

**ORDINANCE**

**CITY OF NEW ORLEANS**

**CITY HALL: September 7, 2023**

**CALENDAR NO. 34,391**

**NO. \_\_\_\_\_ MAYOR COUNCIL SERIES**

**BY: COUNCILMEMBER MORENO** <sup>HM</sup>

**AN ORDINANCE** to amend and reordain section 70-462 of the Code of the City of New Orleans and to ordain section 70-468 of the Code of the City of New Orleans relative to reporting for contracts executed by the City of New Orleans and the implementation of a DBE procurement set-aside program; and to provide otherwise with respect thereto.

**WHEREAS**, in June 2023, Governor John Bel Edwards signed Act 230 authored by Representative Delisha Boyd, a first-of-its-kind law for New Orleans that allows the city to set aside up to 25% of city contracts for socially and economically disadvantaged business enterprises (DBEs); and

**WHEREAS**, this law ensures that for designated contracts, DBEs will be able to bid for work among themselves instead of against larger and prime contractors; and

**WHEREAS**, despite critical progress made, there is more to be done to build long-term wealth for minority entrepreneurs and small businesses; thanks to this new state legislation, the City has new opportunities to set aside more City dollars for local small and minority businesses; and

**WHEREAS**, this breakthrough will catalyze long-term growth and give new energy to our local businesses trying to level the playing field, a goal that benefits us all in the city of New Orleans.

**SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**

**ORDAINS**, That section 70-462 of the Code of the City of New Orleans be amended and reordained and that section 70-468 of the Code of the City of New Orleans be ordained and established to read as follows:

## “Chapter 70 – FINANCE

\* \* \*

## ARTICLE IV. – PURCHASES AND CONTRACTS

\* \* \*

## DIVISION 2. – EQUITABLE BUSINESS OPPORTUNITIES PROGRAM

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**Sec. 70-462. – Reporting for contracts executed by the City of New Orleans.**

(a) The CAO shall submit an EBO program report to the city council by October 1 of each year identifying the city's equity goals and attainment rates for the prior two years.

(b) The CAO, department of finance, office of supplier diversity, and the office of performance & accountability, shall prepare and submit an annual equitable business opportunities scorecard program report to the city council by October 1 of each year of all contracts executed by the city in the preceding year pursuant to section 6-308(1) of the Home Rule Charter, sorted by department, identifying equity goals, and attainment rates. The equitable business opportunities scorecard program report shall also include, but is not limited to, the following information:

(1) The total number and value of all contracts awarded during the reporting period;

(2) The total number and value of all contracts awarded to DBEs as prime contractors (expressed as a percentage and dollar value of (1));

- (3) The total number and value of all contracts awarded by non-DBE prime contractors to DBEs as subcontractors (expressed as a percentage and dollar value of (1));
- (4) The overall number and value of all contracts awarded to DBEs during the reporting period (the sum of (2) and (3));
- (5) Whether the contract is a procurement, professional services, personal services, or construction contract;
- (6) Documentation of waivers requested from the provisions of this section for any city contract, with the recommendations of OSD and CAO determination on the waiver request outcome;
- (7) Actual city spending in the preceding calendar year broken down by all departments and agencies listed in section 70-466 of the City Code. Such reporting shall measure the actual spending of each department or agency in the preceding calendar year, not the registered value of contracts, which may not result in actual spending and can often span multiple years;
- (8) Percent of city-awarded contracts and actual spending with minority- and women-owned business enterprises;
- (9) Whether actual spending in a given department or agency represents adherence to DBE goals set forth in section 70-459, as well as adherence of a given department or agency to meet or surpass DBE goals over the most recent five years, if applicable;
- (10) Number of certified minority- and women-owned business enterprises versus the same enterprises' share of annual city spending, if available;
- (11) Applicable updates with respect to OSD's Mentor/Protégé program, by department or agency;

(12) Overall letter grade for the City of New Orleans and for each individual department and agency, and methodology for determining grades;

(13) If a given department or agency fails to meet DBE goals set forth in section 70-459, an enumerated list of strategies to bring the department or agency into compliance should be included;

(14) Total emergency procurement spending that otherwise falls under the EBO program;

(15) Key recommendations by department or agency to encourage or grow DBE-compliance; and

(16) Compliance with the procurement set-aside program found in section 70-468 broken down by City department or agency and contract type.

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**Sec. 70-468. – Procurement set-aside program.**

The CAO shall implement a socially and economically disadvantaged procurement set-aside program, in accordance with La. Rev. Stat. 38:2233.5 and shall promulgate rules and regulations pursuant to City Code section 2-1000 to implement the provisions thereof. The rules and regulations promulgated in accordance with this section shall be governed by the following requirements.

(a) Each year, the CAO, in conjunction with the Director of Finance, shall designate and set aside an amount equal to at least ten percent but not more than twenty-five percent of anticipated local procurement of goods and services for contracting directly with DBE vendors.

(b) When making the annual designation of procurement set-asides, an attempt shall be made to vary included procurements to allow for a variety of goods and services.

- 69 (c) Goods and services shall include construction or any public works project, including  
70 alteration or repair.
- 71 (d) The failure to set aside particular procurements shall not be considered to prohibit or  
72 discourage socially and economically disadvantaged businesses from seeking the  
73 procurement award through the normal solicitation and bidding processes.
- 74 (e) The failure to set aside particularly procurements shall not be considered to prohibit or  
75 discourage socially and economically disadvantaged businesses from seeking the  
76 procurement award through the normal solicitation and bidding processes.
- 77 (f) No business may be awarded a contract pursuant to the provisions of this section unless it has  
78 met the certification requirements through the SLDBE or LAUCP-DBE program, or such  
79 other certification program as the City may designate. Rules and regulations shall include  
80 procedures regarding the certification requirements of certified DBEs.
- 81 (g) Rules and regulations adopted shall also provide for the establishment of a contract procedure  
82 for awarding contracts pursuant to this section.
- 83 (h) Rules and regulations shall require that schedules to publicize requests for proposals, requests  
84 for qualifications, and bid solicitations shall adhere to federal guidelines.
- 85 (i) If the City or any entity outlined in section 70-466 is unable to award all of its procurement  
86 set-asides to certified DBEs during a given year, then the balance of the procurement set-  
87 asides may be awarded to other businesses in accordance with existing solicitation, bid  
88 evaluations, and contract award provisions.
- 89 (j) All laws and rules pertaining to solicitations, bid evaluations, contract awards, and other  
90 procurement regulations shall apply to procurement set-asides for certified DBEs, including  
91 penalties for noncompliance.

92 (k) Nothing in the procurement set-aside program, or in the implementing of rules and regulations  
93 for said program, shall be deemed to eliminate or reduce the equity goal established by section  
94 70-459 or otherwise modify the provisions of this division for contracts not subject to the  
95 procurement set-aside.”

1 **SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**  
2 **ORDAINS,** That the initial public hearing required by section 2-1000(c) for the rules and  
3 regulations promulgating the procurement set-aside program required by section 70-468 shall  
4 occur not later than January 1, 2024.

**ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS** \_\_\_\_\_

\_\_\_\_\_  
**PRESIDENT OF THE COUNCIL**

**DELIVERED TO THE MAYOR ON** \_\_\_\_\_

**APPROVED:**  
**DISAPPROVED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**RETURNED BY THE MAYOR ON** \_\_\_\_\_ **AT** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COUNCIL**

**ROLL CALL VOTE:**  
**YEAS:**  
**NAYS:**  
**ABSENT:**  
**RECUSED:**