBPI”). These legislative changes are critical stepping stones necessary to making progress towards the LBPI goals and making Philadelphia competitive with other cities. Prior to the LBPI Charter change, Philadelphia had the second lowest dollar amount to trigger a formal procurement of the ten largest cities.

- The core goals of the proposed Regulations and LBPI are to:
  - Invest in Philadelphia by keeping local dollars local. Local investment has been shown to spur 50% more economic growth.
  - Create a simpler, business-friendly process to access and respond to City contracts
  - Create a more efficient contracting process, given the constraints of the City’s legacy contracting and financial systems
  - Provide greater access to City contracting opportunities for diverse businesses.
  
- LBPI legislation furthers these goals by:
  - Raising the threshold by which a formal bid is required for Procurement contracts from \$34,000 to \$75,000
  - Allows for the designation of contract opportunities only open to certified Local Business Entities (“LBEs”) for contracts up to \$100,000.
  - Authorizes the Procurement Department to promulgate regulations to “appropriately maximize accessibility by vendors, maximize transparency to the public, and minimize costs to the City”.

Regulations were developed consistent with these objectives and relevant legislation. Three purchasing categories were established:

- Micro Purchases

- A Micro Purchase is a purchase for goods or services at or under \$34,000. The procedures vary slightly for Procurement and Professional Services contracts for Micro Purchases under the Regulations. The Regulations for professional services initially proposed reflected the current processes for opportunities under \$34,000. The 20-year-old system used for Professional Services does not currently have the capability to automate the process of soliciting minority, women, and disabled-owned businesses enterprises (M/W/DSBEs), and therefore such focused solicitations require a series of manual processes for each opportunity. As originally proposed, the Regulations *strongly encouraged* solicitation to M/W/DSBEs. As discussed further below, in response to public comment, a requirement for solicitation from the OEO Registry, certified Local Business Entities, and/or alternative diverse business registries recognized by the City has been added for Micro Purchases under these Regulations.
- Small Order Purchases
  - The Regulations provide for an expedited contracting process for purchases up to \$75,000 and the ability of contracts to be amended or renewed. Requirements include public posting for 14 days and required solicitation of at least three M/W/DSBEs or alternative diverse business recognized by the City.
- Local Business Purchases
  - The Regulations allow for exclusive bidding by certified Local Businesses Entities (LBE) on contracts of up to \$100,000. These opportunities have similar procedural requirements of Small Order Purchases. This highlights Philadelphia's role as an innovator and leader in municipal procurement and contracting. While other cities already offer a local preference on bid price, Philadelphia is at the forefront of incentivizing local purchasing with a new tier specifically for local businesses.

The new simplified and streamlined contracting processes for contract opportunities under the LBPI thresholds will significantly reduce the time to contract and the procedural burdens for vendors applying for contract opportunities will be minimized. These streamlined measures will result in vendors being able to enter into contracts within these small purchasing categories faster, begin performing services sooner and get paid in a more timely manner. These improvements are complemented by the launch of the Contracts Hub (<https://contracts.phila.gov/#/>), which for the first time centralizes all of the City's Procurement and Professional Services opportunities onto one, user-friendly page that will allow vendors to easily search, identify and respond to any open contract opportunity with the City.

The Regulations also promote transparency and accountability by requiring the City to report annually on performance of the intended goals set forth by the Regulations – measuring our success in increasing opportunities for local and diverse businesses.

Ms. Tipton then summarized the process that would follow the hearing:

- The City will prepare a report that summarizes issues raised at the hearing, any responses, and provide the final regulations.
- The report and the final regulations will be submitted to the Records Department and will be posted on the Records Department website.
- The final regulations will become final and take in effect 10 days after being posted.

Ms. Tipton then opened up the hearing for public comment.

Blane F. Stoddart, President and CEO of BFW Construction Project Managers, provided public comment first; this supplemented the written comment and request for public hearing submitted on June 24, 2020 by Mr. Stoddart.

In addition to Mr. Stoddart, the following individuals provided public comment or asked a question:

- Lawrence James
- Tayib Smith
- Krishan Saini
- Trina Woodson
- Michael Johns
- Christopher Holland
- Ian Smith
- Jason Coles
- Marla Hamilton
- Angela Dowd Burton
- Mark Nesbitt

Below is a summary of the main issues raised pertaining to the Regulations raised in the written and oral testimony provided. Issues raised in public comment that do not directly address the Regulations are considered outside the scope of this report and generally are not included in the report; however, the City has provided some information to address questions or concerns, where possible and appropriate, below under “General Questions and Requested Follow up Information”.

