

**MOTION  
(LYING OVER)  
(AS AMENDED)  
NO. M-22-95**

**CITY HALL: February 17, 2022**

**BY: COUNCILMEMBERS MORENO, MORRELL, HARRIS, GREEN, KING,  
GIARRUSSO AND THOMAS**

**WHEREAS**, Chapter 70, Article VI, Division 2 of Code of the City of New Orleans establishes an equitable business opportunities program aimed at remediating the historical inequities that persist in the realm of public contracting and ensuring that historically disadvantaged individuals and business entities receive a fairer opportunity to participate in economic opportunities funded by public dollars; and

**WHEREAS**, Section 70-459 sets an overall equity goal for DBE participation of 35 percent for all public spending or private projects that utilize public funding or incentives; and

**WHEREAS**, the Code defines DBE as an entity or individual certified as a socially and economically disadvantaged business through the SLDBE or LAUCP-DBE program, *or such other certification program as the city may designate*; and

**WHEREAS**, Section 70-465 was amended in January 2021 to require the Chief Administrative Officer to promulgate regulations pursuant to City Code section 2-1000 to implement the equitable business opportunities program; and

**WHEREAS**, the Chief Administrative Officer has not yet promulgated and obtained Council approval of the regulations required by law; and

**WHEREAS**, the Council believes that the rulemaking process should proceed expeditiously and, in so doing, clearly delineate the process for certifying and re-certifying DBEs, as well as for designating additional certification programs and standards, and

**WHEREAS**, the Council further desires to augment the DBE program by encouraging the creation of the formal Mentor-Protégé Program aimed at proving fledgling DBEs with coaching and mentorship opportunities, additional resources, access to capital, and technical resources; and

**WHEREAS**, traditional mentor-protégé models, which contemplate larger, non-DBE firms serving in the role of mentor, often fail to leverage the unique experience of existing and former DBE firms as mentors; and

**WHEREAS**, the Mentor-Protégé Program described in this instrument recognizes the value of growing a pool of mentor firms that have built capacity despite their social disadvantage, and that these firms are uniquely positioned to serve as mentors to protégé firms; the program further acknowledges that in many cases, despite the fact that these mentor firms have “graduated” from the DBE Program, they continue to experience social disadvantage leaving them unable to compete with similarly situation majority firms; **NOW THEREFORE**

**BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, That upon passage of this motion, the Chief Administrative Office is hereby directed to develop regulations required by Section 70-465 of the Code of the City of New Orleans and has 90 days to develop and deliver additional recommendations, policies, and proposed programmatic offerings not contained in this motion to expand and improve upon the City’s existing Equitable Business Opportunities Program. These recommendations must be transmitted to the New Orleans City Council and presented at the Council’s Economic Development & Special Development Projects Committee.

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, That the regulations promulgated in accordance with this Motion clearly delineate the process and standards for certifying and renewing DBEs and for designating additional certification programs and standards; and

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, that the regulations provide for the establishment of a SLDBE Mentor-Protégé Program substantially in accordance with the program detailed in Exhibit A; and

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, That the copy of this Motion be provided to the Chief Administrative Officer, the Officer of Supplier Diversity, and the City Attorney.

**MARCH 10, 2022**

**THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:**

**YEAS:** Giarrusso, Harris, King, Moreno, Morrell, Thomas - 6

**NAYS:** 0

**ABSENT:** Green - 1

**AND THE MOTION, AS AMENDED, WAS ADOPTED.**

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THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY  
*Lera W. Johnson*  
CLERK OF COUNCIL

## EXHIBIT A

### DBE MENTOR-PROTÉGÉ PROGRAM

#### Sec. 1. – Definitions.

The following words, terms and phrases, when used in connection with the Program, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Certification or recertification* shall mean official recognition and approval by the office of supplier diversity that a business meets the qualification criteria of a SLDBE, as set forth in this division or division 2, as applicable. Certification or recertification relates to qualifications regarding ownership, control, and the applicant's economic disadvantage, not the quality of the service or product.

*Mentor Firm* shall mean one or more firms receiving recertification as an SLDBE by the office of supplier diversity under the City's SLDBE Program, and (i) has previously been certified as a certified SLDBE under the City's Equitable Business Opportunities Program; (ii) has been unable to maintain its SLDBE certification under the SLDBE Program due to the revenue threshold used to determine economic disadvantage and lost its certification on or after January 1, 2011; and (iii) continues to be socially disadvantaged in its respective industry.

