

**OFFICIAL CONTRACT COMPLIANCE REGULATIONS**  
**OF THE**  
**BLOOMINGTON HUMAN RIGHTS COMMISSION**

As Approved by the Common Council on September 4, 1975  
(Resolution 75-4)

And Amended by the Common Council on February 7, 1979  
(Resolution 79-4)

And Amended by the Common Council on May 5, 1985  
(Resolution 85-16)

And Amended by the Bloomington Human Rights  
Commission on February 8, 1990

And Amended by the Bloomington Human Rights  
Commission on September 18, 1990

And Amended by the Bloomington Human Rights  
Commission on February 23, 2009

And Amended by the Bloomington Human Rights  
Commission on April 24, 2017

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## RULE 1

### DEFINITIONS

#### Section 1.1 Definitions

When used in these regulations, unless the context clearly requires otherwise, the following terms shall have the meaning as indicated:

- (A) The term "City contract" shall mean any contract for services in which the City of Bloomington, Indiana, or one of its agencies, commissions, boards, departments, units, branches or subdivisions, is a party.
- (B) The term "Contract Compliance Officer" shall mean a person employed by the City of Bloomington, who is responsible to the Bloomington Human Rights Commission for duties described in these regulations and who shall exercise the authority of the Bloomington Human Rights Commission as specified in these regulations.
- (C) The term "contractor" shall mean any other party to a City contract for services besides the City of Bloomington, Indiana, or one of its agencies, commissions, boards, units, departments, branches or subdivisions.
- (D) The term "affirmative action" shall include, but not be limited to, the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin, disability, ancestry, sexual orientation, gender identity, veteran status or housing status and to hire, train, promote and the like, regardless of race, religion, color, sex, national origin, disability or ancestry, sexual orientation, gender identity, veteran status or housing status.
- (E) The term "Contract Compliance Committee" shall mean three or more current members of the Bloomington Human Rights Commission. This Committee may take official action pursuant to these regulations by a simple majority vote of a quorum of said Committee, and

such action shall represent in law a final determination on behalf of the Bloomington Human Rights Commission. Three members of the Commission constitute a quorum for Committee action.

#### §1.2 Words Not Defined

Words appearing in these regulations which are not defined by these regulations but are defined by the Official Rules and Regulations of the Bloomington Human Rights Commission or the Bloomington Human Rights Ordinance shall have the meaning as defined in that Ordinance or those rules unless the context clearly requires otherwise.

### RULE 2 COVERAGE

#### §2.1 Exemptions

##### (A) Dollar Amount Limitation

Only those City contracts for services in excess of a value of ten thousand dollars (\$10,000.00) shall be covered by the provisions of these regulations and Chapter 2.21.070 of the Bloomington Municipal Code.

##### (B) Federal Funding Irrelevant to Coverage

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 2.21.070 of the Bloomington Municipal Code, except that these regulations shall not apply to the City contracts which are monitored for nondiscrimination 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).

#### §2.2 Application of These Regulations

These regulations govern all proceedings by the Contract Compliance Committee of the Bloomington Human Rights Commission under Chapter 2.21.070 of the Bloomington

Municipal Code.

RULE 3

EQUAL OPPORTUNITY CONTRACT PROVISION

§3.1 EQUAL OPPORTUNITY CONTRACT PROVISION REQUIRED

(A) When Required

In all City contracts covered by §2.1(A) of these regulations, there must be a contractual provision, entitled "Equal Opportunity," which provision shall be binding upon all parties who sign such contracts, provided that all parties shall have notice of the provision prior to signing any City contract.

(B) Language Required

All provisions of City contracts which are entitled "Equal Opportunity" shall consist of the following or substantially equivalent language, to wit:

(a) (The contractor or contractors) promise(s) to take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, religion, color, sex, national origin, disability, ancestry, sexual orientation, gender identity, veteran status or housing status. The meaning of the term "affirmative action" as used in this provision shall include, but not be limited to, the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin, disability, ancestry, sexual orientation, gender identity, veteran status or housing status; and to recruit, hire, train, promote and the like, regardless of race, religion, color, sex, national origin, disability or ancestry, sexual orientation, gender identity, veteran status or housing status.