➤ **Micro Purchases**

**Comment:** Under the Regulations, Micro Purchases (opportunities at or under \$34,000) do not require solicitation utilizing the OEO and alternative diverse registries recognized by the City. This contradicts the original intent of the bill.

**City Response:** Due to the current limitations of the 20-year-old system used for Professional Services contracting, these additional solicitation requirements would require a series of manual processes for each opportunity and would decrease contracting efficiency, and therefore the City did not initially include such a requirement in the Regulations. However, based on feedback provided, the City has revised the Regulations to require solicitation of M/W/DSBEs and/or alternative diverse registries recognized by the City consistent with the requirements applicable to Small Order Purchases. The City will implement interim procedures and system changes and provide additional training to City staff to mitigate inefficiencies until a new system, capable of automating the process, can be obtained.

➤ **Local Business Purchases**

**Comment:** All purchases under the \$100,000.00 limit for local businesses should be procured the same way through utilization of the OEO Directory, SBE, Emerging Vendors, Rebuild, Independence Business Alliance and Local Business Enterprise Directories. Any exceptions waters down the original intent of the Charter Change and should be resisted.

**City Response:** The Regulations as revised do not provide exceptions to the solicitation requirements; however, for Local Business Purchases, opportunities are exclusively for certified LBEs on contracts of up to \$100,000. These opportunities have similar procedural requirements of Small Order which includes the solicitation requirements:

c) Awards pursuant to this para. (5) [Contracts under the Business Limit] shall be made in compliance with the process set forth at paragraph (4) of these Regulations (“Professional Services Small Order Purchases”)...

Additionally, to further clarify and maximize competition among small, local and diverse businesses in Local Business Purchases, the Final Regulations specifically require solicitation of LBEs who are also registered with OEO or alternative diverse business registries recognized by the City.

➤ **Systemic Racism**

**Comment:** The Regulations are a tepid but still commendable improvement and certainly not enough in a post-COVID world.

**City Response:** The City recognizes the existence of systemic institutional racism. No single law or regulation will dismantle 401 years of discrimination that has impeded the enjoyment of economic opportunities for all our citizens. LBPI and the revisions to the Regulations demonstrate progress on the City's commitment to undertake sustained, collaborative, positive change to make the City's procurement process accessible, transparent and inclusive.

➤ **LBE and M/W/DSBE Concerns**

**Comment:** Commenters had concerns about the fraud, compliance, and enforcement for both programs. Additionally, a local business certification program with a qualifying revenue threshold was suggested to more directly benefit small businesses.

**City Response:** The City takes issues around fraud, compliance, and enforcement very seriously. The Procurement Department has stringent regulations and application, certification, and on-going recertification processes to mitigate opportunities for fraud. Information on those regulations and processes are available at <https://www.phila.gov/documents/local-business-entity-information/>. OEO, which promotes M/W/DSBE economic development, also monitors contract compliance. More information is available at <https://www.phila.gov/services/working-jobs/report-possible-issues-on-contracts/>.

➤ **Small, Local Business Program Suggestion**

**Comment:** Commenters suggested a local business certification program with a qualifying revenue threshold was suggested to more directly benefit small businesses.

**City Response:** Although a local business certification with maximum revenue thresholds designed to more directly benefit small businesses is outside the scope of these Regulations and would likely require additional legislative action. The City supports local, small businesses, and is interested in exploring programs that support local, small businesses. However, as noted above, to further clarify and maximize competition among small, local and diverse businesses in Local Business Purchases, the Final Regulations specifically require solicitation of LBEs who are also registered with OEO or alternative diverse business registries recognized by the City.

➤ **Enforcement of LBPI**

**Comment:** How are you going to enforce the requirements of LBPI and the Regulations?

**City Response:** Prior to LBPI and the Regulations, the requirements for solicitation of contracting opportunities that fell below the formal bidding threshold did not exist in the form of laws and regulations; rather it was governed by internal policy directives and suggested best practices. With a legal and regulatory framework now in place, the ability to enforce the requirements is greatly enhanced. Additionally, the reporting requirements under the Regulations will provide transparency necessary to support enforcement and accountability efforts. The City will also leverage existing technology and systems to support compliance and enforcement.

➤ **Reporting and Evaluation of LBPI**

**Comment:** How will the City evaluate and report on LBPI?

**City Response:** The Regulations promote transparency and accountability by providing for annual reporting on M/W/DSBE and LBE contracting and participation. This is found in Section 7:

Effective August 1, 2021, and each August 1 thereafter, the Procurement Department shall file with the CAO an annual report setting out the Department's experience under these regulations for the immediately preceding fiscal year. **Such report shall include, but need not be limited to, the total number of contracts (in absolute numbers; as a percentage of total contracts; and in total dollar amount) awarded under each paragraph of these Regulations to M/W/DSBEs, LBEs, SBEs and to Diverse Businesses.** All City agencies shall cooperate with the Procurement Department in assembling the necessary data for these reports. The CAO shall post the report on the City's website and shall provide copies of the report to the Chief Clerk of City Council and to the Mayor.

➤ **General Questions and Requested Follow up Information**

**Comments:**

- Is there a way to sign up to get notified of City contracting opportunities?
- What is the City doing to improve vendor payment time, as this is a barrier to M/W/DSBE contracting with the City?

**Response:**

- Vendors should sign up to receive notifications for contacting by doing the following:

- For Professional Services, register on eContract Philly at <https://philawx.phila.gov/econtract/> and check the box next to “Notify me of new contract opportunities by email” so that you receive daily eNotifications.
  - For Procurement, register on PHLcontracts at <https://www.phlcontracts.phila.gov/bsa/> and click “Register”. Once registered you can receive email notifications of bid opportunities based on your Commodity/Service Code selections.
- 
- Regarding vendor payment, the City recently conducted a pilot aimed at moving from a paper-based process to a stream-lined, electronic process. As a result of COVID-19, the pilot has had to rapidly expand across the organization. The City is continuing to make changes and improvements to this process. Efficiencies created by LBPI should further improve this process.

# EXHIBIT A

**Regulations of the Procurement Department  
Pursuant to Phila. Code § 17-1402(1)  
“Professional Services Small Purchase Regulations”**

1. Scope.

(a) These Regulations apply to all contracts for professional services entered into by any City agency.

(b) These Regulations shall apply to all agencies of City government, including, but not limited to, agencies headed by independently elected officials.

2. Definitions. For purposes of these Regulations, the following definitions shall apply:

(a) CAO. The Chief Administrative Officer, or such other City official with responsibility for contract administration, as designated by the Mayor.

(b) Local Business Entity. A business that has been certified as a Local Business Entity pursuant to § 17-109 of The Philadelphia Code, or any successor Local Business Entity ordinance adopted by City Council.

(c) Local Business Limit. As defined in the Small Purchase Regulations, the Local Business dollar limit is for an expenditure valued under \$100,000. The dollar limit for a Local Business Purchase expenditure shall be increased every City fiscal year (July 1 to June 30) by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(d) Micro Purchase Limit. As defined in the Small Purchase Regulations the Micro Purchase dollar limit is for an expenditure at or under \$34,000. The dollar limit for a Micro Purchase expenditure shall be increased every City fiscal year by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(e) M/W/DSBEs. Minority, Woman and Disabled owned business enterprises, as those terms are used in Executive Order 3-12 or any successor Order.

(f) OEO. Office of Economic Opportunity, or such other office as may be established by the Mayor with responsibility for ensuring diversity in City contracting.

(g) Small Order Purchase Limit. As defined in the Small Purchase Regulations, the Small Order Purchase dollar limit is for an expenditure below \$75,000 but above the Micro

Purchase dollar limit. The dollar limit of a Small Order Purchase expenditure shall be increased every City fiscal year by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U, and shall be rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(h) Small Business Enterprise or SBE. A business which meets the requirements of and is registered as a small business concern, defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121).

(i) Small Purchase Regulations. Regulations of the Procurement Department pursuant to Section 8-200(1) and (2.1) of the Home Rule Charter relating to Micro Purchases, Small Order Purchases, and Local Business Purchases.

### 3. Process for Professional Services Micro Purchases

(a) Contracts awarded pursuant to this paragraph (3) shall be known as Professional Services Micro Purchases. This para. (3) shall only apply to contracts for an amount at or under the Micro Purchase Limit.

(b) The awarding agency shall solicit three qualified vendors from :

- (.1) the OEO Registry of M/W/DSBEs;
- (.2) SBEs;
- (.3) Alternative vendor registries of diverse businesses recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance (“Diverse Businesses”); and
- (.4) Procurement’s list of certified LBEs.

