

**CHAPTER 155**  
**City Contractors and Affirmative Action**

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**155.01 DEFINITIONS.**

As used in this chapter, the following words, phrases and terms shall be defined as set forth as follows:

- (a) "Affirmative action program" means a written program wherein the contractor takes affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, natural origin, disability (provided the person is a qualified person with a disability), or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship. Each affirmative action program submitted shall include goals and timetables for the implementation of such program and the goals to which the contractor's good faith efforts must be directed.  
(Ord. 94-107. Passed 4-5-94.)
- (b) "City" means the City of Springfield, Ohio.
- (c) "Contractor" means any individual, partnership, corporation, association or any other entity, or any combination of the foregoing employing four or more persons who/which enters into a contract, as defined herein, with the City of Springfield, Ohio.
- (d) "Subcontractor" means any individual, partnership, corporation or other

entity, or any combination of the foregoing employing four or more persons who/which contracts with a contractor to do a portion of the contract executed between the contractor and the City.

- (e) "Contract" means any contract awarded by the City whereby the City is committed to expend or does expend its funds in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing.

There shall be exempted from the terms of this chapter the following contracts:

(1) Contracts for service of a specialized, professional or technical character.

(2) Emergency requisitions for goods, supplies or services.

(3) Impressed accounts in the nature of petty cash funds.

(4) Contracts the cost of which will not exceed ten thousand dollars (\$10,000).

- (f) "Construction contract" means any contract entered into between the City and a contractor for the construction, rehabilitation, alteration, conversion, extension or repair of buildings, highways or other improvements to real property where the contracted for amount is ten thousand dollars (\$10,000) or more.

- (g) "Executive Order 11246" refers to Executive Order 11246, and any amendments thereto, as adopted and promulgated by the President of the United States and includes all rules, regulations and directives adopted pursuant thereto.

(Ord. 89-206. Passed 4-11-89.)

- (h) "Disability" means, with respect to an individual:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(2) A record of such impairment; or

(3) Being regarded as having such an impairment.

- (i) "Qualified individual with a disability" is a person with a disability who can perform the essential functions of the job with or without reasonable accommodations. The terms "essential functions" and "reasonable accommodations" shall have the meanings utilized in applying the federal Americans With Disability Act.

(Ord. 94-107. Passed 4-5-94.)

### **155.02 CONTRACTS COMPLIANCE OFFICER.**

There is hereby established, as a part of the Community Development Department, the position which shall perform the duties of a Contracts Compliance Officer. The City's Minority Business Coordinator shall perform the duties of the Contracts Compliance Officer. The Contracts Compliance Officer shall be responsible for the administration of this chapter and shall, consistent with the terms and policies of this chapter and Executive Order 11246, provide such assistance as is necessary and appropriate to help contractors comply with the provisions of this chapter. In the event the Contracts Compliance Officer has reason to believe that a contractor is not in compliance with this ordinance, the Contracts Compliance Officer shall communicate such concerns to the City Manager and obtain the advice and instructions from the City Manager prior to proceeding with any corrective actions or actions to enforce the provisions of this chapter.

(Ord. 94-107. Passed 4-5-94.)

### **155.03 AFFIRMATIVE ACTION PROGRAMS REQUIRED.**

- (a) Each prospective contractor bidding on a City contract shall be required to

submit with his bid a written affirmative action program applicable to the contract bid. Such affirmative action program shall be signed by an executive official of the contractor who has the power to bind the contractor. The Contracts Compliance Officer shall establish guidelines designed to assist bidders on contracts in the planning and implementation of their respective affirmative action programs. Each bidding contractor shall include in his affirmative action program that information and analysis which the Contracts Compliance Officer, consistent with the terms and purposes of this chapter and Executive Order 11246, may require by order or directive.  
(Ord. 89-206. Passed 4-11-89.)

(b) Private corporations, firms, or persons receiving tax abatement or tax credit development incentives from the City shall submit a written affirmative action program to the Contracts Compliance Officer. Such affirmative action program shall be signed by an executive official of the entity who has the power to bind the entity. The Contract Compliance Officer shall establish guidelines designed to assist such entities in the planning and implementation of their respective affirmative action programs. Each such entity shall include in its affirmative action program that information and analysis which the Contracts Compliance Officer, consistent with the terms and purposes of this chapter and Executive Order 11246, may require by order or directive.  
(Ord. 94-107. Passed 4-5-94.)

#### **155.04 AFFIRMATIVE ACTION PROGRAMS REVIEW AND APPROVAL.**

The Contracts Compliance Officer shall review all affirmative action programs submitted and either accept or reject the programs. In determining whether to accept or reject such programs, the Contracts Compliance Officer shall evaluate such programs in light of the conditions, requirements and purposes of this chapter, such rules and regulations adopted pursuant thereto by such Officer and Executive Order 11246.  
(Ord. 89-206. Passed 4-11-89.)