(b) (The contractor or contractors) so promise(s) to make good faith effort(s) to comply with the provisions and goals of the affirmative action plan submitted to and approved by the Bloomington Human Rights Commission. Such good faith effort(s) shall include but not be limited to making records, documents and all other written material relevant to the compliance efforts reasonably available for inspection and duplication by Commissioners or agents of the Bloomington Human Rights Commission, by providing for on-site inspection of any work being done pursuant to this contract by Commissioners or agents of the Bloomington Human Rights Commission, and conforming to all of the processes required by the Contract Compliance Regulations of the Bloomington Human Rights Commission.

(c) (The contractor's or contractors') breach of either (a) or (b) of the above provisions 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; and/or (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 reasonable period of time.

(C) Federal Language Required

All provisions of City contracts which are entitled "Equal Opportunity" may also contain additional terms required by the government of the United States or any agency or department of that government.

## RULE 4

### AFFIRMATIVE ACTION PLANS

#### §4.1 Prior to Award of Contract

##### (A) Notice of Requirements

For every City contract reasonably expected to be covered under §2.1(A) of these regulations, there shall be notice given to bidders that an acceptable bid must include an affirmative action plan, and that the Contract Compliance Officer shall be available to answer questions about and assist in the formulation of an affirmative action plan, and such notice shall include the name, address and telephone number of the Contract Compliance Officer. Such notice shall appear each and every time and in the same place and manner in which a notice for an opportunity to bid on the City contract appears.

##### (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, separately from their bid and at least twenty-four hours 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 any 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. This plan shall include the following:

- a policy statement of equal employment opportunity that covers all applicants and employees and that says the company will not discriminate on the basis of race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status;

- a designation of the person responsible for implementing the affirmative action plan;

- a provision for informing people, both internal and external, of the company's

affirmative action plan;

-a statement that the plan applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, duties, wages, benefits, use of facilities, layoff, discipline, and termination;

-a provision for recruitment from minority groups;

-a provision for equal access to training programs;

-a prohibition against retaliation for filing grievances;

-and a workforce breakdown that is up-to-date (no more than six months old).

This plan must be submitted to the Contract Compliance Officer separately from the bid.

When the affirmative action deadline described above falls on a weekend or City holiday, the deadline is moved up to 5:00 p.m. on the last city work day before the bid deadline.

(C) Review of Plans

The Contract Compliance Officer shall review 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 each plan. If the Contract Compliance Officer finds the plan to be acceptable, he or she shall make such finding in writing and submit it to the official or body of the City of Bloomington awarding the contract and to the bidder. 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. 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) the plan is unacceptable and present the finding to the Contract Compliance Committee and to the non-complying bidder with notice of its right to appeal the finding to the Contract Compliance Committee within seven (7) calendar days of receipt of the notice of the finding of unacceptability. The Contract Compliance Committee shall expeditiously hear any appeal



from a finding of unacceptability and determine whether to overrule the finding. A determination to overrule the finding shall be made by a simple majority of a quorum of the Contract Compliance Committee in writing, as evidenced by the majority members' signatures thereon. The Contract Compliance Officer shall inform the official or body awarding the contract, and the bidder of the Contract Compliance Committee's determination.

