

EXECUTIVE ORDER No. 159

December 28, 2011

AMENDMENT OF EXECUTIVE ORDER No. 50 OF 1980 ESTABLISHING THE BUREAU OF
LABOR SERVICES

WHEREAS, Executive Order 50 of 1980 created, among other things, a process to ensure equal employment opportunity in City contracting; and

WHEREAS, that process includes the filing of employment reports documenting potential City contractors' compliance with equal employment opportunity principles and requirements; and

WHEREAS, the Mayor's Office of Contract Services ("MOCS") performs routine, random evaluations of client services contractors' internal controls including equal employment policies and practices;

WHEREAS MOCS regularly monitors public records and databases to identify federal and state enforcement actions filed against every City contractor, including those concerning equal employment opportunities laws and regulations; and

WHEREAS, potential City contractors are also required to file similar, and extensive, federal and state documentation with the Bureau of Labor Services concerning their compliance with equal opportunity principles and requirements; and

WHEREAS, the combination of governmental requirements to demonstrate compliance has become duplicative and particularly burdensome for smaller potential contractors, and thus there is a need to reduce such duplication, while fully preserving the same high standards and oversight for those contractors;

NOW THEREFORE,

By the power vested in me as Mayor of the City of New York, it is thereby ordered.

Section 1. Prior Order Amended.

- a. Section 3 of Executive Order No. 50, dated April 25, 1980, as amended by Executive Order No. 94 of 1986 and Executive Order No. 108 of 1986, is amended to read as follows:

§ 3. Definitions. Whenever used in this Executive Order, the following terms shall have the following meanings:

(a) Bureau means the Bureau of Labor Services.

(b) client services shall have the meaning set forth in the Procurement Policy Board Rules of the City of New York (9 RCNY §1-01(e)).

(c) construction project means any construction, reconstruction, rehabilitation, alteration, conversion, extension, improvement, repair or demolition of real property contracted by the City.

(d) contract means any written agreement, purchase order or instrument whereby the City is committed to expend or does expend funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing:

(i) Unless otherwise required by law, the term "contract" shall include any City grant, loan, guarantee or other City assistance for a construction project.

(ii) The term "contract" shall not include:

(A) contracts for financial or other assistance between the City and a government or government agency;

(B) contracts, resolutions, indentures, declarations of trust, or other instruments authorizing or relating to the authorization, issuance, award, and sale of bonds, certificates of indebtedness, notes, or other fiscal obligations of the City, or consisting thereof; or

(C) employment by the City of its officers and employees which is subject to the equal employment opportunity requirements of applicable law.

(e) contracting agency means any administration, board, bureau, commission, department, or other governmental agency of the City of New York, or any official thereof, authorized on behalf of the City to provide for, enter into, award, or administer contracts.

(f) contractor means a person, including a vendor, who is a party or a proposed party to a contract with a contracting agency, first-level subcontractors of supply and service contractors, and all levels of subcontractors of construction.

(g) Director means the Director of the Bureau of Labor Services.

(h) economically disadvantaged person means a person who, or a member of a family which, is considered economically disadvantaged under applicable law.

(i) employment report means a report filed by a contractor containing information as to the employment practices, policies, programs, employment statistics and collective bargaining agreements, if any, of the contractor in such form as the Bureau may direct by regulation.

(j) equal employment opportunity means the treatment of all employees and applicants for employment without unlawful discrimination as to race, creed, color, national origin,

sex, age, disability, marital status, sexual orientation or citizenship status in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, lay-off and termination, and all other terms and conditions of employment.

(k) trainee means an economically disadvantaged person who qualifies for and receives training in one of the construction trades pursuant to a program other than apprenticeship programs, approved by the Bureau and, where required by law, the State Department of Labor and the United States Department of Labor, Office of Apprenticeship and Training.

§ 2. Subdivision (a) of section 6 of such Order is amended to read as follows:

(a) Submission Requirements. No contracting agency shall enter into a contract with any contractor unless such contractor's employment report is first submitted to the Bureau for its review. Unless otherwise required by law, an employment report shall not be required for the following:

(i) a construction contract in the amount of less than \$1 million; a construction subcontract in the amount of less than \$750,000; or a supply and service contract in the amount of \$50,000 or less or of more than \$50,000 in which the contractor employs fewer than 50 employees at the facility or facilities involved in the contract;

(ii) an emergency contract or other exempt contract except as the Bureau may direct by regulation;

(iii) a contract with a contractor who has received a certificate of compliance with the equal employment opportunity requirements of applicable law from the Bureau within the preceding thirty-six months, or an appropriate agency of the State of New York or of the United States within the preceding thirty-six months, except as the Bureau may direct by regulation; and

(iv) a contract for client services, as defined in section three above; except that nothing in this section shall prevent the Director in the Director's sole discretion from requiring an employment report from a client services agency that has contracted with the City if the Director believes that the client services agency is in violation of the equal employment requirements of City, State or Federal law.

§ 3. The Mayor's Office of Contract Services shall assist the Director by referring any complaints or concerns about the compliance of current or potential client services contractors with the equal employment requirements of City, State or Federal law to the Director for further review, including the requirement of filing employment reports by such contractors.

§ 4. Effective Date. This Order shall take effect immediately.

Michael R. Bloomberg
Mayor