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THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 53

AUGUST 1, 1980

CONSTRUCTION CONTRACTS FOR LOCALLY BASED ENTERPRISES

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

Section 1. Purpose. It shall be the purpose of this Order to promote the development of business and employment within economic development areas of the City of New York by ensuring that small enterprises conducting business in such areas, or employing economically disadvantaged persons, receive a greater share of all construction contracts awarded by the City of New York.

§ 2. Definitions.

a. Bureau means the Bureau of Labor Services.

b. contract means any written agreement whereby the City is committed to expend or does expend funds in connection with any construction project, except the term "contract" shall not include:

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

(ii) 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.

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c. contracting agency means any administration, board, bureau, commission, department, establishment, instrumentality or other governmental agency of the City of New York, including any wholly owned City corporations, or any official thereof, authorized on behalf of the City to provide for, enter into, award or administer contracts.

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

e. economic development area means, for the purpose of this Order, an area defined by such economic criteria as the Bureau may by regulation direct.

f. economically disadvantaged person means a person who, or a member of a family which, is considered economically disadvantaged under applicable law as defined by Bureau regulation.

g. gross receipts means monies received by a locally based enterprise during such period and in such manner as the Bureau may by regulation direct.

h. locally based enterprise means a business enterprise which:

(i) earned gross receipts of \$500,000 or less during the appropriate period; and

(ii) (A) earns a substantial amount of its gross receipts in an economic development area; or (B) employs a substantial number of economically disadvantaged persons.

§ 3. Construction Contracting. All contracting agency heads shall, consistent with the requirements of applicable City, State and Federal law, seek to ensure that not less than ten percent of the total dollar amount of all contracts awarded for construction projects during each fiscal year shall be awarded to locally based enterprises.

§ 4. Construction Subcontractors. A contracting agency shall, consistent with the requirements of applicable City, State and Federal law, include in every contract to which it becomes a party such terms and conditions as the Bureau may by regulation direct to provide as follows.

(a) If any or all of the contract is subcontracted, not less than ten percent of the total dollar amount of the contract shall be awarded to locally based enterprises; except, where less than ten percent of the total dollar amount of the contract is subcontracted, such lesser percentage shall be so awarded.

(b) The contractor shall not discriminate unlawfully on the basis of race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or affectional preference in the selection of subcontractors.

§ 5. Responsibilities of Contracting Agencies. Contracting agencies shall be responsible for the administration of the requirements of this Order, subject to review and audit by the Bureau, and shall provide the Bureau with periodic reports in such form and manner as the Bureau may by regulation direct.

§ 6. Responsibilities of Bureau. The Bureau shall:

(a) implement, monitor compliance with and enforce this Order and similar programs established pursuant to City, State and Federal law; and

(b) promulgate regulations, subject to the approval of the Mayor, as may be necessary for the purpose of implementing the provisions of this Order or similar programs.

(i) Any regulation of the Bureau of Labor Services establishing contractual terms and conditions for contractors and subcontractors shall be approved as to form by the Corporation Counsel.

(ii) The Bureau shall promulgate such regulations as may be necessary to determine whether a business is a locally based enterprise.

(iii) The Bureau, may with the approval of the Mayor, increase the gross receipts limitation provided by Section 2(h)(i) or the set-aside percentage provided by Sections 3 and 4 of this Order to such amount or percentage as the Bureau may by regulation direct.

§ 7. Responsibilities of the Office of Economic Development. The Office of Economic Development shall develop, maintain and provide to contracting agencies a list of locally based enterprises.

§ 8. Subcontractor Waivers. A waiver of contractual set-aside requirements established by this Order with respect to subcontractors may be granted by a contracting agency head for reasons of public necessity after filing a certificate stating such reasons with the Bureau.

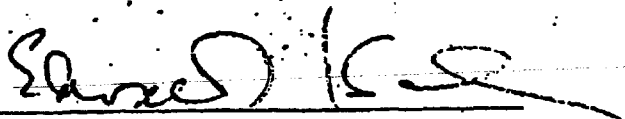
§ 9. Performance Bond Waivers. Consistent with the rules and regulations of the Board of Estimate, a full or partial waiver of performance and completion bonds may, with the approval of the Corporation Counsel, be granted by a contracting agency head where such bonds are not deemed in the best interests of the City.

§ 10. Public Agencies. Any administration, board, bureau, commission, department or other public agency, not subject to this Order, which awards contracts in connection with any construction project, may, with the consent of the Mayor, delegate such responsibilities to the Bureau as may be consistent with this Order.

§ 11. Annual Report. The Bureau shall submit a report annually to the Mayor concerning its responsibilities under this Order.

§ 12. Separability. If any provision of this Order or the application thereof is held invalid, the remainder of this Order and the application thereof to other persons or circumstances shall not be affected by such holding and shall remain in full force and effect.

§ 13. Effective Date. This Order shall take effect immediately and shall apply to all contracts awarded after the effective date of regulations to be promulgated as provided by this Order.



EDWARD I. KOCH  
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