



Posted on Sun, Jan. 23, 2011

Annual studies help Philadelphia address diversity in contracting

W. Wilson Goode Jr.

is a Philadelphia city councilman

Last year, during budget hearings, I questioned City Solicitor Shelley R. Smith about the legal framework for establishing city contracting goals with minority, women, and disabled businesses. These goals direct city departments to strive for inclusion in all contracting to maximize the participation of disadvantaged businesses. Some might contend that such policies are discriminatory, but they are not - under certain conditions. The solicitor's response outlined those conditions and the legal framework, which are consistent with every legislative action that I've taken on this matter.

Our legal position is that the use of qualified disadvantaged businesses should match their availability to participate in city contracts. Given that Philadelphia will spend billions of taxpayer dollars for professional services, construction, and supplies during the next several years, all businesses must be given an equitable opportunity to participate fully in the contracting process. In addition, the participation of disadvantaged businesses is critical to the city's economic growth.

Consistent with federal law, the city should be committed to a policy of diversity that does not seek to favor one race, ethnicity, or gender over another. To that end, I sponsored an amendment to the Philadelphia Home Rule Charter that voters overwhelmingly approved in 2006. This amendment requires an annual disparity study to analyze the participation of disadvantaged business enterprises in city contracts. Evidence of societal discrimination alone cannot justify setting contracting goals. Instead, according to federal legal standards, there must be evidence that discrimination exists in connection with the awarding of contracts.

The city began requiring the annual studies in 2007, comparing the utilization of disadvantaged businesses in city contracts with their proportion in the regional marketplace. And, indeed, the studies have revealed disparities among groups studied (minority, women, and disabled) as well as for contract types: public works; personal and professional services; and services, supplies, and equipment. The studies identify the extent of the disparities and provide critical data in the formation of annual participation goals.

(Utilization is the total dollar value of contracts awarded to for-profit disadvantaged prime contractors and subcontractors divided by the total dollar value of city contracts awarded to all for-profit prime contractors and subcontractors.)



Diversity studies of city contracting tell the story. From fiscal 1998 to 2003, 95.5 percent of city contract dollars were awarded to businesses owned by white men, with minority- and women-owned businesses accounting for only 2.3 and 2.2 percent, respectively. Clearly, little effort was being made to achieve diversity in city contracting.

Such numbers and more recent studies by Econsult Corp. have led to recommendations on annual participation goals by disadvantaged businesses for city contracts to at least 19 percent in fiscal 2011 and at least 25 percent in fiscal 2014. The Nutter administration has set its current fiscal-year goal at 25 percent.

To achieve its objective, the Nutter administration will assign economic-opportunity staff to city project managers and procurement buyers to facilitate inclusive purchasing decisions from the earliest stages of the process.

Previously, procurement officers in each department may not have understood what they could do to make sure their contract opportunities were prepared in ways to maximize firms' participation. They may not have been aware of contract characteristics that help or hurt disadvantaged businesses. For example, the contract's size, or insurance or bonding requirements, may have limited the participation of otherwise qualified disadvantaged businesses. The economic-opportunity staff can now counsel departments, which then can determine if certain requirements should be relaxed.



Also, the specialized nature of the products or services required to fulfill a contract may narrow the universe of qualified firms, necessitating further research to find who can compete for these opportunities. Through formal gatherings and informal meetings, disadvantaged businesses will be able to seek the assistance of economic-opportunity staff in connecting with procurement officers and contractors.

The economic-opportunity staff also plans to support city departments as they establish their annual engagement goals. Protocols will be developed to establish department goals and to ensure that departments plan their budget in alignment with these goals, always reflecting the realities of disadvantaged-business availability. This process incorporates anticipated contract dollars, specific projects to be pursued, the scope of the work required, and the number of available businesses.

We have a legal obligation to comply with constitutional standards in our awarding of taxpayer dollars. More important, we have a moral obligation to increase participation for disadvantaged businesses by giving them more economic opportunity - and only a disparity study can determine their fair share. That's the law, not just my opinion.

Contact W. Wilson Goode Jr.

at wilson.goode@phila.gov.

Find this article at:

http://www.philly.com/inquirer/opinion/20110123_Annual_studies_help_Philadelphia_address_diversity_in_contracting.html

Check the box to include the list of links referenced in the article.

© Copyright | Philly Online, LLC. All Rights Reserved. Any copying, redistribution or retransmission of any of the contents of this service without the express written consent of Philly Online, LLC is expressly prohibited.