*Mentor-Protégé* shall mean a relationship of one or more Mentor Firms and one or more Protégé Firm designed to increase: (i) the quality of the technical capabilities of the Protégé Firms; (ii) the quantity and the estimated value of contract and subcontract awards to Protégé Firms; and (iii) the pool of ready, willing, and able DBEs available for City (or other participating agency) opportunities.

*Program* shall mean the Mentor-Protégé Program established herein.

*Protégé Firm* shall mean one or more firms certified as an SLDBE under the City's SLDBE Program.

#### Sec. 2 – Applicability and Implementation.

This Program shall apply to all eligible contracts for which an equity goal has been set or a default goal of 35% has been established in accordance with section 70-460 of the city's equitable business opportunities ("EBO") program. This Program shall be implemented by the Office of Supplier Diversity.

All eligible Mentor-Protégé relationships shall be based on a written development plan, approved by the Office of Supplier Diversity or its designee, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. Only Mentor-Protégé relationships (and related written development plans) approved by the Office of Supplier Diversity shall be eligible to count towards an equity goal that has been established on an eligible contract in accordance with section 70-460 of the city's EBO Program.

### **Sec. 3. – Mentor Firm Eligibility and Incentives.**

The Office of Supplier Diversity shall determine the eligibility of prospective Mentor Firms to participate in the Mentor-Protégé Program and to be recertified as DBEs according to the following standards:

- (1) The Program shall only be available to Mentor Firms that have been previously certified as a DBE under the City's EBO Program and have graduated from the SLDBE program having surpassed the revenue threshold used to determine economic disadvantage on or after January 1, 2010. Mentor Firms must provide to the Office of Supplier Diversity sufficient evidence of social and economic disadvantage which has prevented the Mentor Firm's business from successfully competing for contracts as compared to other similarly situated businesses.
- (2) Mentor Firms may have multiple protégés but are required to submit a written development plan for each partnership. Mentor Firms should maintain a system to prepare quarterly reports of mentoring activities for each protégé corresponding to reporting guidelines established by the Office of Supplier Diversity.
- (3) Mentor Firms may participate in the Program for up to a maximum of ten (10) years, provided it continues to meet the eligibility of the SLDBE Mentor-Protégé Program and further provided that it recertifies as a Mentor Firm annually, as required by the city's SLDBE Program.
- (4) Prospective Mentor Firms who wish to be certified as such by the Office of Supplier Diversity must submit a written certification application on a form approved and provided by the Office of Supplier Diversity. Prospective Mentor acceptance into the Program will be based on the eligibility set forth herein and in the application, and shall be in the sole discretion of the City of New Orleans, subject to the appeals process set forth in the city's EBO Program and related rules and regulations.
- (5) Mentor Firms accepted into the program will automatically be recertified as a DBE under the city's EBO Program for up to 10 years, provided that they apply for recertification on an annual basis and provide sufficient evidence of an ongoing Mentor-Protégé relationship. Failure to comply with the Mentor-Protégé written development plan as approved by the City's Office of Supplier Diversity or the EBO Program and related rules and regulations may result in a Mentor Firm losing its DBE certification.
- (6) Acceptance into the Program shall be in the sole discretion of the City of New Orleans, its Office of Supplier Diversity or its designee, subject to the appeals process set forth in the City's SLDBE Program and related rules and regulations.
- (7) The City shall have the discretion, on a case-by-case basis, to exclude Mentor Firms who would otherwise qualify as a DBE under the Program from participating as a DBE on contracts and projects when necessary to ensure that a project complies with state or federal contracting guidelines.

- (8) No officer, director, employee, or member of the Mentor-Protégé team shall be allowed to bid or otherwise participate independently on a contract where the Mentor-Protégé team is bidding or otherwise participating.

