

MEMORANDUM

Agenda Item No. 11(A)(2)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: November 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution requiring persons or entities contracting with Miami-Dade County to demonstrate compliance with the Equal Pay Act of 1963, section 448.07 of the Florida Statutes, certain Miami-Dade County ordinances, and other laws prohibiting wage rate discrimination based on sex as a condition of being awarded a County contract; and directing the County Mayor to require potential vendors and contractors to provide an affidavit attesting to such compliance prior to contract award, revise the vendor affidavit form to include a separate section listing specified provisions, and provide a report to the Board within 60 days

Resolution No. R-1072-17

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams
County Attorney



APW/smm



MEMORANDUM

(Revised)

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Please note any items checked.

- _____ "3-Day Rule" for committees applicable if raised
- _____ 6 weeks required between first reading and public hearing
- _____ 4 weeks notification to municipal officials required prior to public hearing
- _____ Decreases revenues or increases expenditures without balancing budget
- _____ Budget required
- _____ Statement of fiscal impact required
- _____ Statement of social equity required
- _____ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- _____ No committee review
- _____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- _____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(2)
11-7-17

RESOLUTION NO. R-1072-17

RESOLUTION REQUIRING PERSONS OR ENTITIES CONTRACTING WITH MIAMI-DADE COUNTY TO DEMONSTRATE COMPLIANCE WITH THE EQUAL PAY ACT OF 1963, SECTION 448.07 OF THE FLORIDA STATUTES, CERTAIN MIAMI-DADE COUNTY ORDINANCES, AND OTHER LAWS PROHIBITING WAGE RATE DISCRIMINATION BASED ON SEX AS A CONDITION OF BEING AWARDED A COUNTY CONTRACT; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO REQUIRE POTENTIAL VENDORS AND CONTRACTORS TO PROVIDE AN AFFIDAVIT ATTESTING TO SUCH COMPLIANCE PRIOR TO CONTRACT AWARD, REVISE THE VENDOR AFFIDAVIT FORM TO INCLUDE A SEPARATE SECTION LISTING SPECIFIED PROVISIONS, AND PROVIDE A REPORT TO THE BOARD WITHIN 60 DAYS

WHEREAS, the Equal Pay Act of 1963, as well as section 448.07 of the Florida Statutes and other laws prohibit wage rate discrimination based on sex; and

WHEREAS, Chapter 11A of the Code of Miami-Dade County prohibits discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking; and

WHEREAS, Chapter 22 of the Code, known as the Wage Theft Ordinance, prohibits the underpayment or nonpayment of wages earned by persons working in the County; and

WHEREAS, Chapter 8A, Article XIX of the Code, known as the Gender Price Discrimination Ordinance, prohibits price discrimination based on gender in the provision of goods and services in Miami-Dade County, Florida; and

WHEREAS, Ordinance No. 98-30 created section 2-8.1.5 of the Code of Miami-Dade County requiring certain entities contracting with the County to demonstrate, as a condition of receiving a County contract, that their employment and procurement practices do not discriminate against minorities and women; and

WHEREAS, when a business initially registers as a County vendor using the online registration process, the prospective vendor has to confirm certain affidavits certifying compliance with various requirements and laws, including the ADA, the Living Wage Ordinance, the County's Family Leave Ordinance, and the County's Domestic Violence Leave Ordinance, among others; and

WHEREAS, closing the current wage gap between men and women in Miami-Dade County provides the County with a competitive advantage, will allow the County to attract and retain talent needed to excel, will promote healthier families, and will make our community more vibrant; and

WHEREAS, this Board wishes to make Miami-Dade County the premier place for working women in America by closing the gender wage gap and removing visible and invisible barriers to women's advancement, and seeks to accomplish this goal by assuring that any entities contracting with Miami-Dade County are in compliance with all laws requiring that men and women receive equal wages for equal work,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Any person or entity seeking to contract with the County shall, as a condition of receiving a County contract, certify in the contract that the person or entity is in compliance with, and will continue to comply with:

1. The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d));
2. Section 448.07 of the Florida Statutes;
3. Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et. seq.);
4. Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.);
5. Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.); and
6. Any other laws prohibiting wage rate discrimination based on sex.

Furthermore, if any certifying person, firm, or any owner, subsidiary or other firm affiliated with or related to the attesting person or entity, is found by the responsible enforcement agency, the Courts or the County to be in violation of the foregoing provisions, the County will conduct no further business with such person or entity. Any contract entered into based upon false information pursuant to this resolution shall be voidable by the County. If any certifying firm or entity violates any of the foregoing provisions during the term of any contract with the County, such contract shall be voidable by the County, even if the certifying person or entity was not in violation at the time it certified the information. Failure to comply with the requirements of this section may result in debarment of those who knowingly violate this resolution or falsify information.

Section 2. The County Mayor or County Mayor's designee is directed to include specific language in all future contracts for goods and services as to the requirements in Section 1 of this resolution, including language indicating that any post-contract violations of this resolution or any of the foregoing provisions may, at the County's sole discretion, be considered a breach of the agreement and render the contract voidable.

Section 3. The County Mayor or County Mayor's designee is further directed to include, as a condition of awarding any contract, a requirement that a proposed vendor or contractor execute an affidavit under oath attesting that the person or entity is in compliance with, and that will continue to comply with, the Equal Pay Act of 1963, Section 448.07 of the Florida

Statutes, Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et. seq.), Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.), Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.), and any other laws prohibiting wage rate discrimination based on sex.

Section 4. The County Mayor or County Mayor's designee is further directed to revise the online Vendor Affidavits Form to include a new section entitled "Miami-Dade County Pay Parity Affidavit" between sections 4 and 5 of the current form as follows:

I hereby affirm that this firm pledges to pay men and women equal wages for equal work, and is in compliance with, agrees to continue to comply with, and assure that any subcontractor or third party contractor shall comply with all applicable requirements of:

1. The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d));
2. Section 448.07 of the Florida Statutes;
3. Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et. seq.);
4. Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.);
5. Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.); and
6. Any other laws prohibiting wage rate discrimination based on sex.

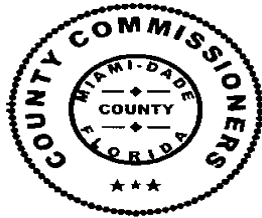
Section 5. The County Mayor or County Mayor's designee is directed to prepare and submit to this Board within 60 days of the effective date of this resolution a report containing all proposed rules or policies consistent with the requirements of this resolution, including a draft Implementing Order, and to place the report on an agenda of the Board pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Audrey M. Edmonson** and upon being put to a vote, the vote was as follows:

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Esteban L. Bovo, Jr., Chairman	aye
Audrey M. Edmonson, Vice Chairwoman	aye
Bruno A. Barreiro	absent
Jose "Pepe" Diaz	aye
Barbara J. Jordan	absent
Jean Monestime	aye
Rebeca Sosa	aye
Xavier L. Suarez	aye
Daniella Levine Cava	aye
Sally A. Heyman	absent
Joe A. Martinez	aye
Dennis C. Moss	absent
Sen. Javier D. Souto	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of November, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Marlon D. Moffett