(D) Criteria for Review

The Contract Compliance Officer, in making a finding of acceptability or unacceptability, shall base the findings on a checklist approved by the Contract Compliance Committee, and the Contract Compliance Committee, in deciding appeals from findings of unacceptability shall consider the following factors in evaluating the plans submitted under §4.1(B) of these regulations and shall make written findings as to the factors considered relevant to any determination:

- (1) Whether the Contract Compliance Officer's finding of unacceptability was in error.
- (2) Whether the bidder had just cause for not having an acceptable plan on file. (By way of example only, "just cause" might include the bidder having faxed an acceptable plan to the Contract Compliance Officer, which was not received because the City's fax machine was broken; or the bidder having sent an acceptable plan to the Contract Compliance Officer by Federal Express, but Federal Express went on strike after picking up the package and before delivering it; or the bidder faxed an acceptable plan to the Officer, but it was mistakenly picked up by a different City department.)

The Contract Compliance Officer and Contract Compliance Committee, in determining the acceptability or unacceptability of an affirmative action plan, may not require that a bidder take affirmative action measures which are not similar to those measures which the City of Bloomington is required to take in its affirmative

action with regard to its own employees in order for the bidder to have an acceptable affirmative action program.

(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 , 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, 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, or 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 2.21.070 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 the City contract, as outlined in §3.1(B) of these regulations, shall constitute a violation of Chapter 2.21.070 of the Bloomington Municipal Code. Any violation of Chapter 2.21.070 of the Bloomington Municipal Code shall cause a City contract to become voidable.

(F) Enforcement of Violations

The Bloomington Human Rights Commission, by a vote of a simple majority of a quorum of Commission members, may request its Director to seek injunctive relief in a Monroe County Circuit Court against the City of Bloomington and/or any party to a City contract which is in violation of these regulations. Such relief may include, but not be limited to, asking the Court to void the contract and to order the re-bidding of the contract in conformity with these regulations and Chapter 2.21.070 of the Bloomington Municipal Code.

§4.2 Subsequent to Award of Contract

(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, may meet with the Contract Compliance Officer. The Contract Compliance Officer will, at that time, be available for any questions regarding the contractor's rights and responsibilities under these regulations and the "Equal Opportunity" provision of the City contract.

(B) Review by Contract Compliance Officer

After a City contract covered under §2.1(A) of these regulations has been awarded, the Contract Compliance Officer and other agents as may be necessary and appropriate shall be authorized by the Contract Compliance Committee to review the contractor's or contractors' compliance with the "Equal Opportunity" provision of the contract, in accordance with the terms of the provision. Should the Contract Compliance Officer or other agent, in the course of such review, have reasonable suspicion to believe that the contractor is not making 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, he or she shall make such charge known, in writing, to the Contract Compliance Committee.

(C) Review by the Contract Compliance Committee

The Contract Compliance Committee shall review all charges made known to them under §4.2(B) of these regulations. Such review shall include, but not be limited to, the written charge of the Contract Compliance Officer. The Contract Compliance Committee shall make a written finding that the contractor is or is not in full compliance with all of the terms of the "Equal Opportunity" provision of the City contract. For purposes of making this determination, the Contract Compliance Committee shall hold a public hearing in which the Contract Compliance Officer and the contractor(s) involved or their representatives may testify and submit written arguments and documents to the Commission or a designated committee thereof. The contractor(s) shall be notified by certified mail at least ten calendar days in advance of this hearing as evidenced by the return receipt. The contractor's failure to attend such a hearing in person or by counsel may result in a finding by the Contract Compliance Committee that the Contractor is not complying with the "Equal Opportunity" provision in the City contract.

(D) The Committee Finding

When the Contract Compliance Committee has reached a decision by a simple majority vote of a quorum present, as evidenced in writing by the signatures of that majority, after a public hearing held pursuant to §4.1(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 the finding to the contractor and the counsel of said contractor, if any, by certified mail, and if the 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 the finding a notice to the Mayor and the Corporation Counsel 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; and/or (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 the finding of noncompliance pursuant to §5.3(A) of these regulations shall also be included in the material sent to the persons who are to receive the findings.

