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ERIE COUNTY
LEGISLATURE

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COUNTY OF ERIE

LOCAL LAW NO. 1-1983

LOCAL LAW INTRO NO. 14 (Print 5)

1982

A LOCAL LAW requiring a minority business utilization commitment by persons or firms contracting with the County of Erie:

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section 1. The following provisions shall be inserted in and made a condition of all bid specifications prepared by the Erie County Department of Planning and Environment and/or the Erie County Department of Public Works and advertised after the effective date of the local law which was estimated by the County to result in a contract exceeding \$100,000.00.

Minority Business Utilization Commitment

A) The contractor shall take affirmative action to utilize bona fide minority business enterprises for subcontracts on this project. Affirmative action shall include, but not be limited to: (1) Utilizing a source list of minority business enterprises, (2) Solicitation of bids from minority business enterprises, particularly those located in Erie, Niagara, Cattaraugus and Chautauqua Counties, (3) Giving minority business enterprises

sufficient time to submit proposals in response to solicitations, (4) maintaining records showing minority business enterprises and specific efforts to identify and award contracts to these companies, and (5) a goal of awarding at least ten percent (10%) of the total dollar value of the contract to minority business enterprises or, for those contracts governed by federal or state regulations with respect to minority business hiring, the prevailing percentum set forth therein, whichever is higher, subject to waiver as provided for below.

B) The three lowest bidders on each contract subject to this law shall submit to the County, with the bid or within 3 business days of the bid opening, a list of all minority business enterprises from whom the contractor has solicited bids or with whom the contractor has signed a binding contractual agreement or with whom the contractor is presently negotiating an agreement, for the purposes of meeting the minority business utilization goal provided for in subdivision (A) (5) above. A contractor's bid shall not be considered where the contractor fails to submit such a list as provided for herein. A contractor's bid shall not be considered where examination of said list of minority business enterprises evidences failure by the contractor to comply with the affirmative action requirements provided for herein, except that the County may, upon written request by the contractor, grant a complete or partial waiver of the

provisions of Subdivision (A) (5), where the availability of minority business enterprises in the market area of the project is less than the ten percent (10%) goal above.

C) As evidence of compliance with the goal set forth in Subdivision (A) (5) above, the contractor shall submit to the County, within 15 business days of the bid opening, a schedule for minority business enterprise participation, listing the minority business enterprises with whom the contractor intends to subcontract, specifying the agreed price to be paid for such work, and identifying in detail the contract item(s) or parts to be performed by each minority business enterprise. A letter of intent to enter into a subcontract or purchase agreement, contingent upon contract award, indicating the agreed upon price and scope of work, shall be provided, signed by both the contractor and the minority business enterprise. The prime contractor shall not substitute or delete the listed minority business enterprises without the written consent of Erie County.

D) As evidence of compliance with the goals set forth in subdivision (A) (5) above, the contractor shall provide to Erie County copies of all subcontracts and/or purchase agreements with minority business enterprises within 15 days of contract award. A notice to proceed with construction shall not be issued until such documentation is received.

E) As evidence of compliance with the goal set forth in Subdivision (A) (5) above, the contractor shall submit to

the County, when the project is 30% complete, a list of minority business enterprises on the project, the dollar amounts paid to that date, and the estimate amount remaining to be spent. The same information is required at 75% completion and a final accounting must accompany the final payment request.

F) Failure to comply with the provisions set forth herein shall constitute a breach of this contract subject to all remedies available to the County.

G) For the purposes of this Section, the term "minority business enterprise" shall mean a business at least fifty-one percent (51%) of which is owned by minority group members or, in the case of publicly owned business, at least fifty-one percent (51%) of all stock is owned by minority group members. Such ownership shall be certified by the Erie County Equal Employment Opportunity Office after review of appropriate documents and investigation. For the purposes of this paragraph, "minority group members" are citizens of the United States who are Blacks, Hispanic, Asian-Americans, American Indians, Eskimos or Aleuts. For purposes of this section, the term "subcontract" includes all construction, modification, supplies and material, and service work contracted for by the Contractor in the prosecution of this work.

SECTION 2. The County Executive shall appoint a minority business enterprise utilization advisory board of 9

members consisting of county personnel, legislators, minority contractors and community and business representatives, which shall review program administration and implementation on a regular basis and shall submit an annual report to the County Executive and the County Legislature. This Committee shall be empowered to promulgate regulations to provide for the administration of this local law.

SECTION 3. The Legislature shall conduct hearings annually to assess the impact of the local law.

SECTION 4. This local law shall take effect immediately.