



# CITY OF TAMPA

Pam Iorio, Mayor

Economic Development

Minority Business Development Office

## City of Tampa Equal Employment Opportunity and Affirmative Action Rules & Regulations

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# **Equal Employment Opportunity and Affirmative Action Rules and Regulations of the City of Tampa**

## **Authority, Purpose, and Scope**

The purpose of these Rules and Regulations (hereinafter referred to as 'Rules') is to achieve the aims of Chapter 26.5, Part II, City of Tampa Code (hereinafter referred to as 'Ordinance') for the promotion and ensuring of equal employment opportunity through affirmative action for all persons, without regard to race, religion, color, sex, national origin, sexual orientation, age, handicap, familial status, or marital status, employed or seeking employment with contractors, , and vendors of the City of Tampa (hereinafter referred to as the 'City').

These Rules are adopted pursuant to authority granted by Section 26.5 – 174 (b)(1) of the City of Tampa Code and apply to all contracting agencies of the City, and to contractors, , vendors, and proposed contractors, , and vendors with applicable contracts. Failure to comply with any provision of these Rules shall be grounds for the imposition of any or all of the sanctions authorized by Section 26.5 – 141, City of Tampa Code. The rights and remedies of the City hereunder are not exclusive and do not affect rights and remedies provided elsewhere by law, regulation, or contract.

## **Administrative Responsibility**

The Director has been delegated authority to carry out the responsibilities assigned under the Ordinance, including the power to adopt and promulgate these Rules.

All correspondence regarding these Rules and applicable Ordinance provisions should be directed to the Minority Business Development Office, Department of Economic Development, 306 E. Jackson Street, 7E, Tampa, Florida 33602.

## **Effective Date**

These Rules and any amendments thereto shall be effective upon promulgation by the Director.

## Applicability

This Ordinance applies to businesses or firms that do business with the city holding:

- (a) contracts, as defined in Section 26.5 – 4 of the City of Tampa Code, exceeding or which can be expected to exceed, a total amount of \$10,000.00 over any period, when the contractor/vendor has fifteen or more (15+) employees; or
- (b) Contracts exceeding, or which can be reasonably expected to exceed a total amount of \$50,000.00, over any period, regardless of the number of employees that the bidder or contractor/vendor has.

This Ordinance applies to a business or other person when the contract is between the City and an individual employed by such business or other person.

This Ordinance applies to a subcontractor or other person who receives a contract from a bidder or contractor/vendor, when the thresholds herein are met as applied to such subcontractor or other person.

No applicable contract shall be executed on behalf of the City unless at least one of the following requirements is met:

- (a) **Workforce Reflects Local Labor Pool Demographics:** The contractor/vendor has demonstrated that its workforce reflects the demographic characteristics of the available pool of labor skills normally utilized by the contractor/vendor, based on the United States Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Program (OFCCP) guidelines, as they may be amended, and that each applicable subcontractor has met one of the requirements of this section. If a contractor or vendor has the applicable area workforce, it shall meet this requirement if its area workforce reflects its local demographic characteristics of its available pool of labor skills.
- (b) **Equal Employment Opportunity Clause and Affirmative Action Program:** The contractor/vendor has demonstrated good faith efforts to comply with Section 26.5 – 176 of the City of Tampa Code, and has an existing Affirmative Action Program to be submitted and approved by the Director. The contractor/vendor must demonstrate that each subcontractor has met one of the requirements of this section. An Affirmative Action Program shall be approved if it is pursuant to an order of a federal court with jurisdiction over the contractor/vendor's employment practices, or if it meets the standard of the EEOC and OFCCP guidelines, as they may be amended.

- (c) **Emergency or Sole Source Contract: (*Emergency*)** The user department certifies in writing to the Director that an emergency exists, as stated in Section 8.04 of the City Charter; and that no contractor/vendor with an applicable workforce that reflects local labor pool demographics, or that has an Affirmative Action Program approved by the Director is immediately available. (***Sole Source***) The Director finds, with the advice of the user department, that any needed services or goods are available only from a single source, as stated in Section 8.04 of the City Charter, which does not have an applicable workforce that reflects local labor pool demographics; and does not have an Affirmative Action Plan approved by the Director; and the prospective contractor/vendor or awardee is to comply with the provisions of the Ordinance, or city procedures established pursuant thereto.

