

STATE OF LOUISIANA  
EXECUTIVE DEPARTMENT

BATON ROUGE

EXECUTIVE ORDER NO. EWE- 92-28

- WHEREAS, the United States District Court in the case of Major v. Treen, 475 F.Supp. 325, made certain findings of past state and "de facto" actions showing a need for careful review as to discrimination within the State of Louisiana; and
- WHEREAS, the Louisiana Legislature acknowledged that in light of the decision of the Supreme Court of the United States in the case of City of Richmond v. J.A. Croson Company, evidence must be found and proven past discrimination against Blacks, women or French-Acadian contractors and sub-contractors in the road, bridge port, airport transit and highway construction industry of the State or against black women or French-Acadian workers hired or employed by contractors and sub-contractors in the industry in order to justify minority set-aside or preference programs; and
- WHEREAS, the Legislature further acknowledged by Act No. 9 of the First Extraordinary Session, 1989, that the State of Louisiana has a compelling governmental interest to take steps to dismantle, eradicate, and neutralize such discriminatory and exclusionary system; and
- WHEREAS, the State of Louisiana acknowledged that the State has a further compelling interest to guarantee that public funds, derived from tax contributions of its citizens and others, do not finance, foster, or support, directly or indirectly, a system of racial or sexual discrimination or exclusion; and
- WHEREAS, Act No. 9 of the First Extraordinary Session of the Louisiana Legislature, 1989 mandated that a study or inquiry be made to make necessary findings and determinations as to whether or not there has been past discrimination or exclusion against Blacks or women or French-Acadian contractors and sub-contractors in the road, bridge port, airport transit, and highway construction industry of the State or against black women or French-Acadian workers hired or employed by contractors and sub-contractors in such industry; and
- WHEREAS, Act No. 9 of the First Extraordinary Session of 1989 of the Louisiana Legislature mandated that if such study found or determined that past discrimination or exclusion existed against Blacks or women or French-Acadian contractors, or laborers in the construction of state funded public works projects, the Governor shall submit findings of fact and race-neutral recommendations to the Legislature to dismantle, eradicate, and remedy such discrimination; and
- WHEREAS, Race-Neutral or sex-neutral measures as enumerated in the case of City of Richmond v. J.A. Croson Company may include but are not limited to the following: simplification of bidding procedures; relaxation of bonding requirements; implementation of training programs; financial aid; elimination or modification of formal barriers caused by bureaucratic inertia; prohibitions of

discrimination in provisions of credit or bonding by local suppliers and banks; and other programs which eradicate a disproportional lack of capital for operating purposes, special programs as to bonding requirements and state financing programs for small firms; and

WHEREAS, Act No. 9 of 1989 First Extraordinary Session mandated that if by July 11, 1989 the Legislature had not enacted sufficient race-neutral or sex-neutral legislation, the Governor shall, and is authorized and empowered to issue such executive orders subject to the approval by the oversight committees of the House Appropriations Committee and the Senate Finance Committee within thirty days after issuance, as are necessary to dismantle, eradicate, and remedy any and all discrimination and is specifically authorized to direct the secretary of the Department of Transportation and Development to promulgate emergency rules and regulations in accordance with the provisions of the administrative procedure act to require black or women or French-Acadian set-aside or preference programs on all constructions projects whose funding is derived from monies collected from taxes or petroleum projects "Highway Trust Fund" monies as referenced in Title 47, Chapter 7, Sub-Title II of the Louisiana Revised Statutes of 1950; and

WHEREAS, the amount established for set-aside or preference programs shall be distributed for award to Black contractors in each Congressional district in the same proportion to the total amount set-aside as the Black population in each Congressional district bears to the total Black population in the State; and

WHEREAS, sufficient race-neutral or sex-neutral legislation, as required by Act No. 9 of the 1989 First Extraordinary Session have not been enacted to dismantle, eradicate, and remedy any and all discrimination; and

WHEREAS, a study of the State of Louisiana referred to as a "Disparity Study" performed in two parts: the first part inconclusive, the second conclusive, with respect to the analysis of disparity and possible discrimination in the Louisiana construction industry and State Procurement System and its impact on minority and women-owned firms relative to the public works arena; and

WHEREAS, the purpose of the disparity study was to collect and develop evidence regarding the nature and extent of possible discrimination against Minority, Women Business Enterprises in state public works construction; and

WHEREAS, the "Disparity Study" concluded that systemic barriers, discrimination, and exclusion, against Blacks and women firms have a significant impact on the DOTD construction market as well as overall construction market in the State; and

NOW, THEREFORE, I, Edwin W. Edwards, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Secretary of the Department of Transportation and Development for the State of Louisiana is hereby directed to promulgate emergency rules and regulations in accordance with the provisions of the Administrative Procedure Act to require Blacks

and women set-aside or preference programs on all construction projects consistent with the mandates of Act No. 9 of the First Extraordinary Session of the Louisiana Legislature, 1989; and

SECTION 2: The provisions of this order are to be effective upon the signature of the Governor and shall remain in effect until amended, modified or rescinded by the operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of April, 1992.



*Edwin Edwards*  
GOVERNOR

ATTEST BY  
THE GOVERNOR

*Joseph S. Kitley*

SECRETARY OF STATE