

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: October 3, 2019

CALENDAR NO. 32,792

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER  BROSSETT

AN ORDINANCE to ordain Sections 70-511 through 70-513, in Article IV of Chapter 70, of the Code of the City of New Orleans; to establish designate new Division to prohibit city contractors and subcontractors from relying upon salary histories of applicants to determine starting salaries for employment positions connected with a city contract; to provide for limited exceptions from these prohibitions; to provide for enforcement of these prohibitions; and to otherwise provide with respect thereto.

WHEREAS, according to the 2015 United States Census Bureau report, women in Louisiana are paid on average sixty-nine cents for each dollar paid to a man, which is the largest gender earnings disparity of any state in the nation; and

WHEREAS, women of color suffer from an even greater pay disparity: African American women are paid only sixty-one cents for each dollar paid to white men and Latinas are paid only fifty-three cents for each dollar paid to white men; and

WHEREAS, according to the National Committee on Pay Equity, the gender wage gap has narrowed by less than one half of a penny per year in the United States since 1963, when Congress passed the Equal Pay Act, the first law aimed at prohibiting gender-based pay discrimination; and

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WHEREAS, when employers make salary decisions during the hiring process based on prospective employees' current or past salaries, or require employees to disclose current or past salaries as part of the application process or during salary negotiations, women applicants often end up at a significant disadvantage; and

WHEREAS, to the extent employers consider applicants' salary history in setting the salaries of new hires, historical patterns of gender bias and discrimination repeat themselves, causing women to continue earning less than their male counterparts and less than they would have earned, but for their gender; and

WHEREAS, members of the City workforce must be fairly and appropriately compensated based upon the work they perform, rather than compensated based upon their gender, race, ethnicity, or prior earnings; and

WHEREAS, the government of the City of New Orleans must set a positive example for other job providers to encourage them to acknowledge and close the gender wage gap by prohibiting the inquiry into, and the reliance upon, the salary histories of prospective employees;

NOW THEREFORE

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**
2 **ORDAINS**, That Article IV of Chapter 70 of the Code of the City of New Orleans be, and the
3 same is hereby amended and reordained, to read as follows:

4 **“Chapter 70 – Finance**

5 ***

6 **Article IV – Purchases and Contracts**

7 ***

8 **Division 5. – Salary History**

9 **Sec. 70-511 – Definitions**

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

12 (1) “Contract” means:

- 13 a. any contract to which the city is a party for professional services executed;
- 14 b. any contract to which the city is a party for construction, alteration, or demolition
15 of public property or public works of the City of New Orleans; or
- 16 c. any cooperative endeavor agreement whereby the city provides tax incentives.

17 (2) “Prohibited salary history practices” means

- 18 a. Communicating any question or statement to an prospective employee, a
19 prospective employee’s current or prior employer, or a current or former employee
20 or agent of the prospective employee’s current or prior employer, in writing or
21 otherwise, for the purpose of obtaining a prospective employee's salary history, or
22 to conduct a search of publicly available records or reports for the purpose of
23 obtaining a prospective employee's salary history, but does not include informing a
24 prospective employee in writing or otherwise about the position's proposed or
25 anticipated salary or salary range, or include salary history unilaterally and
26 voluntarily provided by an applicant.
- 27 b. Screening prospective employees based on their current or prior wages, benefits, other
28 compensation, or salary histories, including requiring that a prospective employee’s
29 prior wages, benefits, other compensation, or salary history satisfy minimum or
30 maximum criteria; or

- 31 c. Relying on the salary history of a prospective employee in deciding whether to offer
32 employment to a prospective employee, or in determining the salary, benefits, or other
33 compensation for such prospective employee during the hiring process; or
34 d. Refusing to hire or otherwise disfavoring, injuring, or retaliating against a prospective
35 employee for not disclosing his or her salary history to an employer.

36 **Sec. 70-512 – Prohibited Contracts.**

37 Neither the City, nor any City department, agency, board, or commission of the City, shall enter
38 into any contract unless the contracting party certifies that it does not engage in prohibited salary
39 history practices and will not engage in prohibited salary history practices for the term of the
40 contract. The prohibition against prohibited salary history practices shall extend to any
41 subcontractors performing work pursuant to the contract on behalf of the contracting party.

42 **Sec. 70-513 – Exceptions.**

43 A. The City shall have the discretion to provide a written waiver of Sec. 70-512 with
44 respect to a particular contract if it makes a good-faith determination that the contracted
45 services are necessary to the proper functioning of the city and that no reasonable
46 alternative exists.

47 B. This Division applies to all City-funded service contracts to the extent permitted by
48 law. Otherwise, it will be enforced to the extent allowable by law and the
49 requirements of the funding source.

50 Secs. 70-514 –70-550. Reserved.

1 SECTION 2. The provisions of this Ordinance shall take effect on _____.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:
DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ AT _____

CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

RECUSED: