

TO: Bruce Walden, Chief Administrative Officer

FROM: Vacellia P. Clark, Human Relations Officer

RE: An Ordinance Amending Section 2-115 and 2-119(d)  
of the Code of Ordinances (Finance and Purchases by Contractors  
and Vendors)

Date: March 2, 2006

### **Background**

The Urbana Human Relations Commission began their discussion on the City's bid process about 18 months ago. The discussion arose as a result of the Commissioners becoming aware of the Finance and Purchases by Contractors and Vendor Code of Ordinances Section 2-119. This Code outlines specific Commission responsibilities in the City of Urbana's bid process.

Representatives from the HRC met with Mayor Prussing to discuss this issue. The Commission believes it is appropriate to increase the current dollar amount for **formal bidding** from the current \$2500 limit to \$5000.00 (Section 2-115). As it relates to Section 2-119d the Commission currently reviews on a monthly basis all Competitive Purchase Forms over \$50,000. The Commissioners are most concerned about City funded construction projects. As a result, they are requesting that Section 2-119d be amended to increase the dollar amount for contractors to \$50,000. The HRC also supports the recommendation of increasing the dollar amounts for subcontractors and vendors to \$50,000.

The ultimate goal for the Urbana Human Relations Commission is to have staff develop an equitable bidding process that ensures compliance with city codes and functions efficiently for staff, contractors and vendors. Therefore, City staff has met and discussed developing a pre-qualifying program in order to establish a pre-bid list for contractors and vendors. The pre-qualifying program will allow the HRC the opportunity to review workforce demographics for companies interested in bidding on future city contracts prior to actual opportunities existing. This procedure will expedite the bid process when the need for service arises for the City. An educational component will also be developed for those smaller

businesses who may want to successfully compete for City of Urbana contracts. The goal of the educational program is to enlighten the smaller business owners on the requirements necessary to qualify to bid on city contracts. Workshops will be offered on a periodic basis.

### **Responses to Council Inquiries**

#### **A. How does our current bid process work?**

1. Scope of work is submitted by appropriate dept. and approved by City Comptroller and Chief Administrative Officer (CAO).
2. Work is advertised and bids are received and opened.
3. Recommendation for bid award based on criteria is forwarded by appropriate dept.
4. Bid award is approved by Comptroller, Human Relations Officer and CAO.

#### **B. How will increasing the dollar amount impact staff time and paperwork?**

It will provide an opportunity to more effectively review and manage the contractors doing business with Urbana. At the current level of \$5,000, the number of vendors and the staff time required makes a pre-qualifying system difficult to manage well. Remember, the \$5,000 level applies to all purchases, not just construction projects. Even at the recommended \$50,000 level, it is estimate that we will have about 50 vendors and \$10 million worth of purchasing which is close to 50% of the City purchasing for a year. Implementing a pre-qualifying program allows us to separate the purchasing aspect from the affirmative action aspect. Construction companies that do a lot of city business are willing to pre-qualify. Vendors at the \$5,000 level may not be so inclined.

#### **C. How many contractors do we have that contracts are above \$5000.00 and how many are above \$50,000?**

At the \$5,000 level, there are 150 contracts awarded yearly for all purchasing. I estimate that there are about 25 construction contracts and probably 20 of those are above the \$50,000 level.

#### **D. What are other Cities doing? (Bid process)**

Many of the other municipalities have a similar process as Urbana with varying dollar levels. Champaign has a level of \$17,500. The City of Champaign also has a pre-qualifying program that is managed by their Community Relations Department.

#### **E. How many times have we denied a contractor a bid award based on their lack of minority representation? How many have we worked with?**

There have not been any contractors over the last 10 years that have been denied a bid award based on their workforce demographics. There have been two companies over the last 10 years that have worked with the Human Relations Division to identify recruitment resources in order to expand the diversity of their applicant pool.

**F. How many municipalities track the race and gender of the contractors doing business with their respective cities?**

I am not aware of any municipalities that tracks the race and gender of the contractors doing business with their cities. I am however, scheduled to meet with representatives from the U of I and the State of Illinois to discuss their respective vendor/contractor procedures.

**G. How many contracts are awarded each year?**

The City of Urbana awards approximately 150 contracts annually.

vpc

Enclosures: Ron Eldridge February 3, 2006 memo  
Ron Eldridge Draft Ordinance Amendments  
Current Section of 2-119 of City Code  
Purchasing Certification Form  
EEO Workforce Statistics Form

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.

**CITY OF URBANA, ILLINOIS  
PURCHASING CERTIFICATION FORM**

The City of Urbana requires all vendors doing business at certain levels with the City to comply with certain local, state and federal statutory requirements. By signing below, the vendor certifies, that they have familiarized themselves and are fully in compliance with all of the provisions of each legislative act summarized below. False certification on this form, or the failure to fully comply with all of the requirements of these acts, may result in the suspension or termination of any contract, debarment from future contacts from either the City of Urbana, State of Illinois or any other governmental agency, and may subject the vendor to other legal or criminal actions.

**DRUG FREE WORKPLACE ACT:** An act to create a drug free workplace and prevent the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by anyone while involved in the performance of a contract for the City of Urbana. (30 ILCS 580/1 et. seq.)

**CERTIFICATION OF COMPLIANCE:** An act to insure that all contracts for goods, services or construction are obtained only through an independent noncollusive submission of offers, the vendor must certify that it is not barred from contracting with any unit of the State of Illinois or any Illinois local governmental agency as a result of any bid-rigging or bid-rotating. (720 ILCS 5/33E 1 et. seq.)

**DELINQUENT TAXPAYERS:** An act to certify that any vendors doing business with the City of Urbana are not delinquent in the payment of any tax administered by the Illinois Department of Revenue. (65 ILCS 5/11-42.1-1)

**CITY OF URBANA EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.) ORDINANCE:** An ordinance that prohibits the City of Urbana from contracting with, purchasing goods or services from, or entering into any financial relationships with any persons or entities that do not provide a written commitment through an affirmative action program to provide equal opportunity. By signing this form, the contractor or vendor hereby certifies to: (1) agree to maintain specific employment practices and policies sufficient to achieve equal opportunity; (2) maintain specific goals (not quotas) for minority participation in the performance of any contract with the City; (3) upon request, agree to submit to the Human Relations Commission written evidence of the effectiveness of the above-required practices, policies and goals; (4) upon request, agree to submit to the Human Relations Commission certain statistical data concerning employee composition on race, color, job description and compensation; (5) 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) in completing this contract or providing goods or services to the City, agree not to employ or otherwise use the services of any labor organization or employee that are known by the contractor or vendor to be designated as non-qualified by the Human Relations Commission; and (7) in completing this contract or providing goods or services to the City, agree not to contract with any subcontractor that is known by the contractor or vendor to be designated as non-qualified by the Human Relations Commission. The contractor or vendor further certifies that their company: (1) has a policy of recruiting, hiring, training, upgrading, promoting, and disciplining without discrimination on the basis of race, color, creed, class, national origin, religion, sex, age, marital status, physical or mental disability, personal appearance, sexual preference, family responsibilities, matriculation, political affiliation, prior arrest or conviction record, or source of income; (2) has developed procedures to assure that this policy is understood and carried out by managerial, administrative and supervisory personnel; (3) has informed subcontractors, vendors, suppliers and labor unions of this policy; and (4) includes the phrase "Equal Opportunity Employer" in all employment ads (Code of Ordinances Sections 2-119, and 12-37 et.seq.).

**SIGNATURES (COMPLETE APPROPRIATE SECTION)**

**INDIVIDUAL**  **PARTNERSHIP**  **CORPORATION**  (check one)

Name of the Business \_\_\_\_\_

Signed By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone Number: \_\_\_\_\_

**CITY OF URBANA, ILLINOIS  
EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.) WORKFORCE STATISTICS FORM**

The City of Urbana may require contractors and vendors doing business at certain levels with the City to provide certain statistical data concerning employee composition on race, color, job description and compensation. This information will be reviewed by the City Human Relations Officer to determine compliance with the City's E.E.O. ordinance. If your company is not currently utilizing minorities in proportion to their availability in the work force, you may be required to submit a written plan detailing your commitment to increase minority hiring and promotion (Code of Ordinances, Section 2-119). If you have any questions about E.E.O. procedures or requirements, please call the Human Relations Officer at (217) 384-2466.

**EMPLOYMENT FIGURES** (use most recent payroll period, complete all applicable columns):

JOB CLASSIFICATIONS	TOTAL EMPLOYEES		NON-MINORITY		BLACK		OTHER MINORITIES*	
	M	F	M	F	M	F	M	F
Managers/Supervisors								
Professionals								
Technicians								
Sales								
Office/Clerical								
Apprentices								
Trainees								
Semi-skilled								
Service								
Unskilled								
<b>TOTALS</b>								

\*Hispanic, Asian American, Native American

Figures obtained from: ( ) visual check or ( ) employment records

Name of the company \_\_\_\_\_

Contact person \_\_\_\_\_

Number of additional employees to be hired for the contract \_\_\_\_\_

Does your company have a written policy of recruiting, hiring, training, upgrading, promoting, and disciplining without discrimination on the basis of race and color? ( ) yes ( ) no

Does your contract involve public works or community development projects? ( ) yes ( ) no

I certify that I have answered the foregoing questions and provided all information correctly and truthfully to the best of my knowledge and belief.

\_\_\_\_\_  
Signature Printed Name/Position Date