## Exemptions

The following are exempted from the Ordinance and these Rules:

- (a) Single source purchases as defined in the City Charter.
- (b) Emergency purchases, as defined in the City Charter, where a certified company is not available or the Director of the Minority Business Development office determines an exemption, not to exceed 12 months, is in the best interest of the City.
- (c) State contract purchases.
- (d) The renewal of awards/contracts, whose original solicitation was initiated prior to January 6, 1994, only if there are no changes in the original terms and conditions of the award/contract at the time of renewal, and the original award/contract has a renewal clause.
- (e) Payments made to other government agencies and governmental authorities.
- (f) Agreements in which the original solicitation was initiated prior to January 6, 1994, and the terms and conditions of the original agreement are still in effect.
- (g) Payments to utilities for regulated services that are only available from the particular utility.
- (h) Payments to individual homeowners for rehabilitation loans and grants.
- (i) Refunds of deposits, overpayments, and other types of refunds.
- (j) Tuition reimbursement payments.
- (k) Donations or grants to various entities in support of the accomplishment of their respective missions, which are not offered as compensation for any labor, materials, supplies, or services for the City of Tampa.

## Definitions

**Affirmative Action:** is a specific goal-oriented activity designed to enhance employment and business opportunities for minorities and women

**Affirmative Action Plan:** is a written narrative plan designed to remedy the effects of under-utilization and past discrimination and to assist an employer to achieve its employment goals for minorities and women through good faith efforts in all areas of employment and contracting

**Affirmative Action Program (AAP):** means a written, results-oriented program meeting the requirements of the City of Tampa Equal Employment Opportunity and Affirmative Action Ordinance, city Rules adopted pursuant to this Ordinance, and other applicable regulations designed to ensure that a contractor/vendor makes a good faith effort to employ women and minorities at all levels of employment in the contractor/vendor's business, and to treat employees equally, without regard to their status as a woman or as a minority.

An Affirmative Action Program will include, but not be limited to, the following aspects of employment pertaining to women and minorities: hiring, upgrading, demotion, transfer, layoff, termination, rates of pay, and other forms of compensation, training programs and selection for training, apprenticeship, recruitment advertising, recruitment efforts, employment goals and a written plan to achieve those goals with timetables

**Applicable Contract:** means (1) any contract or subcontract, exceeding, or which can be reasonably expected to exceed a total amount of \$10,000.00 over any period, when the bidder, contractor/vendor has 15 or more (15+) employees; and (2) any contract or subcontract exceeding or which can be reasonably expected to exceed a total amount of \$50,000.00 over any period, regardless of the number of employees that the bidder, contractor/vendor has; except as exempted by Section 8.04 of the City Charter.

**Bona Fide Occupational Qualification (BFOQ):** is a legitimate, justifiable reason for limiting employment, running advertisement, and other job-related functions based on race, sex, national origin, religion, etc.

**Chapter 26.5, Part II, City of Tampa Code:** refers to City of Tampa Equal Employment Opportunity & Affirmative Action Ordinance

**City:** means the City of Tampa, Florida

**Compliance:** means a determination that a contractor/vendor is adhering to the City's affirmative action and nondiscrimination requirements

**Contract:** means and includes any agreement, regardless of what it may be called, between the City and a person to provide or procure labor, materials, supplies, or services to, for, or on behalf of the City

**Contractor:** means any person(s) including any subsidiary or affiliate whom has been awarded an applicable contract by the City or any of its contracting agencies through a competitive bidding procedure, negotiation, application for City funds, or other means

**Contracting Agency:** means any office, department, board, agency, or other entity of the City, which is responsible for awarding contracts on behalf of the City

**Department:** means the Department of Economic Development's Minority Business Development Office

**Director:** means Director of the Department, or designee

**Equal Employment Opportunity (EEO) Clause:** means the contract provisions set forth in Section 26.5 – 176, City of Tampa Code

**Letter of Intent:** means a letter from the contractor/vendor to his or her subcontractors stating dollar amounts and its intent to enter into binding contracts with them upon award of the contract

**Local Labor Pool Demographics:** is the demographic characteristics of the available pool of labor skills normally utilized by the contractor/vendor, based on the United States Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Program (OFCCP) guidelines