(c) Contracts awarded pursuant to this para. (3) shall have a term of no more than twelve calendar months and shall not be renewed beyond a 365 day period; and shall not be amended to increase their contract amount above the Micro Purchase Limit, using the Micro Purchase Limit in effect at the beginning of the term.

(d) The awarding agency, at its discretion, may choose to use the Professional Services Small Order Purchase process set forth at para. (4), below.

### 4. Process for Professional Services Small Order Purchases

(a) Contracts awarded pursuant to this para. (4) shall be known as Professional Services Small Order Purchases. This para. (4) shall only apply to contracts for an amount at or under the Small Order Purchase Limit.

(b) Notwithstanding the exemption (set forth at Phila. Code § 17-1406(5)) from the requirements of Phila. Code § 17-1402(1)(a) and (c), contracts shall only be awarded after the contract opportunity has been posted on eContract Philly (or such other website as the Procurement Commissioner shall deem appropriate) for a minimum of fourteen (14) days, in accordance with Code § 17-1402(1)(a). The awarded applicant(s) must submit the required disclosure forms before the contract is executed; and the award notice shall appear on the website before the contract is executed.

(c) During the minimum 14-day posting period required by subpara. (b), above, the awarding agency must solicit proposals from at least three qualified vendors from among:

- (.1) the OEO Registry of M/W/DSBEs;
- (.2) SBEs;
- (.3) Alternative vendor registries of diverse businesses recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance (“Diverse Businesses”); and
- (.4) Procurement’s list of certified LBEs.

In the event there are fewer than three such listed vendors qualified for the contract opportunity, the awarding agency shall solicit from the number of listed vendors that are qualified.

(d) Contracts awarded pursuant to this para. (4) may be renewed to add one or more terms, each up to a maximum of one year, such that the initial term and all renewal terms combined do not exceed four years. Thereafter, a new contract opportunity must be posted in accordance with these Regulations. In extraordinary circumstances, based on a demonstrated immediate and pressing need, the Procurement Commissioner, with the consent of the Law Department, may allow additional renewal terms, each up to a maximum of one year, beyond the four-year maximum.

(e) Contracts awarded pursuant to this para. (4) shall not be amended to increase the contract amount for any one-year term above the Small Order Purchase Limit, using the Small Order Purchase Limit in effect at the beginning of that term.

#### 5. Contracts under the Local Business Limit.

(a) This para. (5) shall only apply to contracts for an amount under the Local Business Limit.

(b) An awarding agency shall use the process set forth at this para. (5) if the contract opportunity has been set aside by Procurement or by the soliciting agency to be exclusively available to Local Business Entities.

(c) Awards pursuant to this para. (5) shall be made in compliance with the process set forth at paragraph (4) of these Regulations (“Professional Services Small Order Purchases”), except that contracts awarded pursuant to this paragraph (5) may be awarded for an amount below the Local Business Limit; and the award must be in compliance with Code § 17-1406(5)(b) (relating to exceptions for local business contracts).

(d) If the Procurement Commissioner determines that a Business misrepresents the company as a local business, all compliance and remedies applicable under existing laws and policy shall apply.

(e) In soliciting vendors under this paragraph 5., for the purpose of maximizing competition among small, local and diverse businesses, the awarding agency shall solicit qualified, certified LBE vendors who are also registered with:

- (.1) the OEO Registry of M/W/DSBEs;
- (.2) SBEs;
- (.3) Alternative vendor registries of diverse businesses recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance (“Diverse Businesses”);

6. No contract or project shall be divided into multiple contracts or projects for the purpose of producing contracts or projects for amounts below any purchasing limit set out in these Regulations or for the purpose of avoiding any restrictions or limitations in these Regulations. Upon a determination by Procurement that any contract or project has been divided into multiple contracts or projects, in contravention of this para. (6), Procurement may take such action as Procurement, in its discretion, deems appropriate under the circumstances for enforcement of these Regulations, including, but not limited to, rejection of the proposed division and requiring that the contract be awarded in compliance with these Regulations; working with the contracting department or agency to ensure that future contracts on the same or similar projects are awarded in compliance with these Regulations; or cancellation of the improperly divided contracts. Nothing in this para. (6) is intended to discourage the good faith unbundling of large contracts, when intended for purposes other than avoidance of these Regulations.

