

2023 Regular Session

HOUSE BILL NO. 224

BY REPRESENTATIVE BOYD

PROCUREMENT: Provides relative to contracts awarded to socially and economically disadvantaged businesses in the city of New Orleans

1 AN ACT

2 To enact R.S. 38:2233.5, relative to the city of New Orleans; to provide relative to the
3 procurement of goods and services; to provide relative to contracts awarded to
4 socially and economically disadvantaged businesses; to authorize certain entities to
5 set-aside a certain percentage of contracts to be awarded to such businesses; to
6 provide relative to rules and regulations regarding the certification of socially and
7 economically disadvantaged businesses; and to provide for related matters.

8 Notice of intention to introduce this Act has been published
9 as provided by Article III, Section 13 of the Constitution of
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 38:2233.5 is hereby enacted to read as follows:

13 §2233.5. City of New Orleans; socially and economically disadvantaged businesses;
14 procurement set-asides

15 A. Notwithstanding any other provision of law to the contrary, the governing
16 authority of the city of New Orleans, referred to in this Section as the "city", and any
17 board, agency, or commission of the city, through its respective fiscal officer or
18 director of finance, may for each fiscal year designate and set aside, for awarding to
19 socially and economically disadvantaged businesses, an amount not less than ten
20 percent of the value of anticipated local procurement of goods and services,

1 including construction or doing of any public work, including alteration or repair.
2 However, should the governing authority of the city, or any board, agency, or
3 commission of the city choose to set aside a greater amount, then nothing in this
4 Section shall be construed to prohibit such set-aside levels above ten percent, but not
5 to exceed twenty-five percent.

6 B. The procurement set-aside as provided by Subsection A of this Section
7 may be divided into contract award units of economically feasible production runs
8 in order to facilitate offers or bids from socially and economically disadvantaged
9 businesses. In making the annual designation of procurement set-asides, an attempt
10 may be made to vary the included procurements so that a variety of goods and
11 services, including construction or doing of any public work, including alteration or
12 repair, produced by different socially and economically disadvantaged businesses
13 may be set aside each year. The failure to set aside particular procurements shall not
14 be considered to prohibit or discourage socially and economically disadvantaged
15 businesses from seeking the procurement award through the normal solicitation and
16 bidding processes.

17 C.(1)(a) The governing authority of the city shall adopt rules and regulations
18 to implement the provisions of this Section. Such rules and regulations shall include
19 procedures regarding the certification of socially and economically disadvantaged
20 businesses.

21 (b) No business shall be awarded a contract pursuant to the provisions of this
22 Section unless it has met the certification requirements established by the governing
23 authority of the city.

24 (2) The rules and regulations adopted by the governing authority shall also
25 provide for the establishment of a contract procedure for the awarding of contracts
26 pursuant to this Section. In addition, the rules and regulations shall require that
27 schedules to publicize requests for proposals, requests for qualifications, and bid
28 solicitations shall adhere to current federal guidelines. The governing authority shall
29 adopt a requirement that the prime contractor award a certain percentage, not to

1 exceed thirty-five percent, of the total dollar bid to socially and economically
 2 disadvantaged subcontractors. This requirement may be waived if the prime
 3 contractor, after a good faith effort, is unable to comply with the requirement.

4 D. If the governing authority of the city, or any board, agency, or
 5 commission of the city, is unable to award all of its procurement set-asides to
 6 socially and economically disadvantaged businesses, then the balance of the
 7 procurement set-asides may be awarded to other businesses in accordance with
 8 existing solicitation, bid evaluations, and contract award provisions otherwise
 9 provided by law.

10 E. All laws and rules pertaining to solicitations, bid evaluations, contract
 11 awards, and other procurement matters shall apply to procurements set-aside for
 12 socially and economically disadvantaged businesses as provided in this Section,
 13 including penalties for noncompliance. If a conflict exists with the provisions of this
 14 Section, the provisions of this Section shall govern.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 224 Original

2023 Regular Session

Boyd

Abstract: Authorizes the governing authority of the city of New Orleans to set aside a certain percentage of contracts for goods and services, including construction, to be awarded to socially and economically disadvantaged businesses.

Present law generally authorizes every political subdivision in the state, through its respective fiscal officer or director of finance, to designate and set aside each fiscal year for awarding to minority businesses, an amount up to 10% of the value of anticipated local procurement of goods and services including construction. Provides that nothing in present law should be construed to prohibit the governing authority from setting aside an amount greater than 10%. Provides for eligibility and certification requirements.

Proposed law retains present law.

Present law provides an exception for the city of Shreveport and any board, agency, or commission of that city. Authorizes the entities to designate and set aside each fiscal year not less than 10% of the value of local procurement of goods and services including construction for awarding to economically disadvantaged businesses. Provides for eligibility and certification requirements.

Proposed law retains present law.

Present law also provides an exception for the city of Baton Rouge/parish of East Baton Rouge (city-parish) and any board, agency, or commission of the city-parish. Authorizes the entities to designate and set aside not less than 10% and not more than 25% of the value of local procurement of goods and services, including construction or doing of public work for awarding to socially and economically disadvantaged businesses. Provides for eligibility and certification requirements.

Proposed law retains present law and provides another exception for the city of New Orleans. Authorizes the city governing authority and any board, agency, or commission of the city to designate and set aside not less than 10% and not more than 25% of the value of local procurement of goods and services, including construction or doing of public work for awarding to socially and economically disadvantaged businesses.

Proposed law provides for division of contract awards into units to facilitate offers or bids from socially and economically disadvantaged businesses. Authorizes varying the goods and services designated for set-asides.

Proposed law requires the city governing authority to adopt rules and regulations to implement proposed law. Requires certification as a socially and economically disadvantaged business by the city governing authority. Requires the establishment of a contract award procedure for such set-asides. Additionally requires adoption of a requirement that the prime contractor award a certain percentage, not to exceed 35%, of total dollar bids to socially and economically disadvantaged subcontractors. Provides that the requirement may be waived if the contractor cannot comply after a good faith effort.

Proposed law authorizes the city governing authority, or any board, agency, or commission of the city, to award the balance of procurement set-asides pursuant to present law solicitation, bid evaluations, and contract award provisions if the city or other entity is unable to award all of its set-asides to socially and economically disadvantaged businesses.

(Adds R.S. 38:2233.5)