#### **155.05 CONTRACTOR FILING CERTIFICATE OF PRIOR AFFIRMATIVE ACTION PROGRAMS.**

If a contractor bidding on a City contract has previously filed with the Contracts Compliance Officer an affirmative action program which was approved by such Officer or the contractor has filed, or become a signatory to, a governmentally recognized affirmative action program in another jurisdiction, such contractor may comply with Section 155.03 by obtaining a certificate from the previous contracting agency certifying that such contractor is in compliance with his affirmative action program and by filing such certificate and a copy of his affirmative action program with the Contracts Compliance Officer.  
(Ord. 89-206. Passed 4-11-89.)

#### **155.06 ISSUANCE OF CERTIFICATES OF COMPLIANCE.**

The Contracts Compliance Officer may issue certificates of compliance to contractors who successfully complete contracts with the City and who comply with the requirements of their affirmative action program during the life of the contract.  
(Ord. 89-206. Passed 4-11-89.)

#### **155.07 CONTRACT AWARD REQUIRES CHAPTER COMPLIANCE.**

No contract may be awarded by the City unless the affirmative action program submitted by the contractor is approved by the Contracts Compliance Officer as being in compliance with this chapter.  
(Ord. 89-206. Passed 4-11-89.)

**155.08 CONTRACTS EXECUTED BY CONTRACTORS AND SUBCONTRACTORS REQUIRES COMPLIANCE.**

All contracts executed by a contractor and all contracts executed by a contractor with a subcontractor shall contain an agreement that the contractor/subcontractor agrees to be bound by the terms and purposes of this chapter and Executive Order 11246, and each such contract shall include, through incorporation by reference, all applicable provisions required by Executive Order 11246.  
(Ord. 89-206. Passed 4-11-89.)

**155.09 PRE-AWARD CONFERENCE.**

Prior to the awarding of any construction contract, the Contracts Compliance Officer may hold a pre-award conference with the apparent successful bidder or with all prospective bidders having submitted approved affirmative action programs to discuss their affirmative action requirements pursuant to this chapter. Such conference shall be held at least ten days prior to the award of contract.  
(Ord. 89-206. Passed 4-11-89.)

**155.10 SUBMISSION OF REPORTS TO EVIDENCE COMPLIANCE.**

The contractor shall submit, and shall cause his subcontractors to submit, in such forms and at such times as the Contracts Compliance Officer shall provide by order, or directive, written reports as evidence of compliance with the terms and purposes of this chapter and Executive Order 11246. Such compliance reports shall contain such information as to the practices, policies, programs and employment policies, programs and employment statistics of the contractor and each subcontractor as the Contracts Compliance Officer deems necessary and appropriate to establish compliance.  
(Ord. 89-206. Passed 4-11-89.)

**155.11 ACCESS TO AND SUBMISSION OF RECORDS AND INFORMATION.**

Every contractor subject to this chapter shall grant, and shall cause his subcontractors to grant, the Contracts Compliance Officer the means, facilities and opportunity, at all reasonable times, to examine and investigate all persons, books, papers, records, reports or accounts as such Officer may deem necessary to ascertain whether the contractor is, and all subcontractors are, in compliance with the terms and purposes of this chapter and Executive Order 11246. If requested by the Contracts Compliance Officer, such information shall be provided in writing within ten days of the date of the request. (Ord. 89-206. Passed 4-11-89.)

**155.12 NOTICE TO UNIONS AND EMPLOYEES.**

The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracts Compliance Officer, advising the labor union or worker's representative of the contractor's commitments under this chapter and Executive Order 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.  
(Ord. 89-206. Passed 4-11-89.)

**155.13 CONTRACTOR'S COMPLIANCE DUTY.**

Each contractor shall be responsible for the implementation of his affirmative action program and shall cause all subcontractors to comply with the terms of such program or the affirmative action program adopted by the subcontractor.  
(Ord. 89-206. Passed 4-11-89.)

**155.14 COMPLAINTS.**

The Contracts Compliance Officer shall receive and investigate complaints of violations of this chapter.  
(Ord. 89-206. Passed 4-11-89.)

**155.15 VIOLATION PROCEDURE.**

In the event that the Contracts Compliance Officer, either on his own initiative or after receiving and investigating a complaint, determines that a violation of any of the terms of this chapter has occurred, he shall attempt to eliminate such violation by means of conference, conciliation, persuasion and negotiation and may enter into conciliation agreements with the contractor. If a resolution of such violation cannot be successfully completed and the violation continues, the Contracts Compliance Officer, after first affording such contractor a reasonable time to correct his situation, shall recommend to the City Manager that he proceed as provided in Section 155.16.  
(Ord. 89-206. Passed 4-11-89.)

**155.16 FAILURE TO COMPLY; BREACH OF CONTRACT AND TERMINATION.**

If a contractor fails, refuses or neglects to comply with any of the terms and conditions of this chapter, such failure shall be deemed a total breach of the contract and such contract may be terminated, cancelled or suspended, in whole or in part, by the City Manager, and such contractor may be declared ineligible for any further City contracts for a period of up to one year. Provided, however, that prior to so terminating, canceling or suspending any such contract, the City Manager shall apprise the City Commission of his intended action. If a contract is so terminated, cancelled or suspended, the contractor shall have no claim for damages against the City on account of such termination, cancellation or suspension or declaration of ineligibility.  
(Ord. 89-206. Passed 4-11-89.)