7. Effective August 1, 2021, and each August 1 thereafter, the Procurement Department shall file with the CAO an annual report setting out the Department’s experience under these regulations for the immediately preceding fiscal year. Such report shall include, but need not be limited to, the total number of contracts (in absolute numbers; as a percentage of total contracts; and in total dollar amount) awarded under each paragraph of these Regulations to M/W/DSBEs, LBEs, SBEs and to Diverse Businesses. All City agencies shall cooperate with the Procurement Department in assembling the necessary data for these reports. The CAO shall post the report on the City’s website and shall provide copies of the report to the Chief Clerk of City Council and to the Mayor.

8. Nothing in these Regulations shall create any private, enforceable rights in any member of the public, including any disappointed applicant. These Regulations are enforceable only within the City by the Procurement Department and the CAO.

DocuSigned by:  
*Monique Nesmith-Joyner*  
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Monique Nesmith-Joyner  
Procurement Commissioner

# **EXHIBIT B**

**Regulations of the Procurement Department  
Pursuant to Phila. Code § 17-1402(1)  
“Professional Services Small Purchase Regulations”**

1. Scope.

(a) These Regulations apply to all contracts for professional services entered into by any City agency.

(b) These Regulations shall apply to all agencies of City government, including, but not limited to, agencies headed by independently elected officials.

2. Definitions. For purposes of these Regulations, the following definitions shall apply:

(a) CAO. The Chief Administrative Officer, or such other City official with responsibility for contract administration, as designated by the Mayor.

(b) Local Business Entity. A business that has been certified as a Local Business Entity pursuant to § 17-109 of The Philadelphia Code, or any successor Local Business Entity ordinance adopted by City Council.

(c) Local Business Limit. As defined in the Small Purchase Regulations, the Local Business dollar limit is for an expenditure valued under \$100,000. The dollar limit for a Local Business Purchase expenditure shall be increased every City fiscal year (July 1 to June 30) by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(d) Micro Purchase Limit. As defined in the Small Purchase Regulations the Micro Purchase dollar limit is for an expenditure at or under \$34,000. The dollar limit for a Micro Purchase expenditure shall be increased every City fiscal year by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(e) M/W/DSBEs. Minority, Woman and Disabled owned business enterprises, as those terms are used in Executive Order 3-12 or any successor Order.

(f) OEO. Office of Economic Opportunity, or such other office as may be established by the Mayor with responsibility for ensuring diversity in City contracting.

(g) Small Order Purchase Limit. As defined in the Small Purchase Regulations, the Small Order Purchase dollar limit is for an expenditure below \$75,000 but above the Micro

Purchase dollar limit. The dollar limit of a Small Order Purchase expenditure shall be increased every City fiscal year by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U, and shall be rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(h) Small Business Enterprise or SBE. A business which meets the requirements of and is registered as a small business concern, defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121).

(i) Small Purchase Regulations. Regulations of the Procurement Department pursuant to Section 8-200(1) and (2.1) of the Home Rule Charter relating to Micro Purchases, Small Order Purchases, and Local Business Purchases.

### 3. Process for Professional Services Micro Purchases

(a) Contracts awarded pursuant to this paragraph (3) shall be known as Professional Services Micro Purchases. This para. (3) shall only apply to contracts for an amount at or under the Micro Purchase Limit.

(b) The awarding agency **shall** solicit three qualified vendors from :

- (.1) the OEO Registry of M/W/DSBEs;
- (.2) SBEs;
- (.3) Alternative vendor registries of diverse businesses recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance (“Diverse Businesses”); and
- (.4) Procurement’s list of certified LBEs.

(c) Contracts awarded pursuant to this para. (3) shall **have a term of no more than twelve calendar months and shall** not be renewed **beyond a 365 day period**; and shall not be amended to increase their contract amount above the Micro Purchase Limit, using the Micro Purchase Limit in effect at the **beginning of the term**.

(d) The awarding agency, at its discretion, may choose to use the Professional Services Small Order Purchase process set forth at para. (4), below.

### 4. Process for Professional Services Small Order Purchases

(a) Contracts awarded pursuant to this para. (4) shall be known as Professional Services Small Order Purchases. This para. (4) shall only apply to contracts for an amount at or under the Small Order Purchase Limit.

