

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To establish a compliance unit within the Office of the District of Columbia Auditor for the purpose of conducting an audit and reporting on compliance issues in real estate development projects receiving government assistance that were previously managed by the dissolved National Capital Revitalization Corporation or Anacostia Waterfront Corporation and placed under the management of the Office of the Deputy Mayor for Planning and Economic Development.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Compliance Unit Establishment Act of 2008".

Sec. 2. Establishment of a compliance unit.

(a) There is established a compliance unit ("Unit") within the Office of the District of Columbia Auditor.

(b) The Unit shall conduct an audit and report on compliance related to real estate development transactions, agreements, or parcels ("projects") receiving government assistance, which were previously managed by the dissolved National Capital Revitalization Corporation and Anacostia Waterfront Corporation and placed under the management of the Office of the Deputy Mayor for Planning and Economic Development, pursuant to the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689).

(c) For the purposes of this act, the term "government assistance" means a grant, loan, tax increment financing, or other financial assistance that results in a financial benefit from an agency, commission, instrumentality, or other entity of the District government. The term "government assistance" may also include PILOT financing, a Tax Abatement, a Tax Incentive, or a discounted lease or sale price for District-owned land.

(d) The Unit's audit shall focus on the following compliance requirements:

(1) Requirements related to developer selection and performance guidelines, as defined in the Mayor's source-selection process;

(2) Requirements related to selection of goods and services, as defined in the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*);

(3) Requirements related to living-wage laws pursuant to the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.01 *et seq.*);

(4) Requirements related to contracting with, and procuring goods and services from, Certified Business Enterprises (“CBEs”) pursuant to the Small, Local and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective March 2, 2007 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) (“SLDBE Assistance Act”);

(5) Requirements related to equity and development participation by CBEs pursuant to the SLDBE Assistance Act;

(6) Requirements related to environmental standards, including the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01 *et seq.*), the Anacostia Waterfront Environmental Standards Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689), and where applicable, the Leadership in Energy and Environmental Design (“LEED”) Green Building Rating System; and

(7) Requirements related to affordable housing mandates, including the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.01 *et seq.*), the Community Development Block Grant, the Housing Production Trust Fund, the Home Investment Partnerships Program, and the Low-Income Housing Tax Credit program, as applicable.

### Sec. 3. Powers of the Unit.

(a) In analyzing compliance for the relevant projects under the purview of the Office of the Deputy Mayor for Planning and Economic Development, the Unit is authorized to look at:

(1) All contracts for completed projects;

(2) All contracts for projects currently being developed;

(3) All contracts for projects developed after the effective date of this act;

(4) All relevant statutes and regulations;

(5) All procurement documents, including requests for proposals, requests for expressions of interest, requests for qualifications, and responses;

(6) All relevant budget documents;

(7) All documents related to payment of contractors;

(8) All staffing schemes and position descriptions related to the project under review; and

(9) Any other relevant books, accounts, records, reports, findings, and all other papers, things, or property belonging to or in use by the District government and contractor necessary to analyzing compliance.

(b) To carry out its duties, the Unit is authorized to make site visits and meet with government and private-sector project staff members to evaluate whether each project was completed, or is being completed, in accordance with the documents referenced in subsection (a) of this section.

Sec. 4. Reporting requirements.

(a) The Unit will conduct its audit after the completion of each project, once the project has received a certificate of occupancy. Each project will only be audited one time.

(b) The Unit's reporting requirements that are submitted to the Council after the completion of the project and at the end of each fiscal year shall include an annual written report, including an executive summary, compiling the Unit's findings, which:

(1) Assesses the compliance and enforcement capacity of each District agency required to monitor and enforce requirements set forth in section 2(b), including the number of employees still needed to meet those requirements;

(2) Evaluates each project identifying relevant compliance requirements, such as which contract, procurement, or legislative mandates were met, or not met, and reasons for under-compliance or noncompliance; and

(3) Makes recommendations addressing problems with under-compliance and noncompliance with a goal of 100% compliance for all relevant contract, procurement, or legislative mandates.

(c) The Unit shall provide written and oral testimony to the Council on the findings for each project discussed in subsection (b) at oversight hearings that are to be scheduled by the Council Chairperson at the request of the Unit.

(d) The Unit shall make public the names of any contractor found to be under-compliant or noncompliant after a correction period to be determined at the discretion of the Unit on a per-project basis.

(e) If the Unit's findings reveal under-compliance or noncompliance on a given project, the Unit is required to report such findings to the relevant District agency's director and the Council Chairperson. The relevant District agency shall be responsible for enforcing compliance of any violation found.

(f) Annual reports and written testimony from oversight hearings shall be made available to the general public on the Office of the District of Columbia Auditor's website.

Sec. 5. Section 204(a-1) of the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a-1)), is amended as follows:

Amend  
§ 2-534

(a) The existing text is designated as paragraph (1).

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

"(2) Disclosure of documents from a District of Columbia government agency, official, or employee to the Council, including an employee of the Office of the District of Columbia Auditor, a Council committee, or a member of the Council acting in an official

capacity, shall not constitute a waiver of any privilege that otherwise could be asserted by the District of Columbia to prevent disclosure of the documents in a judicial or administrative proceeding."

**Sec. 6. Applicability.**

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

**Sec. 7. Fiscal impact statement.**

The Council adopts the April 1, 2008 fiscal impact statement of the Chief Financial Officer 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. 8. Effective date.**

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. Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia