

M E M O R A N D U M

TO: Chief Administrative Officer

FROM: City Comptroller

RE: Amendments to 2-119 of City Code (City Contractors and Vendors)

DATE: February 3, 2006

Brief Description of the Item. The attached ordinance amends the City Code to increase the level that a contractor or vendor doing business with the City of Urbana is required to provide certain written information to be reviewed by the City Human Relations Commission and Human Relations Officer, adds certain definitional language and clarifies procedures currently utilized by the City in implementation of this section of the Code, and increases the level at which formal bidding is required on all purchasing to \$5,000.

Recommendation. Approval of the attached ordinance.

Background Information. Section 2-119 of the Code outlines the policy of the City of Urbana to encourage and require equal opportunity in employment through expenditure of monies by the City of Urbana. It establishes standards and procedures by which contracting entities may comply with this policy.

This section requires contractors, labor organizations, financial institutions and vendors contracting with the City at certain levels of business to make certain assurances, take certain actions, and provide information to the City, such that the Human Relations Commission and the City Human Relations Officer can determine whether this policy is being met. Failure to comply with this section or to make a good faith effort to comply may invoke certain penalties including termination of the contract, declaring the entity ineligible for further contracts, and other sanctions pursuant to law.

Submission of these documents and information, review of the information, and possible follow up, requires a significant amount of time and effort by both the contracting entities and City staff and officials. It is prudent and efficient to

apply these requirements to entities that do certain minimum level of business with the City. The current level of \$5,000 has been in force without any change for at least since 1975.

City staff and the Human Relations Commission are recommending this level be increased to \$50,000. Adjusting for the annual average increase in commodities purchased by municipalities since 1975 would increase this level to \$56,000 (Municipal Price Index for Commodities as published by the Illinois Institute for Rural Affairs). We believe the \$50,000 level is a fair balance between providing required information to assure compliance and unduly slowing down the City purchasing process thereby making it inefficient and possibly deterring vendors and contractors from providing products and services to the City. I estimate that annually there are approximately 50 contracts above the \$50,000 level totaling \$10 million or 50% of City purchasing.

Section 2-115 of the Code has no impact on these equal opportunity provisions, but specifies the level of purchasing that requires a formal bidding process. The current amount of \$2,500 also has not been increased since at least 1975. City staff is recommending a level of \$10,000. City purchasing procedures are in place to require and document a competitive purchasing process for all purchases above \$1,000. Requiring a formal bidding process does not allow employees to utilize more cost efficient methods for shopping such as telephone quotes, catalogue pricing, etc.

Attached is a current copy of Section 2-119 of the Urbana Code.

This Ordinance:
AMENDS the Code of Ordinances.

ORDINANCE NO.2006-02-015

AN ORDINANCE AMENDING SECTIONS 2-115 AND 2-119(D) OF THE CODE
OF ORDINANCES
(FINANCES AND PURCHASES BY CONTRACTORS AND VENDORS)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF URBANA, ILLINOIS, as follows:

Section 1. That Section 2-115 of the Code of
Ordinances of the City of Urbana is amended, to read as
follows:

All contracts for the purchase of supplies or
equipment requiring an expenditure of a sum in excess
of ten thousand dollars (\$10,000.00) shall be
advertised for bids and let to the lowest responsible
bidder, the city council, however, reserving the
right to reject all bids.

Section 2. That Section 2-119 (d) of the Code of
Ordinances of the City of Urbana is amended, to read as
follows:

d) *Definitions.* For the purpose of this section:

Contractor shall mean any person who contracts
with the city in a total amount greater than fifty
thousand dollars (\$50,000.00).

Employment practices shall mean practices relating
to employment as they affect employment recruiting,
referral, screening, selection, training,
apprenticeships, compensation, placement, promotion,
working conditions, seniority, layoffs and
terminations.

Labor organizations shall include any organization
or labor union, craft union, or any voluntary
unincorporated association designed to further the
cause of the rights of union labor which is
constituted for the purpose, in whole or in part, of
collective bargaining or of dealing with employers
concerning grievances, terms, or conditions of
employment, including apprenticeships or applications

for apprenticeships.

Subcontractor shall mean persons who have contracted in a total amount of greater than fifty thousand dollars (\$50,000.00) with a contractor. Suppliers of only materials to the contractor shall not be considered to be a subcontractor for this purpose.

Vendors shall mean persons who sell to the city goods and services whose total value is greater than fifty thousand dollars (\$50,000.00).

Section 3 That Section 2-119 of the Code of Ordinances of the City of Urbana is amended, to add the following:

Section (e). All contracts for purchases entered into by the City, except as excluded by this Section, shall include the City policy as contained in 2-119 (a).

Section (f). This Section shall not be applicable to the following contracts:

- (1) Individual contracts not exceeding the purchasing limit as specified in Section 2-119 (d), unless the contracting entity has accumulated greater than an amount which exceeds the purchasing limit in individual contracts with the City in that fiscal year, in which case the contracting entity shall comply with provisions of this Section.
- (2) Contracts or options for the purchase or sale of all or any interest in real estate, any lease to which the City is a party, or for the development or annexation of real estate.
- (3) Collective bargaining and employment contracts.
- (4) Contracts for the purchase of certain goods and services which can only be made from a single source (for example utilities).
- (5) Contracts with entities that the Human Relations Officer and Human Relations Commission determines have met similar affirmative action requirements of other governmental entities.
- (6) Contracts with contracting entities which employ only owners or owners's relatives, or which employ less than three persons to work as

employees.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED by the City Council this ____ day of _____, 2006.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2006.

Mayor

Laurel Lunt Prussing,

CURRENT SECTION 2-119 OF THE CITY CODE.

Sec. 2-119. Discrimination in employment by contractors and vendors with the city.

(a) Purpose and declaration of policy. The denial of equal employment opportunity because of race, color, religion, sex or national origin in connection with the expenditure of public moneys denies federal and state constitutional rights, deprives citizens of earnings necessary to maintain a reasonable standard of living, excludes citizens from rightful participation in the benefits of public expenditures and contributes to urban violence and decay. It is therefore the policy of the city to remove present effects of past discrimination and henceforth to guarantee and affirmatively provide for all citizens equal employment opportunity.

(b) Contractors, vendors, financial institutions. The city shall not contract with any contractor, purchase goods or services from any vendor, or maintain any financial relations with any financial institution, which does not first submit to the city commission on human relations a written commitment through an affirmative action program to remove the present effects of past discrimination and to guarantee and affirmatively provide equal opportunity. Such commitment must:

- (1) Set out and agree to maintain specific employment practices and policies sufficient to achieve equal opportunity;
- (2) Set out specific goals for minority participation in performance of any contract with the city;
- (3) Agree to submit to the human relations commission, upon request, written evidence of the effectiveness of the above-required practices, policies and goals;
- (4) Agree to submit to the human relations commission, upon request, statistical data concerning employee composition on race, color, job description and compensation;
- (5) Agree to distribute copies of the above commitment to all persons who participate in recruitment, screening, referral and selection of job applicants or prospective job applicants;
- (6) Agree not to employ or otherwise use the services of any labor organization or employee thereof until such labor organization first submits to the chairperson of the human relations commission a written commitment which contains the provisions required by subsections (b)(1) through (b)(5) above;
- (7) Agree not to contract with any subcontractor until such subcontractor first submits to the chairperson of the human relations commission a written commitment which contains the provisions required by subsections (b)(1) through (b)(5) above.

(c) Administration, appeal.

(1) This section shall be administered by the commission on human relations under the direction of the mayor.

(2) Administration shall consist, among other things, in:

a. Determining whether the terms of an affirmative action program comply with the provisions of this section;

b. Determining whether the performance of an affirmative action program complies with the provisions of this section;

c. Certifying to the mayor that a person covered by this section is or is not in compliance with its terms;

d. Securing and analyzing reports and statistical data requested of persons covered by this section.

(3) The commission on human relations chairperson shall inform a noncomplying person of the nature and extent of noncompliance. If the noncompliance persists, the chairperson of the human relations commission, the mayor and the noncomplying person shall together examine the charges of noncompliance and, if the mayor concurs in the findings of noncompliance, the noncomplying person shall be ineligible to contract with, sell materials or services to, or maintain financial relations with the city. Noncompliance by a person already under contract shall be deemed a material breach of contract.

(4) Any person held ineligible under subsection (c)(3) above or the human relations commission, if not in concurrence with the ruling of the mayor, may appeal in writing to the city council, provided such appeal is filed with the city clerk at least five (5) days prior to the council meeting at which such appeal will be considered. The city council, on the basis of written appeal and of the report of the mayor, shall affirm, amend or reverse the action of the mayor.

(d) Definitions. For the purposes of this section:

Contractor shall mean any person who contracts with the city in a total amount greater than five thousand dollars (\$5,000.00).

Employment practices shall mean practices relating to employment as they affect employment recruiting, referral, screening, selection, training, apprenticeships, compensation, placement, promotion, working conditions, seniority, layoffs and terminations.

Labor organizations shall include any organization or labor union, craft union, or any voluntary unincorporated association designed to further the cause of the rights of union labor which is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, including apprenticeships or applications for apprenticeships.

Subcontractor shall mean persons who have contracted in a total amount of greater than two thousand five hundred dollars (\$2,500.00) with a contractor.

Vendors shall mean persons who sell to the city goods and services whose total value is greater than two thousand five hundred dollars (\$2,500.00).

(Code 1975, § 2.70)

Cross reference(s)--Human rights generally, Ch. 12.