(b) Notwithstanding the exemption (set forth at Phila. Code § 17-1406(5)) from the requirements of Phila. Code § 17-1402(1)(a) and (c), contracts shall only be awarded after the contract opportunity has been posted on eContract Philly (or such other website as the Procurement Commissioner shall deem appropriate) for a minimum of fourteen (14) days, in accordance with Code § 17-1402(1)(a). The awarded applicant(s) must submit the required disclosure forms before the contract is executed; and the award notice shall appear on the website before the contract is executed.

(c) During the minimum 14-day posting period required by subpara. (b), above, the awarding agency must solicit proposals from at least three qualified vendors from among:

- (.1) the OEO Registry of M/W/DSBEs;
- (.2) SBEs;
- (.3) Alternative vendor registries of diverse businesses recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance (“Diverse Businesses”); and
- (.4) Procurement’s list of certified LBEs.

In the event there are fewer than three such listed vendors qualified for the contract opportunity, the awarding agency shall solicit from the number of listed vendors that are qualified.

(d) Contracts awarded pursuant to this para. (4) may be renewed to add one or more terms, each up to a maximum of one year, such that the initial term and all renewal terms combined do not exceed four years. Thereafter, a new contract opportunity must be posted in accordance with these Regulations. In extraordinary circumstances, based on a demonstrated immediate and pressing need, the Procurement Commissioner, with the consent of the Law Department, may allow additional renewal terms, each up to a maximum of one year, beyond the four-year maximum.

(e) Contracts awarded pursuant to this para. (4) shall not be amended to increase the contract amount for any one-year term above the Small Order Purchase Limit, using the Small Order Purchase Limit in effect at the beginning of that term.

#### 5. Contracts under the Local Business Limit.

(a) This para. (5) shall only apply to contracts for an amount under the Local Business Limit.

(b) An awarding agency shall use the process set forth at this para. (5) if the contract opportunity has been set aside by Procurement or by the soliciting agency to be exclusively available to Local Business Entities.

(c) Awards pursuant to this para. (5) shall be made in compliance with the process set forth at paragraph (4) of these Regulations (“Professional Services Small Order Purchases”), except that contracts awarded pursuant to this paragraph (5) may be awarded for an amount below the Local Business Limit; and the award must be in compliance with Code § 17-1406(5)(b) (relating to exceptions for local business contracts).

(d) If the Procurement Commissioner determines that a Business misrepresents the company as a local business, all compliance and remedies applicable under existing laws and policy shall apply.

**(e) In soliciting vendors under this paragraph 5., for the purpose of maximizing competition among small, local and diverse businesses, the awarding agency shall solicit qualified, certified LBE vendors who are also registered with:**

**(.1) the OEO Registry of M/W/DSBEs;**

**(.2) SBEs;**

**(.3) Alternative vendor registries of diverse businesses recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance (“Diverse Businesses”);**

6. No contract or project shall be divided into multiple contracts or projects for the purpose of producing contracts or projects for amounts below any purchasing limit set out in these Regulations or for the purpose of avoiding any restrictions or limitations in these Regulations. Upon a determination by Procurement that any contract or project has been divided into multiple contracts or projects, in contravention of this para. (6), Procurement may take such action as Procurement, in its discretion, deems appropriate under the circumstances for enforcement of these Regulations, including, but not limited to, rejection of the proposed division and requiring that the contract be awarded in compliance with these Regulations; working with the contracting department or agency to ensure that future contracts on the same or similar projects are awarded in compliance with these Regulations; or cancellation of the improperly divided contracts. Nothing in this para. (6) is intended to discourage the good faith unbundling of large contracts, when intended for purposes other than avoidance of these Regulations.

7. Effective August 1, 2021, and each August 1 thereafter, the Procurement Department shall file with the CAO an annual report setting out the Department’s experience under these regulations for the immediately preceding fiscal year. Such report shall include, but need not be limited to, the total number of contracts (in absolute numbers; as a percentage of total contracts; and in total dollar amount) awarded under each paragraph of these Regulations to M/W/DSBEs, LBEs, SBEs and to Diverse Businesses. All City agencies shall cooperate with the Procurement Department in assembling the necessary data for these reports. The CAO shall post the report on the City’s website and shall provide copies of the report to the Chief Clerk of City Council and to the Mayor.

8. Nothing in these Regulations shall create any private, enforceable rights in any member of the public, including any disappointed applicant. These Regulations are enforceable only within the City by the Procurement Department and the CAO.

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Monique Nesmith-Joyner  
Procurement Commissioner