

RESOLUTION 79-4

To Amend the Contract Compliance Regulations of the  
Bloomington Human Rights Commission

WHEREAS, The City of Bloomington, Monroe County, Indiana is  
an Equal Opportunity Employer,

WHEREAS, it is the public policy of the City of Bloomington  
to provide for Equal Employment Opportunity with regard to the  
expenditure of public monies,

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE  
CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

The Common Council hereby approves the attached amendments to  
the Contract Compliance Regulations of the Bloomington Human Rights  
Commission originally approved by Resolution 75-4 as passed unanimously  
by the Commission at a public hearing on December 18, 1978.

Passed and Adopted this 7<sup>th</sup> day of FEBRUARY, 1979, by the  
Common Council of the City of Bloomington, Monroe County, Indiana.

*Tomilea Allison*  
Tomilea Allison, President  
Bloomington Common Council

SIGNED AND APPROVED by me on this 13<sup>th</sup> day of FEBRUARY,  
1979.

*Francis X. McCloskey*  
Francis X. McCloskey, Mayor  
City of Bloomington

SYNOPSIS

The amendments make four changes in the current regulations  
of the Contract Compliance Committee of the Bloomington Human  
Rights Commission: (1) The remedy of liquidated damages against  
non-complying contractors is deleted; (2) The requirement that  
bidders submit an Affirmative Action Plan with their bids is ex-  
tended to contractors awarded non-bid contracts; (3) In addition  
to notice to the Mayor, the official or body awarding the contract  
is to be notified of approval or disapproval of an Affirmative  
Action plan; (4) A final section excluding HUD projects from the  
regulations is combined with an existing section on federal funding.

A RESOLUTION TO AMEND THE  
CONTRACT COMPLIANCE REGULATIONS

Section I. § 2.1(B) is amended to read as follows:

(B) Federal Funding

The fact that federal funds are used to pay all or any part of the City's obligation under any City contract shall be of no consideration in determining coverage under these regulations and Chapter 2.60.050 of the Bloomington Municipal Code, except that these regulations shall not apply to the City contracts which are monitored for non-discrimination pursuant to the regulations of the U.S. Department of Housing and Urban Development, under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383).

Section II. §3.1 (B)(c) is amended to read as follows:

- (c) (The contractor's or contractors') breach of either (a) or (b) of the above provision shall be a material breach of the contract, for which the (City of Bloomington, Indiana, or one of its agencies, commissions, boards, departments, units, branches or subdivisions) shall be entitled, at its option: (1) to cancel, terminate, or suspend the contract in whole or in part; (2) to declare (the contractor or contractors) ineligible for future contracts with the City of Bloomington, Indiana, or any of its agencies, commissions, boards, departments, units, branches or subdivisions, for a period of (time) \_\_\_\_\_.

Section III. §4.1 (B) is amended to read as follows:

(B) Submission of Plans

All those persons who bid on City contracts reasonably expected to be covered by §2.1(A) of these regulations shall be required to submit, along with their bid and prior to the end of the bidding time limit, an affirmative action plan describing in detail the good faith efforts they intend to make, as well as the efforts they have already made, to comply with the "Equal Opportunity" provision of the contract, including but not being limited to affirmative action and goals and timetables regarding any future affirmative action. When a City contract covered by §2.1(A) of these regulations is to be awarded without being let for bids, the proposed contractor shall be required to submit such an affirmative action plan before the contract is executed.

Section IV. IV. §4.1(C) is amended to read as follows:

(C) Review of Plans

The Contract Compliance Officer shall inspect all of the affirmative action plans submitted under §4.1(B) of these regulations and make a determination as to the acceptability or unacceptability of said plans. If the Contract Compliance Officer finds said plans to be acceptable, he or she shall cause such finding to be made in writing and to be submitted to the official or body of the City of Bloomington awarding the contract and to the Mayor. Such findings of acceptability shall have

the same force and effect in law as a finding of acceptability by the Bloomington Human Rights Commission, without the need for any further processing by the Commission. The Contract Compliance Officer may also submit a written statement, as to which of any of the acceptable affirmative action plans is superior to the others, along with the reasons for the superiority. If the Contract Compliance Officer finds any plan submitted to be unacceptable, he or she shall make this finding in writing, stating the reason(s) why the plan is unacceptable, and cause such finding to be presented to the Contract Compliance Committee. The Contract Compliance Committee shall consider the finding of unacceptability made by the Contract Compliance Officer and shall either:

(1) Approve said finding in writing and inform the official or body of the City of Bloomington awarding the contract and the Mayor of the findings of both the Contract Compliance Officer and the Contract Compliance Committee on behalf of the Bloomington Human Rights Commission. A copy of said findings shall also be sent to the contractor who submitted the unacceptable affirmative action plan, by certified mail, along with a notice as to said contractor's right to appeal, as stated in §5.3(A) of these regulations.