**Minority or Minorities:** mean United States citizens, or permanent resident aliens (as defined by the Immigration and Naturalization Service (INS) of the United States, who are Black, Hispanic, Asian, or Native American

**Modification:** means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions

**Non-compliance:** means a determination that a contractor/vendor is not adhering to the city's affirmative action and nondiscrimination requirements

**On-site Review:** means a review of the contractor/vendor's employment and subcontracting procedures performed by the Minority Business Development Office at the contractor/vendor's location(s) to determine compliance with Chapter 26.5, Part II, City of Tampa Code

**Ordinance:** means Chapter 26.5, Part II, City of Tampa Code

**Person:** includes persons, corporations, partnerships, or unincorporated associations

**Subcontract:** means any agreement, arrangement, or understanding, written or otherwise, between a city contractor/vendor and any person (in which the parties do not stand in relationship of employer and employee) which assigns some of the obligations of the contract:

- (a) For the furnishing of supplies or services or for the use of real personal property; including lease arrangement which, in whole or in part, is utilized in the performance of one or more contracts with the City; or
- (b) Under which any portion of the contractor/vendor's obligation under one or more contracts with the City is performed, undertaken, or assumed.

**Subcontractor:** means any person(s) who has a subcontract with any contractor/vendor

**Under-utilization:** means having fewer minorities or women in a particular job classification, job title, job category, or workforce than would be reasonably expected based upon their availability

**Vendor:** means any person(s) including any subsidiary or affiliate that is bidding on, intends to bid, or intends to enter into an applicable contract with the city, or any of its contracting agencies through a competitive bidding procedure, negotiation, application for city funds, or other means.

## **Rule I – Duties of Contracting Agencies**

### **(1) General Responsibilities:**

In an effort to seek compliance with the equal employment opportunity and affirmative action clause, the Ordinance, and these Rules, each contracting agency shall be responsible for providing all the necessary information and assistance to the Director.

### **(2) Information and Assistance Required/Each Contracting Agency shall:**

- (a) Include in all requests for proposals, bid specifications, and resulting contract awards for applicable contracts, a notice stating that all bidders or officers will be required to comply with the provisions of the Ordinance
- (b) Include in all City contracts, either specifically, or by reference, the EEO clause contained in Section 26.5 – 176 of the City of Tampa Code
- (c) At the time the contract is approved, provide to each non-exempt contractor/vendor notices setting forth the provisions of the EEO clause contained in the Ordinance, and of copy of these Rules
- (d) Promptly notify the Director in writing whenever an application for funds exceeding \$10,000.00, or a bid exceeding \$10,000.00 on a contract, has been received and has been recommended for approval by the contracting agency. This notice shall include the name of the prospective prime contractor(s), subcontractor(s), and vendor(s)
- (e) Submit to the Director documentation received from potential contract awardees supporting compliance with the Ordinance
- (f) Cease the solicitation or consideration of bids or applications, on applicable contracts, from contractors/vendors, subcontractors, and vendors who have been found by the Director to be not in compliance with the Ordinance
- (g) Coordinate any compliance reviews with the Director as necessary

## Rule II – Requirements of Contractor/Vendors and Subcontractors

- (1) For the purpose of aiding the Director in determining contractor/vendor compliance with the ordinance:
    - (a) Each prospective contractor/vendor must be currently certified by the City of Tampa, or shall submit with their bid or proposal, at least one of the following for approval:
    - (b) A current written affirmative action program that includes at least the following elements:
      - Company description
      - Organizational diagram
      - EEO/AA policy statement
      - Responsibilities of EEO Coordinator
      - Dissemination of AA Policy and Plan
      - Recruitment of employees
      - Internal EEO Complaint Procedures
      - EEO-1 Worksheet
      - Workforce analysis
      - Goals and timetables
      - Problem area(s)/deficiency identification and analysis
      - Internal audit and reporting system
      - Signature
- (A Guide to Building an Affirmative Action Plan is available for your reference)
- (c) A company-wide workforce tabulation showing the total number of employees, including minorities and women by job title within each job category at the present time. Tabulation must show that your workforce meets the local labor pool demographics, including identification of data sources.
  - (d) A copy of current certification from another governmental body meeting the EEOC and OFCCP guidelines or appropriate federal court order.
  - (e) Documentation that shows the contractor/vendor's bid or proposal is \$50,000.00 or less and has fewer than 15 (14 or less) employees, (i.e., a copy of your current payroll from a payroll company, UCT-6 form, Quarterly Wage & Earning Report, or latest company tax return).
- (2) Each contractor/vendor shall furnish to the Director, within the time period required by the Director, all information and reports required by the Ordinance and these Rules.
  - (3) Each contractor/vendor shall include in its contract with a subcontractor the following provisions:

- “It is agreed that the City of Tampa Equal Employment Opportunity and Affirmative Action Ordinance is hereby incorporated and made a part of this contract and are applicable and binding upon the subcontractor in all respects. The subcontractor hereby acknowledges receipt of a copy of said Ordinance and these Rules. It is also agreed that the subcontractor shall furnish to the Director any and all information and reports that may be required under the Ordinance and these Rules, and that said subcontractor will provide the Director access to all its books, records, and accounts for the purposes set forth in the Ordinance and these Rules. It is further agreed that these provisions are for the benefit of the Director, who may enforce any or all of the provisions as provided by the Ordinance and these Rules.”

(4) Upon contract Award or Notice to Proceed, each contractor/vendor shall:

- (a) Post in conspicuous, well-lighted places, available to employees and applicants for employment, notices setting forth the provisions of the Equal Employment Opportunity/Affirmative Action Clause contained in the Ordinance.
- (b) Send to the business representative of each labor organization with which it has a collective bargaining agreement or other contract, or understanding, a notice advising the labor union or worker’s representatives, of the contractor/vendor’s responsibility under the Ordinance, and post copies of the notice in conspicuous, well-lighted places available to employees and applicants for employment. The contractor/vendor shall ensure that the unions, with which he/she has an agreement, conduct their business in a non-discriminatory manner, and that the unions are referring minorities and females for employment within the contractor/vendor’s workforce at least in proportion to their availability in the general labor force.
- (c) Ensure that collective bargaining agreements include a non-discrimination clause.
- (d) Review and revise collective bargaining agreements whenever current provisions are identified as barriers to equal employment.
- (e) Review seniority clauses in union contracts to ensure they are non-discriminatory and do not have a discriminatory effect.
- (f) Ensure that the union grievance process is adequately representing and processing grievances on behalf of all persons protected under the Ordinance.

(5) During the performance of the contract, comply with all provisions of the Ordinance and with all rules and regulations, or orders issued by the Director.

(6) Each contractor, vendor, applicant prime contractor, and prospective prime contractor shall retain apart from individual employee personnel files, and have available for inspection by the Director the following documentation by race and sex:

- (a) By job title
- (b) Name
- (c) Rate of pay or salary
- (d) Total number of employee
- (e) Total employment applicants

- (f) Total applicants interviewed
  - (g) Total applicants tested
  - (h) Total applicants hired
  - (i) Total employees hired
  - (j) Total employees promoted
  - (k) Total employees demoted
  - (l) Total employees transferred
  - (m) Total employees laid off
  - (n) Total employees recalled from layoff
  - (o) Total employees terminated
  - (p) Total employees receiving company sponsored training
  - (q) Any other employment related documentation that the Director deems necessary to determine the compliance status of the contractor/vendor
- (7) The contractor/vendor shall, upon request, furnish the Director employment, payroll, signed copies of contracts and subcontract disclosure forms, or other records on forms provided by the Director, for the purpose of compliance review and for administration of the Ordinance and these Rules.
- (8) The bidder or applicant shall permit the Director to have access to is files, books, records, payroll and accounts, and shall furnish the Director with all information and reports necessary for compliance review.
- (9) All contractors/vendors holding applicable contracts shall make good faith efforts to meet their affirmative action objectives. If the Director or designee believes that a contractor/vendor is not meeting its affirmative action commitments, the contractor/vendor will be required to document good faith efforts and to enter into conciliation with the Director to remedy the problem areas. Should conciliation fail, the sanction provided in Section 26.5 – 141, City of Tampa Code will be enforced.
- (10) Each contractor/vendor will be required to provide the Director with such documentation as the Director may require on an annual basis, which demonstrates continued compliance with the Ordinance and these Rules.

### **Rule III – Duties of Director**

1. Receive from each city contracting agency, the supporting compliance documentation of prospective contractors/vendors with whom the contracting agencies expect to enter into applicable contracts.
2. Within ten (10) calendar days of receipt of the above documentation, complete a review of each such contractor/vendor to determine the ability of each to comply with the Ordinance. Before the city enters into an applicable contract or financial assistance, the Director must certify compliance with the Ordinance.
3. Upon approval of compliance, contractors/vendors will be issued a Certificate of Approval with an expiration date.
4. Maintain an updated, written listing of the barred and compliant contractors/vendors.
5. Remove non-compliant contractor/vendors from the active contractor/vendor's list, as their status changes.
6. Maintain an updated listing of debarred, terminated, or suspended contractor/vendors.
7. Consult with the city attorney on questions of law arising out of enforcement of the contract compliance rules and regulations.
8. Maintain an alphabetical list of all certified companies. This list will be published monthly and sent to contracting agencies. Contracting agencies will be sent a copy of the certification letter each time a company is certified.
9. May initiate, conduct, and coordinate with other compliance review agencies, the investigation of contractors/vendors as soon as feasible after the award of contract or subcontract. Such review shall be for the purpose of ascertaining the contractor/vendor's ability to comply with the Ordinance and these Rules. In making the compliance review, the Director may take into consideration past and present utilization of classes protected by the Ordinance in the contractor/vendor's work force; size of the work force; number of probable cause determinations made against the contractor/vendor; prior compliance history; probability of future contracting employee turnover with the contractor/vendor's work force or its industry; dollar amount of contract; and other factors as in the Director's judgment are deemed relevant. Reviews may include, but not be limited to the following:
  - a. community and other contracts
  - b. entrance conference
  - c. audit EEO/AA policies and procedures
  - d. Audit of personnel policies and procedures
  - e. Physical inspection of the establishment
  - f. Review of compliance with technical requirements
  - g. Employee interviews
  - h. Exit conference

- i. Off-site analysis
- j. Audit and other additional information requested to determine compliance

10. Within 30 calendar days from initiation of a review, notify the contractor/vendor of written compliance review findings, including any recommended remedial measures necessary to bring the contractor/vendor into compliance.

The city staff will then prepare an assessment of its onsite review or internal audit, identifying areas where progress is being maintained and areas where the contractor/vendor needs to take corrective action to address deficiencies.

The city staff will conduct an exit conference with the contractor/vendor regarding the assessment and specify corrective action that should be taken. The results of the exit conference will be directed in writing to the contractor/vendor. A recommendation of compliance or noncompliance will be made.

11. Develop and disseminate technical assistance to complying and non-complying contractors/vendors. However, the city will not prepare documents for anyone.
12. In the case of noncompliance of the Ordinance or of these Rules, or discrepancies cannot be resolved, take any or all of the following actions:
  - (a) Declare the bidder's bid nonresponsive and the bidder is ineligible to receive the involved contract;
  - (b) Withhold from the contractor/vendor in violation, ten percent of all future payments under the involved contract until it is determined that the contractor/vendor is in compliance;
  - (c) Withhold from the contractor/vendor in violation all future payments under the involved contract until it is determined that the contractor/vendor is in compliance;
  - (d) Exclude the contractor/vendor in violation from submitting a bid for any future procurement by the city until such time as the contractor/vendor is compliant with all of the provisions of the Ordinance and these Rules;
  - (e) Recommend termination of the contract.
13. Notify the contractor/vendor in violation in writing and by certified mail return receipt requested, stating the reasons for the determination of noncompliance with the Ordinance and these Rules.
14. If the contractor/vendor in violation appeals the determination of noncompliance within seven (7) days upon receipt of the notice, set a hearing date not more than fourteen (14) business days from the date of receipt of the notice of appeal.

15. See to it that the hearing officer makes a written decision on the appeal within fourteen (14) days of the completion of the hearing, and that the hearing officer's decision sets forth the reasons for the decision which shall either affirm, alter, or reverse the determination of noncompliance.
16. If the hearing officer affirms the determination of noncompliance, make recommendations and findings of the final disposition to the Mayor.
17. Send notice of the hearing officer's decision by certified return receipt mail to all parties involved within seven (7) days of receipt of the decision.

