

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1988**

No. 20

Introduced by Council Members O'Donovan (by request of the Mayor); Clark, Spigner, Gerges, Williams, Castaneira Colon and Maloney.

A LOCAL LAW

To amend the administrative code of the city of New York and local law number fifteen for the year nineteen hundred eighty-six, in relation to awarding city contracts to small business enterprises.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 6-108.2 of the administrative code of the city of New York, as added by local law number fifteen for the year nineteen hundred eighty-six, is amended to read as follows:

a. Definitions

(1) "Small business enterprise" means a small business enterprise vendor, [or] a small professional services business enterprise or a small commercial services business enterprise.

(2) ["Economic development area" means an area of the city designated as eligible for participation in the community development block grant program of the United States department of housing and urban development] "*Small commercial services business enterprise*" means a business offering commercial services,

(a) in which annualized gross receipts for the performance of services did not exceed seven hundred thousand dollars in two of the three tax years immediately preceding the date of application for certification; provided, however, that a business which has been in existence for less than three tax years shall meet the requirements of this subparagraph for each tax year of its existence; and

(b) which has had at least one but not more than nineteen full-time employees for at least six months prior to the date of application for certification; and

(c) which has its principal place of business in the city as determined in accordance with regulations promulgated pursuant to subdivision e of this section; and

(d) which is subject to the general corporation tax or the city unincorporated business income tax, and has paid such taxes as required; and

(e) which has been operating for at least twelve months prior to the date of application for certification; and

(f) which has been certified according to the procedure provided for in subdivision d of this section.

(3) "Small business enterprise vendor" means a business

(a) in which, in two of the three tax years immediately preceding the date of application for certification, either:

(i) its annualized gross sales of goods were two million dollars or less, or

(ii) the difference between its annualized gross sales and its cost for goods sold was two hundred thousand dollars or less; provided, however, that business which has been in existence for

less than three tax years must meet the requirements of [subparagraph] *clause* (i) or (ii) of this [subdivision] *subparagraph* for each year of its existence; and

(b) which has had at least one but not more than nineteen full-time employees for at least six months prior to the date of application for certification; and

(c) which has its principal place of business in [an economic development area] *the city* as determined in accordance with regulations promulgated pursuant to subdivision e of this section; and

(d) which is subject to the general corporation tax or the city unincorporated business income tax, and has paid such taxes as required; and

(e) which has been operating for at least twelve months prior to the date of application for certification; and

(f) which has been certified according to the procedure provided for in subdivision d of this section.

(4) "Small professional services business enterprise" means a business *offering professional services*,

(a) in which annualized gross receipts for the performance of services did not exceed seven hundred thousand dollars in two of the three tax years immediately preceding the date of application for certification; provided, however, that a business which has been in existence for less than three tax years shall meet the requirements of this [subdivision] *subparagraph* for each tax year of its existence; and

(b) which has had at least one but not more than nineteen full-time employees for at least six months prior to the date of application for certification; and

(c) which has its principal place of business in the city as determined in accordance with regulations promulgated pursuant to subdivision e of this section; and

(d) which is subject to the general corporation tax or the city unincorporated business income tax, and has paid such taxes as required; and

(e) which has been operating for at least twelve months prior to the date of application for certification; and

(f) which has been certified according to the procedure provided for in subdivision d of this section.

§2. Subparagraph d of paragraph three of subdivision b of section 6-108.2 of such code, as added by local law number fifteen for the year nineteen hundred eighty-six, is amended to read as follows:

(d) If no small business enterprise vendor is a responsible bidder, the contract shall be awarded to the lowest responsible bidder; provided however, that [if the bid submitted by the lowest responsible bidder is at a unit price which is equal to the unit price of the primary contract,] the contracting agency [shall, at its discretion, determine whether to award the secondary contract or to obtain its requirements under the primary contract] *may reject all bids if it shall deem it for the interest of the city so to do.*

§3. Subdivision c of section 6-108.2 of such code, as added by local law number fifteen for the year nineteen hundred eighty-six, is amended to read as follows:

c. [Professional services] *Service* contracts.

(1) Each contracting agency shall, in a manner 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 professional services during each fiscal year shall be awarded to small professional [service] *services* business enterprises. Contracting agencies shall seek to divide

needed work into smaller units, if practicable and economically feasible, so that it may be bid on and successfully completed by small professional [service] *services* business enterprises. The mayor or the mayor's designee shall promulgate regulations pursuant to subdivision c of this section setting forth the professional services which, because of the capacity of small business enterprises to provide such services, and the appropriateness of contracting with such enterprises for the provision of particular professional services, shall be subject to the procedures set forth in this subdivision.

(2) Each contracting agency shall, in a manner 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 commercial services during each fiscal year shall be awarded to small commercial services business enterprises. Contracting agencies shall seek to divide needed work into small units, if practicable and economically feasible, so that it may be bid on and successfully completed by small commercial services business enterprises. The mayor or the mayor's designee shall promulgate regulations pursuant to subdivision e of this section setting forth the commercial services which, because of the capacity of small business enterprises to provide such services, and the appropriateness of contracting with such enterprises for the provision of particular commercial services, shall be subject to the procedures set forth in this subdivision.

§4. Paragraph one of subdivision d of section 6-108.2 of such code, as added by local law number fifteen for the year nineteen hundred eighty-six, is amended to read as follows:

(1) The mayor or the mayor's designee shall establish a procedure for the certification of businesses which meet the requirements of this section and regulations promulgated hereunder as either small business enterprise vendors, [or] small professional [service] *services* business enterprises or *small commercial services business enterprises*. Such regulations shall set forth criteria to ensure that any business certified as a small business enterprise is an independent business and not substantially owned or controlled by any other business entity which would not qualify as a small business enterprise. Such regulations shall further require each business certified as a small business enterprise to submit periodic reports providing information as to its continuing qualification as a small business enterprise. Certificate granted pursuant to [the] *this* subdivision shall be valid for a period of two years.

§5. Not later than one year prior to the date of expiration of this local law, the mayor or the mayor's designee shall submit a report to the council concerning the administration of the program established pursuant to this section including, but not limited to, the number of businesses which have been certified pursuant to this program and their business address, the number of firms which have been denied certification pursuant to this program and the number of small business enterprises which have been awarded contracts by each agency and the dollar amount of each contract. Such report shall also include recommendations as to whether the program should be extended or modified and how to improve the program, if applicable. Such a report shall also be made six months prior to the expiration of the law.

§6. Section six of local law number fifteen for the year nineteen hundred eighty-six is amended to read as follows:

§6. This local law shall take effect ninety days from the date it shall have become a law, and shall [remain in effect for a period of twenty-four months thereafter] *expire and be of no further force or effect on and after June thirtieth, nineteen hundred ninety*. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

§7. This local law shall take effect forty-five days after the date it shall have become a law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 22, 1988, and approved by the Mayor on April 8, 1988.

CARLOS CUEVAS, City Clerk, Clerk of Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 20 of 1988, Council Int. No. 981-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on March 22, 1988:
32 for, 0 against.

Was approved by the Mayor on April 8, 1988.

Was returned to the City Clerk on April 12, 1988.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.