(2) Overrule said finding in writing and inform the official or body of the City of Bloomington awarding the contract and the Mayor that said plan is found acceptable by the Bloomington Human Rights Commission.

Section V. §4.1(E) is amended to read as follows:

(E) Violations

The City of Bloomington and any of its agencies, commissions, boards, departments, units, branches or subdivisions, shall not enter into or be a party to any City contract covered under §2.1(A) of these regulations until the following two conditions are met: (1) Bidders, or proposed contractors for contracts not let for bids, have submitted their affirmative action plans to the Contract Compliance Officer, in accordance with the provisions of these regulations and, (2) The Contract Compliance Officer or the Contract Compliance Committee, has notified the official or body awarding the contract and the Mayor of the City of Bloomington, in accordance with the provisions of these regulations, that bidders chosen as contractors or proposed contractors have submitted acceptable affirmative action plans. The entering into or becoming a party to a City contract covered by §2.1(A) of these regulations, by the City of Bloomington or one of its agencies, commissions, boards, departments, units, branches or subdivisions, with a contractor who has not submitted an affirmative action plan to the Contract Compliance Officer, in accordance with these regulations, or with a contractor whose affirmative action plan is found unacceptable by the Contract Compliance Officer and the Contract Compliance Committee on behalf of the Bloomington Human Rights Commission, in accordance with these regulations, shall constitute violations of Chapter 2.60.050 of the Bloomington Municipal Code. The entering into or becoming a party to a City contract

covered by §2.1(A) of these regulations, by the City of Bloomington or one of its agencies, commissions, boards, departments, units, branches or subdivisions, with a contractor whose affirmative action plan has not yet been found acceptable by the Contract Compliance Officer or the Contract Compliance Committee, in accordance with these regulations, shall constitute a violation of Chapter 2.60.050 of the Bloomington Municipal Code. The entering into or becoming a party to a City contract covered by §2.1(A) of these regulations by the City of Bloomington or any of its agencies, commissions, boards, departments, units, branches or subdivisions, with a contractor who has failed to pledge compliance with an "Equal Opportunity" provision of said City contract, as outlined in exact detail in §3.1(B) of these regulations, shall constitute a violation of Chapter 2.60.050 of the Bloomington Municipal Code. Any violation of Chapter 2.60.050 of the Bloomington Municipal Code shall cause a City contract to become null and void.

Section VI. §4.2(A) is amended to read as follows:

(A) Pre-Signature Conference

Prior to signing a City contract covered under §2.1(A) of these regulations, the contractor who is the successful bidder, or the proposed contractor for contracts not let for bids, whose affirmative action plan has been found acceptable by the Contract Compliance Officer or the Contract Compliance Committee, in accordance with these regulations, shall be required to meet with the Contract Compliance Officer. At such a meeting the Contract Compliance Officer shall provide to the contractor who is the successful bidder, a copy of these regulations and a copy of the "Equal Opportunity" provision contained in the City contract which said contractor will be signing. The Contract Compliance Officer will, at that time, be available for any questions regarding said contractor's rights and responsibilities under these regulations and the "Equal Opportunity" provision of the City contract.

Section VII. §4.2(D) is amended to read as follows:

(D) The Committee Finding

When the Contract Compliance Committee has reached a decision after a public hearing held pursuant to §4.2(C) of these regulations, they shall submit their finding in writing to the Mayor of the City of Bloomington, Indiana, and shall send a copy of said finding to the contractor and the counsel of said contractor, if any, by certified mail, and if said finding should be that the contractor has failed to make a good faith effort to comply with the affirmative action plan submitted with the bid or that the contractor is not complying with any other term of the "Equal Opportunity" provision in a City contract, they shall include along with said finding a notice to the Mayor and the City Attorney of the City of Bloomington, and the contractor and his counsel, if any, that the Committee believes that the City may exercise its option to:

- (1) Cancel, terminate or suspend the contract in whole or in part;
- (2) Declare the contractor or contractors ineligible for future contracts with the City of Bloomington for a specified period of time. A notice of the contractor's right to appeal said finding of non-compliance pursuant to §5.3(A) of these regulations shall also be included in the material sent to the persons who are to receive said findings.

Section VIII. §5.4 is deleted.