(E) Other Commission Action

Should the Contract Compliance Officer, in the course of reviewing the contractor's or contractors' compliance with the "Equal Opportunity" provision of any contract covered under §2.1(A) of these regulations, discover a potential violation of the public policy as expressed in Chapter 2.21.020 of the Bloomington Municipal Code, he or she may initiate a complaint on behalf of the Commission, which complaint shall be processed in conformity with the Official Rules and Regulations of the Bloomington Human Rights Commission and Chapter 2.21.010 et seq. of the Bloomington Municipal Code.

RULE 5  
GENERAL INFORMATION

§5.1 Adoption and Amendment

(A) When Effective

These regulations shall be adopted and become effective by a simple majority of the Bloomington Human Rights Commission at a public hearing, and amendments thereto must be adopted by a simple majority of the Commission at a public hearing. However, regulations and any amendments thereto pertaining to exemptions from these regulations can become effective only when adopted by a simple majority of the Bloomington Human Rights Commission at a public hearing and approved by resolution of the Common Council of the City of Bloomington.

(B) Authority

These regulations are adopted and promulgated pursuant to the authority as set forth in Chapter 2.21.060 of the Bloomington Municipal Code and Chapter 2.21.070 of the Bloomington Municipal Code.

(C) Availability

Copies of these regulations shall be available to the public at the Commission's Office in reasonable quantity.

§5.2 Construction and Partial Invalidity

(A) How to Construe

These regulations shall be liberally construed to accomplish the purposes of Chapter 2.21.010 *et seq.* of the Bloomington Municipal Code.

(B) Partial Invalidity

If any provision of these regulations or the application of a provision to any person or circumstance shall be held invalid, the remainder of these regulations or the application of a

provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

§5.3 Judicial Review: Who May Seek Review

Any party to a City contract covered by these regulations who is aggrieved by a determination made by the Commission shall be entitled to judicial review of such determination, if a petition for such review is filed in the Circuit Court of Monroe County, Indiana, within thirty (30) days of the receipt of the notice of such determination by the aggrieved party.

V. Daughton - Motley  
Commissioner

24 April 2017  
Date

Sharon P. Banzant  
Commissioner

April 24, 2017  
Date

[Signature]  
Commissioner

April 24, 2017  
Date

[Signature]  
Commissioner

APRIL 24, 2017  
Date

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Commission on February 23, 2009



## RULE 1

### DEFINITIONS

#### Section 1.1 Definitions

When used in these regulations, unless the context clearly requires otherwise, the following terms shall have the meaning as indicated:

- (A) The term "City contract" shall mean any contract for public goods or services in which the City of Bloomington, Indiana, or one of its agencies, commissions, boards, departments, units, branches or subdivisions, is a party.
- (B) The term "Contract Compliance Officer" shall mean a person employed by the City of Bloomington, who is responsible to the Bloomington Human Rights Commission for duties described in these regulations and who shall exercise the authority of the Bloomington Human Rights Commission as specified in these regulations.
- (C) The term "contractor" shall mean any other party to a City contract for public goods or services besides the City of Bloomington, Indiana, or one of its agencies, commissions, boards, units, departments, branches or subdivisions.
- (D) The term "affirmative action" shall include, but not be limited to, the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin, disability or ancestry; recruiting, hiring, training, upgrading and the like, regardless of race, religion, color, sex, national origin, disability or ancestry.
- (E) The term "Contract Compliance Committee" shall mean three or more current members of the Bloomington Human Rights Commission. This Committee may take official action pursuant to these regulations by a simple majority vote of a quorum of said Committee, and such action shall represent in law a final determination on behalf of the Bloomington Human

such action shall represent in law a final determination on behalf of the Bloomington Human Rights Commission. Three members of the Commission constitute a quorum for Committee action.

§1.2 Words Not Defined

Words appearing in these regulations which are not defined by these regulations but are defined by the Official Rules and Regulations of the Bloomington Human Rights Commission or the Bloomington Human Rights Ordinance shall have the meaning as defined in that Ordinance or those rules unless the context clearly requires otherwise.

