



Executive Branch  
Executive Order JMR2009-1

The Administration of the City of Alexandria, Louisiana, finds the following:

WHEREAS, in 1994, Congress addressed all agencies of the Federal Government through enactment of the Federal Acquisition Streamlining Act (FASA), Public Law 103-355. However, as a result of the Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995), President Clinton ordered the Department of Justice (DOJ) to work with Federal agencies to conduct a review of all race and gender conscious Federal contracting programs and implement necessary regulatory reforms to comply with the Court's ruling. Regulations to implement FASA were delayed until the completion of this review; and

WHEREAS, at the Alexandria City Council Meeting of January 13, 2009, this office presented information consistent with the history provided herein as to the law and state of rulemaking interpretation; and

WHEREAS, in 1996, the United States Department of Justice completed its review and, on May 23, 1996, published in the *Federal Register* proposed reforms to Federal preferential contracting programs. 61 FR 26042-6063. Certain rules and the corresponding Small Disadvantaged Business (SDB) set aside authority were put on hold pending further review. The city Administration used these determinations and related studies of jurisprudence following *Adarand* and other policy matters to determine the methodology for benchmarking; and

WHEREAS, state jurisprudence must also be considered in the formulation of city policy, including study of other successful programs; and

WHEREAS, on November 6, 2007, the legislation this Administration drafted and placed for final adoption known as the Alexandria "Small and Emerging Business Development Program" was enacted, consisting of three distinct parts: (i) the "Alexandria Fairness, Equality, Accessibility and Teamwork" Program ("A.F.E.A.T."); (ii) the "Alexandria Bonding Assistance" Program ("A.B.A."); (iii) and the "Alexandria Financial Intermediary Initiative" Program ("A.F.I.I."); and

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WHEREAS, in addition and in keeping with the campaign goals of this Administration, the Administration has developed an ambitious "Diversity in Action" plan, composed of the "Small and Emerging Business Development Program" for the City of Alexandria and a "Close the Gap" mentoring program; and

WHEREAS, the three main initiatives, the *Small and Emerging Business Development Program* (A.F.E.A.T., A.F.I.L., and A.B.A.), *Smart Alex*, and the *Close the Gap* initiative, require special attention to implement both standing alone and in large part through the *Central Louisiana Business Incubator*; and

WHEREAS, accurate information must be gleaned as a starting or baseline point for goal-making, which calls for proper certification techniques; and

WHEREAS, outreach programming is paramount to gain involvement from those business concerns who/which may be ready, willing, and able to do business, but, as a result of a number of factors, may not have had full opportunity to participate in the full panoply of opportunities the City of Alexandria offers, including but not limited to promoting: the competitive viability of small business, minority, and women business enterprise by providing contract, technical, educational, and management assistance; business ownership by small business persons, minority persons, and women (including professional service opportunities); and the procurement by the City of professional services, articles, equipment, supplies, and materials from business concerns owned by small business concerns, minority persons, and women; and

WHEREAS, the Administration must ensure certified entities, with regard to the rules adopted, understand, comply, and continue to participate for overall program efficacy; and

WHEREAS, recent discussion has failed to address the real debate, which is about increasing disadvantaged business participation in the City to promote this Administration-driven program, particularly proper certification and outreach, as well as the need to have staff and the City Council work together; and

WHEREAS, the public has been presented with inaccurate information about minority and women-owned business participation following the work of this Administration, which championed this program; and

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WHEREAS, the selection of certain contracts, exempt from the public bid law at La.R.S. 38:2211 *et seq.*, involves council selection during the Architects and Engineer's Selection Committee process at which time council members select the professional service providers; and

WHEREAS, the selection of attorneys and other professional service providers is required by City Charter to be approved only after majority vote of the City Council, leaving final authority with the Administration on the issue of services provided to the City; and

WHEREAS, on the other hand, the Administration officials in whom the Council must place trust should endeavor to implement the shared goals of the Legislative and Executive branches, Council and Mayor; and

WHEREAS, all aspects of government must work together to achieve a meaningful program and all aspects share in any deficiencies in implementation of a meaningful program; and

