



# CITY OF BETHLEHEM

10 East Church Street, Bethlehem, Pennsylvania 18018-6025

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To: Adam R. Waldron, President of City Council

From: City Administration

RE: Amendment Proposals for RCO Bill

Date: October 14, 2021

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Reflecting on the discussion that took place at the September 16<sup>th</sup> Public Works Committee, it is our opinion there is consensus to support many parts of the existing bill. However, as expressed during that same meeting, the Administration believes there may be opportunities to introduce amendments in an effort to reach a compromise in other areas. We have met internally and developed 4 amendments to meet that goal.

1. Adding a strong incentive for apprenticeship programs while not disqualifying all others.

The first proposed amendment would promote Pennsylvania-qualified apprenticeship programs, protect the City's ability to continue operations without disruption, and give existing contractors an opportunity to develop apprenticeship programs without penalizing them. The language needed to implement these objectives is highlighted in the attached draft amendment in yellow and orange. Yellow language would be added to the ordinance, whereas orange language would be deleted. Firms with Pennsylvania-qualified apprenticeship programs would be given a specified percentage discount from any bid proposal for purposes of comparing their bids against bidders lacking apprenticeship programs. If the firm with the apprenticeship program is then identified as the lowest responsible bidder, then that firm would receive the contract at the face amount of its actual bid price. This amendment would retain a competitive environment without penalizing responsible contractors who have performed well, and help the City by not immediately disqualifying virtually all local contractors and their employees for at least the next 3 years. This amendment replaces the referenced US DOL Class A Apprenticeship Program prerequisite for all bidders since no one can explain how to create or become qualified for such a program, or even find that information in the federal regulations or on the internet. This would replace §124.03(c)(11) with new §124.03A. It would also eliminate the need for the Council to ever waive the RCO requirements in §124.10, which could then be deleted. **Added and Kept; Deleted.**

## 2. Threshold level and exemptions

The second proposed amendment would protect the City's ability to get smaller, time sensitive and regular work done without the risk of delays due to the known shortage of local bidders with apprenticeship programs. The revisions needed to implement this pragmatic and necessary objective is highlighted in light blue and dark blue. Light blue language would be added to the ordinance, whereas dark blue language would be deleted. The revision would impose the new requirements on construction projects valued at \$250,000 or higher, not \$100,000, and maintain the usual exceptions for contracts exempt from competitive bidding requirements under existing state law. The revision would be made to §124.02(a). **Added and Kept; Deleted.**

## 3. Codifying the contracting process

The third proposed amendment would codify the City's existing streamlined practices for the opening and recommending of the lowest responsible bidder to the Council, as well as move the Administration's review of the Contractor Responsibility Certification form into that process instead of delaying its review until after Council makes the award. This revision is important because all bids, by law, become invalid 60 days after opening and any post-award review could allow an alternate responsible bidder to be lost and require the contract to be readvertised. These precautionary revisions are highlighted in light green and dark green. Light green language would be added to the ordinance, whereas dark green language would be deleted. No contract could be signed until these processes are completed. These revisions would be made to §§124.04, 124.06, and 124.09. **Added and Kept; Deleted.**

## 4. Removing subcontractors

The fourth proposed amendment would delete the requirement for all subcontractors, none of whom are hired by the City, to provide Subcontractor Responsibility Certifications. This makes sense since the primary contractors for the GC, EC, HVAC, and Plumbing work are the only parties responsible to the City to make sure the actual construction work is completed in the manner required by the contract. The deletion needed to implement this basic reality is shown in dark pink. This revision would affect §§124.05, 124.07, and 124.08 (last sentence). **Deleted.**

Cc: Robert J. Donchez, Mayor  
George Yasso, City Controller  
William P. Leeson, Esq., City Solicitor  
Edmund Healy, Esq., Assistant City Solicitor  
Eric Evans, Business Administrator  
Michael Alkhal, Director of Public Works  
Edward Boscola, Director of Water & Sewer Resources  
Sandra Steidel, Director of Purchasing