RULE 2  
COVERAGE

§2.1 Exemptions

(A) Dollar Amount Limitation

Only those City contracts for goods or services in excess of a value of ten thousand dollars (\$10,000.00) shall be covered by the provisions of these regulations and Chapter 2.21.070 of the Bloomington Municipal Code.

(B) Federal Funding Irrelevant to Coverage

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 2.21.070 of the Bloomington Municipal Code, except that these regulations shall not apply to the City contracts which are monitored for nondiscrimination 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).

§2.2 Application of These Regulations

These regulations govern all proceedings by the Contract Compliance Committee of the

Bloomington Human Rights Commission under Chapter 2.21.070 of the Bloomington Municipal Code.

RULE 3

EQUAL OPPORTUNITY CONTRACT PROVISION

§3.1 EQUAL OPPORTUNITY CONTRACT PROVISION REQUIRED

(A) When Required

In all City contracts covered by §2.1(A) of these regulations, there must be a contractual provision, entitled "Equal Opportunity," which provision shall be binding upon all parties who sign such contracts, provided that all parties shall have notice of the provision prior to signing any City contract.

(B) Language Required

All provisions of City contracts which are entitled "Equal Opportunity" shall consist of at least the following language, without modification of any kind, to wit:

(a) (The contractor or contractors) promise(s) to take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, religion, color, sex, national origin, disability or ancestry. The meaning of the term "affirmative action" as used in this provision shall include, but not be limited to, the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin, disability or ancestry; recruiting, hiring, training, upgrading and the like, regardless of race, religion, color, sex, national origin, disability or ancestry.

(b) (The contractor or contractors) so promise(s) to make good faith effort(s) to

comply with the provisions and goals of the affirmative action plan submitted to and approved by the Bloomington Human Rights Commission. Such good faith effort(s) shall include but not be limited to making records, documents and all other written material relevant to the compliance efforts reasonably available for inspection and duplication by Commissioners or agents of the Bloomington Human Rights Commission, by providing for on-site inspection of any work being done pursuant to this contract by Commissioners or agents of the Bloomington Human Rights Commission, and conforming to all of the processes required by the Contract Compliance Regulations of the Bloomington Human Rights Commission.

(c) (The contractor's or contractors') breach of either (a) or (b) of the above provisions 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; and/or (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 reasonable period of time.

(C) Federal Language Required

All provisions of City contracts which are entitled "Equal Opportunity" may also contain additional terms required by the government of the United States or any agency or department of that government.

## RULE 4

### AFFIRMATIVE ACTION PLANS

#### §4.1 Prior to Award of Contract

##### (A) Notice of Requirements

For every City contract reasonably expected to be covered under §2.1(A) of these regulations, there shall be notice given to bidders that an acceptable bid must include an affirmative action plan, and that the Contract Compliance Officer shall be available to answer questions about and assist in the formulation of an affirmative action plan, and such notice shall include the name, address and telephone number of the Contract Compliance Officer. Such notice shall appear each and every time and in the same place and manner in which a notice for an opportunity to bid on the City contract appears.

##### (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, separately from their bid and at least twenty-four hours 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 any 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. This plan shall include the following:

- a policy statement of equal employment opportunity that covers all applicants and employees and that says the company will not discriminate on the basis of race, religion, color, sex, national origin, ancestry or disability;

- a designation of the person responsible for implementing the affirmative action

plan;

- a provision for informing people, both internal and external, of the company's affirmative action plan;

- a statement that the plan applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, duties, wages, benefits, use of facilities, layoff, discipline, and termination;

- a provision for recruitment from minority groups;

- a provision for equal access to training programs;

- a prohibition against retaliation for filing grievances;

- and a workforce breakdown that is up-to-date (no more than six months old).

This plan must be submitted to the Contract Compliance Officer separately from the bid.

When the affirmative action deadline described above falls on a weekend or City holiday, the deadline is moved up to 5:00 p.m. on the last city work day before the bid deadline.

