



# CITY OF PHILADELPHIA

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August 19, 1998

*Submitted*

## VIA HAND DELIVERY

The Honorable Daniel F. Clark  
Chairman, Subcommittee on Courts  
Pennsylvania House of Representatives Judiciary Committee  
House Box 202020  
Harrisburg, PA 17120-2020

Dear Chairman Clark:

Thank you very much for the opportunity to present my views of House Bill 1671. This bill has the potential to provide an important tool for the City of Philadelphia (the "City") to use in its ongoing efforts to save City taxpayer money by making government more efficient. By providing financial incentives to private plaintiffs to help the City root out fraud, House Bill 1671 is likely to result in the discovery and prosecution of fraud that would otherwise go undetected. By providing severe monetary sanctions, the bill is likely to provide an effective deterrent to fraudulent conduct and to result in recovery of funds for the City treasury that would otherwise be lost.

House Bill 1671 addresses a serious problem faced by the City in its extensive dealings with contractors. This bill recognizes that despite the best efforts of City employees, it is not cost-effective, or simply not possible, to police in detail the implementation of every City contract. While obviously the vast majority of City contractors are fair and honest in all their dealings with the City, there are exceptions, and this bill would help the City in those situations. Let me give you a very few examples of actual situations confronted by the City in which the provisions of this bill might have been or might be helpful.

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In the past, the City has at times discovered through labor-intensive investigations or audits that the City has paid for goods it did not receive, or that recipients of City grants have misused the grant money, either by embezzlement or false documentation regarding its actual use. In one diffused scheme which deprived the City of goods paid for, the drivers of fuel delivery trucks made personal side deals to sell some of the gasoline earmarked for delivery to the City, then delivered to the City less fuel than paid for. While a diligent City employee discovered the discrepancy and the whole scheme was detected through a labor-intensive undercover operation, perhaps the incentives created by House Bill 1671 would have uncovered the scheme earlier.

In another instance, the City discovered that a car repair company was billing the City for work they did not perform and for work using used equipment when the contract called for new equipment. In the absence of the kinds of incentives created by House Bill 1671, the City resources expended in the labor-intensive surveillance which uncovered the car repair overbilling scheme were probably roughly the same as the amount recovered.

As this bill recognizes, padded or otherwise false billing is difficult to uncover without inside information from someone who works for the contractor. If not for the unique nature of the product involved, one instance of overbilling that was discovered by the City's Water Department probably would not have been: a newly-painted forklift sold to the Water Department as new was discovered to be twelve years old only because the vehicle was traceable through its identification number.

House Bill 1671 also may help the City to collect taxes. While there is no way to accurately estimate what percentage of City taxpayers deliberately underreport taxes owed to the City, in-house accountants or vendor employees sometimes contact the City's Inspector General to report that businesses within the City are underpaying their City taxes. House Bill 1671 would broaden the incentives which motivate such reports.

Overall, the City of Philadelphia is very supportive of the goals of House Bill 1671. One very welcome departure from the federal False Claims Act on which it is based is the exemption of present or former government employees as potential qui tam plaintiffs (unless they have unsuccessfully used internal reporting procedures first) and the blanket exemption of law enforcement officers and other governmental investigators. These provisions will prevent employees who are merely doing their jobs from profiting at public expense.

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I do, however, have concerns about some of the bill's provisions that I am currently pursuing in discussions with Philadelphia District Attorney Lynne Abraham's office, and I hope to soon provide the Subcommittee with more detailed comments about specific substantive provisions of the draft bill.

Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie L. Franklin-Suber". The signature is fluid and cursive, with a large initial "S" and "F".

STEPHANIE L. FRANKLIN-SUBER  
City Solicitor

cc: The Honorable Edward G. Rendell, Mayor  
The Honorable Michael Fisher, Attorney General  
The Honorable Lynne Abraham, District Attorney  
Gregory S. Rost, Chief of Staff  
Benjamin J. Redmond, Inspector General