#### **Sec. 4. – Protégé Firm Eligibility and Incentives.**

With respect to the eligibility of a Protégé Firm:

- (1) Prospective Protégé Firms who wish to be certified as such by the Office of Supplier Diversity must submit a written certification application on a form approved and provided by the Office of Supplier Diversity.
- (2) DBEs involved in a Mentor-Protégé relationship must be independent and separate business entities which meet the requirements for certification under the EBO Program. A Protégé Firm must be certified by the Office of Supplier Diversity before it can become eligible to participate in the Program.
- (3) Protégé Firms may have multiple mentors. Protégé Firms should maintain a separate system to record and track its activities for the Program and its quarterly reporting requirements.
- (4) Protégé Firms may participate in the Program for up to two (2) thirty-six (36) month terms (total of 72 months), provided that the Protégé Firm continues to meet the eligibility of the Program, and further provided that it recertifies as a DBE annually as required by the city's EBO Program.
- (5) Acceptance into the Program shall be in the sole discretion of the City of New Orleans, its Office of Supplier Diversity or its designee, subject to the appeals process set forth in the city's SLDBE Program and related rules and regulations.
- (6) No officer, director, employee, or member of the Mentor-Protégé team shall be allowed to bid or otherwise participate independently on a contract where the Mentor-Protégé team is bidding or otherwise participating.

#### **Sec. 5. – Duties of Office of Supplier Diversity.**

The Office of Supplier Diversity shall have the following authority and duties regarding the implementation of the Program:

- (1) Administration and enforcement of Program.
- (2) Establishment of written procedures, informal guidelines, and forms as may be necessary to effectuate the Program.
- (3) Monitoring compliance with the requirements of the Program:
- (4) Certifying Mentor Firms as DBEs in accordance with the standards set forth herein.
- (5) Development of databases to be maintained as a public record of certified Mentor Firms and Protégé Firms.

- (6) Investigation of alleged violations of Program requirements, and the issuance of written statements following any determination of such investigation, outlining the reasons therefore and any penalty to be imposed.
- (7) Determination of whether any of the penalties set forth in Section 7 should be applied to a business.
- (8) Providing third parties all forms, applications, documents, and papers necessary to participate in the Program and to comply with Program requirements.
- (9) Notification by certified mail that an applicant who has applied for and who otherwise would have been granted Mentor Firm status has the right to appeal a determination of non-eligibility regarding the Program, said appeal to be determined by a contract compliance hearing officer, within seven calendar days of receipt of the notice of non-eligibility.
- (10) Monitoring, for data gathering and informational purposes, utilization of mentor-protégé teams on eligible projects.

**Sec. 6. – Requirements for Mentor-Protégé relationships.**

- (1) As to each Mentor-Protégé relationship under this section, a written development plan must be completed jointly by both parties to the Mentor-Protégé relationship and executed before a notary public, which clearly delineates the rights and responsibilities of the Mentor Firm and Protégé Firm, complies with any requirements of the Office of Supplier Diversity, and the term of the Mentor-Protégé relationship, not to exceed 72 months, but subject to annual recertification of mentor and protégé by the Office of Supplier Diversity.
- (2) The Office of Supplier Diversity shall review and approve written mentor-protégé development plan prior to the recertification of the Mentor Firm as an DBE.
- (3) During the term of the Mentor-Protégé agreement, the Mentor Firm and Protégé Firm must each provide to the Office of Supplier Diversity a quarterly summary of the skill-building and technical assistance opportunities provided to the protégé, which shall include but is not limited to the following information:
  - (a) Names and titles of all participating employees from a Mentor Firm and Protégé Firm as well as outside consultants providing any applicable trainings, certifications, or mentorship;
  - (b) The time spent between Mentor Firm and Protégé Firm in furtherance of the Mentor-Protégé relationship;
  - (c) The nature and extent of managerial, technical, financial and/or bonding assistance provided;
  - (d) A summary and explanation of any projects bid on or undertaken by the Mentor-Protégé team in the private sector or for a governmental entity other than the city; and
  - (e) Any additional or further information required by the Office of Supplier Diversity.

- (f) Each member of the Mentor-Protégé team shall provide the Office of Supplier Diversity access to review all records pertaining to mentor-protégé agreements before and after the award of a contract in order to reasonably assess compliance with this division 6.

**Sec. 7. – Penalties for Noncompliance.**

A Mentor Firm that fails to comply with any Program requirement, and whose failure to comply continues for a period of 30 calendar days after the Mentor Firm receives written notice of such noncompliance from the Director of the Office of Supplier Diversity, shall be subject to any or all of the following penalties:

- (1) Recission of certification as an SLDBE under the SLDBE Program.
- (2) Refusal of all future applications for the SLDBE Mentor-Protégé Program with the city for a minimum of one year and a maximum of five years from the date upon which this penalty is imposed.