(C) Review of Plans

The Contract Compliance Officer shall review 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 each plan. If the Contract Compliance Officer finds the plan to be acceptable, he or she shall make such finding in writing and submit it to the official or body of the City of Bloomington awarding the contract and to the bidder. 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. 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) the plan is unacceptable and present the finding to the Contract Compliance Committee and to the non-complying bidder with notice of its right to appeal the finding to the Contract

Compliance Committee within seven (7) calendar days of receipt of the notice of the finding of unacceptability. The Contract Compliance Committee shall expeditiously hear any appeal from a finding of unacceptability and determine whether to overrule the finding. A determination to overrule the finding shall be made by a simple majority of a quorum of the Contract Compliance Committee in writing, as evidenced by the majority members' signatures thereon. The Contract Compliance Officer shall inform the official or body awarding the contract, and the bidder of the Contract Compliance Committee's determination.

(D) Criteria for Review

The Contract Compliance Officer, in making a finding of acceptability or unacceptability, shall base the findings on a checklist approved by the Contract Compliance Committee, and the Contract Compliance Committee, in deciding appeals from findings of unacceptability shall consider the following factors in evaluating the plans submitted under §4.1(B) of these regulations and shall make written findings as to the factors considered relevant to any determination:

- (1) Whether the Contract Compliance Officer's finding of unacceptability was in error.
  - (2) Whether the bidder had just cause for not having an acceptable plan on file. (By way of example only, "just cause" might include the bidder having faxed an acceptable plan to the Contract Compliance Officer, which was not received because the City's fax machine was broken; or the bidder having sent an acceptable plan to the Contract Compliance Officer by Federal Express, but Federal Express went on strike after picking up the package and before delivering it; or the bidder faxed an acceptable plan to the Officer, but it was mistakenly picked up by a different City department.)
- The Contract Compliance Officer and Contract Compliance Committee, in determining the acceptability or unacceptability of an affirmative action plan, may

not require that a bidder take affirmative action measures which are not similar to those measures which the City of Bloomington is required to take in its affirmative action with regard to its own employees in order for the bidder to have an acceptable affirmative action program.

(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, 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, 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, or 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 2.21.070 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 the City contract, as outlined in §3.1(B) of these regulations, shall constitute a violation of Chapter 2.21.070 of the Bloomington Municipal Code. Any violation of Chapter 2.21.070 of the Bloomington Municipal Code shall cause a City contract to become voidable.

(F) Enforcement of Violations

The Bloomington Human Rights Commission, by a vote of a simple majority of a quorum of Commission members, may request its Director to seek injunctive relief in a Monroe County Circuit Court against the City of Bloomington and/or any party to a City contract which is in violation of these regulations. Such relief may include, but not be limited to, asking the Court to void the contract and to order the re-bidding of the contract in conformity with these regulations and Chapter 2.21.070 of the Bloomington Municipal Code.

§4.2 Subsequent to Award of Contract

(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, may meet with the Contract Compliance Officer. The Contract Compliance Officer will, at that time, be available for any questions regarding the contractor's rights and responsibilities under these

regulations and the "Equal Opportunity" provision of the City contract.

(B) Review by Contract Compliance Officer

After a City contract covered under §2.1(A) of these regulations has been awarded, the Contract Compliance Officer and other agents as may be necessary and appropriate shall be authorized by the Contract Compliance Committee to review the contractor's or contractors' compliance with the "Equal Opportunity" provision of the contract, in accordance with the terms of the provision. Should the Contract Compliance Officer or other agent, in the course of such review, have reasonable suspicion to believe that the contractor is not making 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, he or she shall make such charge known, in writing, to the Contract Compliance Committee.

