



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

EXECUTIVE ORDER NO. 59

July 28, 2020

WHEREAS, on March 7, 2020, New York State Governor Andrew Cuomo declared a State disaster emergency for the entire State of New York to address the threat that COVID-19 poses to the health and welfare of New York residents and visitors; and

WHEREAS, Emergency Executive Order No. 98, issued March 12, 2020 and extended most recently by Emergency Executive Order No. 130, issued July 7, 2020, contains a declaration of a state of emergency in the City of New York due to the threat posed by COVID-19 to the health and welfare of City residents, and such declaration remains in effect; and

WHEREAS, studies by the National Bureau of Economic Research and other institutions suggest that the economic and health effects of COVID-19 have had a disproportionate impact on minority and women-owned business enterprises ("MWBEs"), and this impact has been exacerbated by inadequate access to federal financial assistance programs; and

WHEREAS, legislation has been enacted to address the continuing effects of discrimination on businesses owned by minorities and women in the market where the City conducts its procurements; and

WHEREAS, there is increasing national awareness that minorities continue to be underrepresented in the successful business community;

WHEREAS, the City has therefore established and implemented reasonable procedures to secure the meaningful participation of MWBEs;

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

Section 1. In order to increase MWBE utilization, I hereby order that all City agencies shall, whenever practicable, use their power under section 311(i) of the New York City Charter to procure goods, services and construction for amounts not exceeding \$500,000 from businesses certified as MWBEs pursuant to section 1304 of the New York City Charter without a formal competitive process.

§ 2. No later than August 28, 2020, all agencies shall appoint a Chief Diversity Officer/Chief MWBE Officer, with the appropriate experience and knowledge to oversee the agency's MWBE program, to report directly to the agency head. Agency heads shall ensure internal candidates are considered for the Chief Diversity Officer/Chief MWBE Officer.

§ 3. Agency heads shall ensure that the Chief Diversity Officer/Chief MWBE Officer is empowered and supported by agency staff to facilitate the agency's meeting of its MWBE, diversity and inclusion goals.

§ 4. Agencies shall assess and reevaluate the MWBE participation goals included in existing contracts approaching renewal in light of the factors set forth in New York City Administrative Code § 6-129(i)(1). Based on such assessment, an agency shall consider whether to engage the contractor to negotiate the incorporation of a new or adjusted MWBE participation goals into the terms of the contract. Where the agency elects not to engage in such negotiations or determines that such negotiations were unsuccessful, the agency shall transmit documentation of its determination to the Director of the Mayor's Office of Contract Services (MOCS), and may not proceed to renew the applicable contract without the approval of MOCS, provided in consultation with the Mayor's Office of Minority and Women-owned Business Enterprises.

§ 5. Prior to soliciting bids or proposals for capital projects valued at over twenty-five million dollars, including procurements necessary to respond to the ongoing State of Emergency, an agency shall submit the solicitations for review to the Director of MOCS. The Director of MOCS, in consultation with the Citywide MWBE Director, shall make a determination as to whether it is practicable to divide the proposed contract into smaller contracts and whether agency-established MWBE participation goals are appropriate.

§ 6. All City agencies conducting procurements necessary to respond to the ongoing State of Emergency shall not categorically exempt emergency contracts from MWBE participation goals, and shall instead, to the extent practicable in light of the nature of the procurement, follow the procedures set forth in section 6-129(h) and (i) of the Administrative Code to set goals for the contract.

§ 7. Any City agency conducting a procurement that an agency head has determined in writing is necessary to respond to the ongoing State of Emergency must consider at least one quote from a business certified as an MWBE before awarding the procurement, unless otherwise directed by the Director of MOCS.

§ 8. The Citywide MWBE Director, shall take all steps necessary, consistent with applicable law, to facilitate and promote participation by New York City Department of Education, the New York City Health and Hospitals Corporation, and the New York City Housing Authority in the initiatives set forth in this order.

§ 9. Nothing in this Order is intended to create a private cause of action.

§ 10. This Executive Order shall take effect immediately.

A handwritten signature in blue ink, appearing to read "Bill de Blasio", is written over a horizontal line.

Bill de Blasio,
MAYOR