WHEREAS, this Administration revived the programming and is committed to provide accurate data for public presentation instead of assigning blame; and

WHEREAS, henceforth, accurate data by a responsible employee shall be the norm and the employee charged with implementation shall complete tasks on a timely and professional basis; and

WHEREAS, external outreach and internal accountability will commence forthwith resulting from the implementation of the *Diversity in Action* plan and procedures existing in the legislation, cited as *Alexandria Code of Ordinances*, §§ 10-35 *et seq.*; and

WHEREAS, the City of Alexandria's Administration finds that the diversity of a community is a resource compelling moral and economic inclusion in the policy development of the Administration. We shall develop agendas, formulated with the input of the nonprofit sector, toward advancing civic engagement of the entire community on these issues of diversity and race relations. These initiatives shall include the study of race relations and diversity on the community level; the academic level (including appropriate partnerships); the employment level; and the vending/provision of professional services levels; and

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WHEREAS, policy drivers on staff and community partners shall work together to educate and develop advocacy leadership within the sectors of public employment and development of the workforce on a variety of levels, as well as fair and equal expenditures of public dollars and allocation of assets in the realm of community services in all divisions.

**THEREFORE, IT IS ORDERED:**

- 1) As of Monday, February 2, 2009, at 8:00 a.m. (the effectuating date), the City of Alexandria Finance Division, in conjunction with the Office of Policy and Planning, and its official designee for workforce development and business retention, shall implement the City's small and emerging business components in their entirety.
- 2) As of the effectuating date, the performance of those personnel charged with implementing the program will be monitored monthly and in more detail quarterly.
- 3) As of the effectuating date, failure to implement the programs in an orderly and immediate fashion will result in personnel action, including any such responsible position and effectuation of the program by third party contractor.
- 4) To ensure procedures are in place for equal opportunity for competition and to facilitate participation by small, disadvantaged, minority-, and women-owned business enterprises, in the procurement of goods and services, the Finance Division must show proof it has:
  - established and maintains a directory to facilitate the identification of small businesses, minority and women owned businesses according to their capabilities;
  - arranged solicitations within the law to better facilitate the participation of small business, minority and women business enterprise;
  - implemented informational programs on opportunities and procedures;

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- scheduled future pre-bid/pre-proposal conferences to explain the procedure and forms to be used to encourage small business, minority and women owned business enterprise;
  - provided information and communications on contracting procedures, specifications and requests for proposals to small businesses, minority and women owned businesses in a timely manner;
  - be able to conduct a city-wide, with regional application, disparity study within three months of the effectuation date of this order.
- 5) The Finance Division shall work with the workforce development officer to implement coordination of all city departments. All city departments shall appoint a representative to serve as a small business coordinator, which persons shall be supervised on this program by the Workforce Development and Small Business Retention officer within the mayor's office, or other mayoral designee or assistant. Administration of the program shall be centralized to the director of finance office and will be assisted and monitored at the division director's level. All department heads shall be responsible for assisting in developing, managing, and implementing the program as well as reporting to their division director on at least a quarterly basis on the efforts at achieving the goals of this program. All such reporting shall require monthly reports to the Workforce Development and Small Business Retention officer within the mayor's office, or other mayoral designee or assistant, to include obstacles and impediments to implementation and facility as well as socio-cultural or other problems.
- 6) The division heads shall also separately report on a quarterly basis those professional service agreements awarded or in place, and shall endeavor to reflect demographics within the City of Alexandria. The division heads will individually recommend to the Administration an achievable, realistic, and reflective goal for professional service agreements in order to start this separate aspect of the program.