(C) Review by the Contract Compliance Committee

The Contract Compliance Committee shall review all charges made known to them under §4.2(B) of these regulations. Such review shall include, but not be limited to, the written charge of the Contract Compliance Officer. The Contract Compliance Committee shall make a written finding that the contractor is or is not in full compliance with all of the terms of the "Equal Opportunity" provision of the City contract. For purposes of making this determination, the Contract Compliance Committee shall hold a public hearing in which the Contract Compliance Officer and the contractor(s) involved or their representatives may testify and submit written arguments and documents to the Commission or a designated committee thereof. The contractor(s) shall be notified by certified mail at least ten calendar days in advance of this hearing as evidenced by the return receipt. The contractor's failure to attend such a hearing in person or by counsel may result in a finding by the Contract Compliance Committee that the Contractor is not complying with the "Equal Opportunity" provision in the City contract.

(D) The Committee Finding

When the Contract Compliance Committee has reached a decision by a simple majority vote of a quorum present, as evidenced in writing by the signatures of that majority, after a public hearing held pursuant to §4.1(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 the finding to the contractor and the counsel of said contractor, if any, by certified mail, and if the 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 the finding a notice to the Mayor and the Corporation Counsel 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; and/or (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 the finding of noncompliance pursuant to §5.3(A) of these regulations shall also be included in the material sent to the persons who are to receive the findings.

(E) Other Commission Action

Should the Contract Compliance Officer, in the course of reviewing the contractor's or contractors' compliance with the "Equal Opportunity" provision of any contract covered under §2.1(A) of these regulations, discover a potential violation of the public policy as expressed in Chapter 2.21.020 of the Bloomington Municipal Code, he or she may initiate a complaint on behalf of the Commission, which complaint shall be processed in conformity with the Official Rules and Regulations of the Bloomington Human Rights Commission and Chapter 2.21.010 et seq. of the Bloomington Municipal Code.

## RULE 5

### GENERAL INFORMATION

#### §5.1 Adoption and Amendment

##### (A) When Effective

These regulations shall be adopted and become effective by a simple majority of the Bloomington Human Rights Commission at a public hearing, and amendments thereto must be adopted by a simple majority of the Commission at a public hearing. However, regulations and any amendments thereto pertaining to exemptions from these regulations can become effective only when adopted by a simple majority of the Bloomington Human Rights Commission at a public hearing and approved by resolution of the Common Council of the City of Bloomington.

##### (B) Authority

These regulations are adopted and promulgated pursuant to the authority as set forth in Chapter 2.21.060 of the Bloomington Municipal Code and Chapter 2.21.070 of the Bloomington Municipal Code.

##### (C) Availability

Copies of these regulations shall be available to the public at the Commission's Office in reasonable quantity.

#### §5.2 Construction and Partial Invalidity

##### (A) How to Construe

These regulations shall be liberally construed to accomplish the purposes of Chapter 2.21.010 et seq. of the Bloomington Municipal Code.

##### (B) Partial Invalidity

If any provision of these regulations or the application of a provision to any person or circumstance shall be held invalid, the remainder of these regulations or the application of a

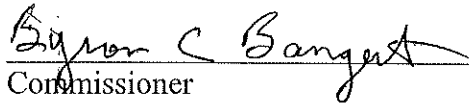
provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

§5.3 Judicial Review: Who May Seek Review

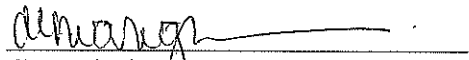
Any party to a City contract covered by these regulations who is aggrieved by a determination made by the Commission shall be entitled to judicial review of such determination, if a petition for such review is filed in the Circuit Court of Monroe County, Indiana, within thirty (30) days of the receipt of the notice of such determination by the aggrieved party.

  
Commissioner


27 April 2009  
Date

  
Commissioner

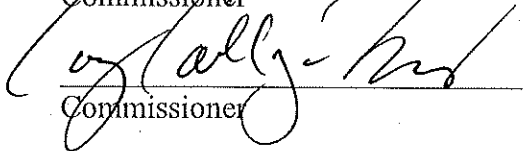
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