## Chapter 26.5, City of Tampa Code

### Women and Minority Business Enterprise and Equal Employment Opportunity

#### Part 2. Equal Employment Opportunity

##### Sec. 26.5 – 171 Title

This part shall be known and may be cited as the “City of Tampa Equal Employment Opportunity and Affirmative Action Ordinance.”  
(Ord. No. 93-172, § 11, 11-4-93)

##### Sec. 26.5 – 172 Applicability

The provisions of this ordinance shall apply to:

- (a) all contracts, as defined in Section 26.5 – 4 of this chapter, exceeding, or can be reasonably expected to exceed a total amount of ten thousand dollars (\$10,000.00), over any period, when the bidder or contractor/vendor has fifteen (15) or more employees; and
- (b) all contracts exceeding, or can be reasonably expected to exceed a total amount fifty thousand dollars (\$50,000.00), over any period, regardless of the number of employees that the bidder or contractor/vendor has.

This section includes and applies to a business or other person when such business or other person between the city and an individual employs the contract.

Additionally, this section includes and applies to a subcontractor or other person who receives a contract, from a bidder or contractor/vendor, when the thresholds herein are met as applied to such subcontractor or other person.

(Ord. No. 93 – 172, § 11, 11-4-93)

##### Sec. 26.5 – 173 Definitions; words defined

For the purposes of this ordinance, certain abbreviations, terms, phrases, words, and their derivatives shall have the following meanings:

***Affirmative Action Program*** means a written, results-oriented program meeting the requirements of this ordinance, city rules adopted pursuant to this ordinance, and other applicable regulations, designed to ensure that a contractor/vendor makes a good faith effort to employ women and minorities at all levels of employment in the contractor/vendor’s or subcontractor’s business, and to treat employees equally without regard to their status as a woman or as a minority.

An affirmative action program will include, but not be limited to, the following aspects of employment pertaining to women and minorities:

- (a) hiring
- (b) upgrading
- (c) demotion
- (d) transfer
- (e) layoff
- (f) termination
- (g) rates of pay and other forms of compensation
- (h) training programs and selection for training, apprenticeship
- (i) recruitment advertising, recruitment efforts
- (j) employment goals
- (k) written plan to achieve those goals with timetables

**Minority or minorities** mean United States citizens, or permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, who are Black, Hispanic, Asian, or Native American.

(Ord. No. 93 – 172 § 11, 11-4-93)

## **Section 26.5 – 174 Administrative authority; powers and duties**

The provisions of this Ordinance shall be administered and enforced by the official. For purposes of administration of the provisions of this Ordinance, the official’s designee shall be the director.

The director’s powers and duties include the following:

- (a) Establish written rules and/or procedures to implement this Ordinance
- (b) Make the determination in writing, stating reasons thereof, of whether or not potential contracts are in compliance with this Ordinance before the award of any city contract
- (c) Approval or denial of affirmative action plans submitted by potential contractor/vendors

(Ord. No. 93 – 172, § 11, 11-4-93)

## **Sec. 26.5 – 175 Requirements for execution of city contracts**

No applicable contract, under Section 26.5 – 172 shall be executed on behalf of the city unless at least one (1) of the following requirements is met:

- (a) **Workforce Reflects Local Labor Pool Demographics:** The contractor/vendor has demonstrated that its workforce reflects the demographic characteristics of the available pool of labor skills normally utilized by the contractor/vendor, based on the United States Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Program (OFCCP) guidelines, as they may be amended, and that each applicable subcontractor has met one of the requirements of this section. If a contractor/vendor or subcontractor has the applicable Tampa-area workforce, it shall meet this requirement if its Tampa-area workforce reflects local demographic characteristics of the available pool of labor skills.

(b) **Equal Employment Opportunity Clause and Affirmative Action Program:** The contractor/vendor has demonstrated good faith efforts to comply with Section 26.5 – 176 of the City of Tampa Code, and has an existing Affirmative Action Program to be submitted and approved by the Director. The contractor/vendor must demonstrate that each subcontractor has met one of the requirements of this section. An Affirmative Action Program shall be approved if it is pursuant to an order of a federal court with jurisdiction over the contractor/vendor’s employment practices, or if it meets the standard of the EEOC and OFCCP guidelines, as they may be amended.