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- 7) In order to demonstrate publicly the commitment of the Administration, precise demographics and statistics shall be maintained by division heads regarding available professional service providers in each division.
- 8) At minimum and to be instituted forthwith and no later than the effectuation date, all procurement and service requests shall address the following:
  - Provision of a Notice of Requirements Under City of Alexandria's AFEAT Program on all such requests, whether by bid or request for proposal or otherwise.
  - The notice shall include in conspicuous fashion a concise statement of the City of Alexandria's guidelines for the AFEAT Program, the goals for minority and female owned business subcontracting for work performed under prime contracts and other such information deemed necessary, at minimum for prime contractors to include

*Goal for minority owned business participation:..... 15%*

*Goal for female owned business participation:..... 7%*

- The prime contractor shall take specific action to ensure that a bonafide effort is made to achieve maximum results towards meeting the established goal percentages. The Contractor shall document efforts and shall implement steps at least as extensive as the following in a good faith effort to reach or exceed the established goals:
  - A. *Establish and maintain a current list of minority and female owned businesses in Alexandria, in Rapides Parish, and in the State of Louisiana.*
  - B. *Document and maintain a record of all solicitations of offers for subcontracts from minority or female contractors and suppliers in Alexandria, in Rapides Parish, and in the State of Louisiana.*

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*C. Secure listing of minority and women owned businesses from the City of Alexandria Purchasing Department, the Central Louisiana Business Incubator, and the State of Louisiana Department of Minority Affairs.*

*D. Participate in associations which assist in promoting minority and women owned businesses such as the Central Louisiana Business League, the Central Louisiana Business Incubator, and the Entrepreneurial League System.*

*E. Designate a responsible official to monitor all activity made in the effort to achieve or exceed the established goals; record contacts made, subcontracts entered into with dollar amounts, and other relevant information.*

- 9) The Finance Division shall implement the Affidavit Program by preparing forthwith a certification affidavit requiring attestation by the applicant of certain information, including but not limited to (i) having read all requirements of the program; (ii) providing any additional information requested by the City to document program qualifications; (iii) providing immediate information about certain changes to the business structure or its location, ownership, or control; (iv) the truth of all information in the application and that any misrepresentation may result in disqualification; and (v) the legal right of the city to request and obtain any and all tax returns for up to three years in the event of decertification appeals processes.
- 10) To facilitate the *Diversity in Action* initiative, the following goals shall be implemented by the Policy and Planning staff, headed by the City's Chief Diversity Officer forthwith, and in any case, no later than by end of the first quarter of 2009. The Office of Policy and Planning shall show proof it has:
  - Begun a plan to create culturally competent organizations and partners;
  - Related the dynamics of diversity to staff and has plans for the city at large;
  - Has ensured the inclusion of a vibrant, proactive EEO officer to create and maintain training;



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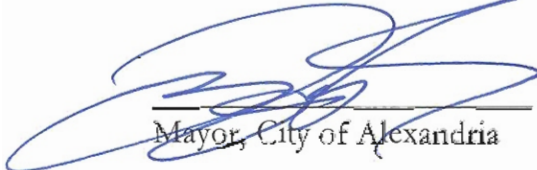
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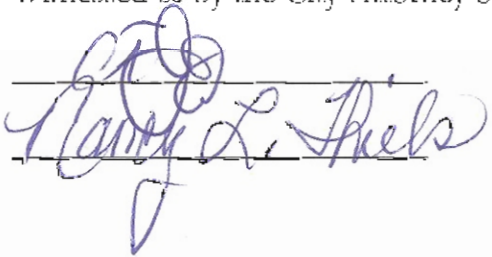
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- Begun a process to inculcate a global understanding of how diversity aids the city in the marketplace;
- Established the methods and aid to division heads with specific plans/goals for diversity promotion and inclusion by creation of a culture of diversity focusing on development of personal/individual qualities embracing diversity as well as implementation of the other goals in this order;
- Formally outlined how it will develop human capital & public outreach plans (e.g., *SmartAlex*, A.F.E.A.T., A.F.I.I., A.B.A., and others);
- Developed a city diversity plan and its method for implementation including the above-listed components; and
- Facilitated the study of best practices, promotion of continuing education, and partnering with such entities as *Arna Bontemps* and *LSUA* to provide for the formation of a non-partisan policy organization or group that conducts research and engages in advocacy in areas such as history, education, social policy, the economy, science and technology issues, and industrial or business policies as they related to diversity and economic justice.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the seal of the City of Alexandria, at Alexandria, Louisiana, on this 27<sup>th</sup> day of January, 2009.

  
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Mayor, City of Alexandria

Witnessed to by the City Attorney or Clerk of the City of Alexandria

  
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Nancy L. Phelps