(c) **Emergency or Sole Source Contract: (*Emergency*)** The user department certifies in writing to the Director that an emergency exists, as stated in Section 8.04 of the City Charter; and that no contractor/vendor with an applicable workforce that reflects local labor pool demographics, or that has an Affirmative Action Program approved by the Director is immediately available.

**(*Sole Source*)** The Director finds, with the advice of the user department, that any needed services or goods are available only from a single source, as stated in Section 8.04 of the City Charter, which does not have an applicable workforce that reflects local labor pool demographics; and does not have an Affirmative Action Plan approved by the Director; and the prospective contractor/vendor or awardee is to comply with the provisions of the Ordinance, or city procedures established pursuant thereto.

## **Sec. 26.5 – 176 Equal employment opportunity clause**

The equal employment opportunity (EEO) clause required in all city contracts/awards, specifically or by reference, pursuant to Section 26.5 – 175, shall read as follows:

“During the performance of this agreement, said contractor/vendor agrees as follows:”

(1) The contractor/vendor shall not discriminate against any employee, or applicant for employment, because of race, religion, color, sex, national origin, sexual orientation, age, handicap, familial status, or marital status. As used herein, the words “shall not discriminate” shall mean and include without limitation the following:

- (a) recruited, whether by advertising or other means
- (b) Compensated, whether in the form of rates of pay, or other forms of compensation
- (c) Selected for training, including apprenticeship
- (d) Promoted/upgraded
- (e) Demoted
- (f) Downgraded
- (g) Transferred
- (h) Laid off

(i) Terminated

- (2) The contractor/vendor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of the EEO Clause.
- (3) The contractor/vendor shall, in all solicitations or advertisements for employees, placed by or on behalf of the contractor/vendor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color sex, national origin, sexual orientation, age, handicap, familial status, or marital status.
- (4) The contractor/vendor shall send to each labor union or representative or workers with which the contractor/vendor may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the contractor/vendor's commitments under the city's equal employment opportunity and affirmative action ordinance and other city code or ordinance and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor/vendor shall register all workers in the skilled trades who are below the journeyman level with the U.S. Bureau of Apprenticeship and Training.
- (5) The contractor/vendor shall furnish all information and reports required by the director and shall permit access to the books, records, and accounts of the contractor/vendor during normal business hours by the director for the purpose of investigation so as to ascertain compliance with the Equal Employment Opportunity and Affirmative Action Ordinance and Program.
- (6) The contractor/vendor shall take such action with respect to any subcontractor as the city may direct as a means of enforcing the provisions of paragraph (a) through (h) herein, including penalties and sanctions for noncompliance
- (7) The contractor/vendor and its subcontractors, if any, shall file compliance reports at reasonable times and intervals with the city in the form and to the extent prescribed by the director. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs, and statistics of the contractor/vendor and its subcontractors
- (8) The contractor/vendor shall, specifically or by reference, include the provisions of paragraphs (a) through (h) of the equal opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor/contractor
- (9) A finding, as hereinafter provided, that a refusal by the contractor/vendor or subcontractor to comply with any portions of this program as herein provided and described, may subject the offending party to the penalties as provided in Section 26.5 – 141 and Section 26.5 – 178 of this code.”

(Ord. No. 93-172, § 11, 11-4-93)

**Sec. 26.5 – 177 Notice to and requirements of bidders and offerors**

- (1) **Notice** The purchasing agent shall include, as part of any contract/award specifications published for the use of prospective bidders and offeror, a notice that all bidders or offerors will be required to comply with the provisions of this Ordinance.
- (2) **Requirements** Each bidder or offeror shall submit any information required by this Ordinance in duplicate to the director and the purchasing agent as part of the bid documents. Each bidder or offeror shall file, as part of the documents of such contract, employment information in such form as may be required by the director, and shall ensure that each subcontractor also files such information.

(Ord. No. 93-172, § 11, 11-4-93)

**Sec. 26.5 – 178 Enforcement**

Enforcement and appeals under this Equal Employment Opportunity and Affirmative Action Ordinance shall be conducted under Article IV of the Women and Minority Business Enterprises Ordinance.

(Ord. No. 93 – 172, § 11, 11-4-93)