



MEMORANDUM

TO: Mayor and City Council

FROM: Rudy Garza, Assistant City Manager

DATE: September 25, 2009

SUBJECT: Non-Discrimination Resolution Update

On August 6th the City Council passed a resolution directing the City Manager implement several changes in the City's policies to include non-discrimination policies that include both sexual orientation and gender identity.

On the October 1st Council agenda, an item will be presented to Council by the Human Resources Department to update the City's Personnel Policies in accordance with the passed resolution. This memo serves as a companion to that RCA to update the City Council on Staff's progress implementing the aforementioned resolution.

Resolution 20090806-37 directed the City Manager to amend the City's Standard Terms and Conditions used in competitive procurements required by state law: (1) to require a copy of the contractor's employment non-discrimination policy when applying for City contracting opportunities and (2) to specify that non-compliance with Chapter 5-4 will terminate a contract and may hinder a contractor's eligibility for future contracts until deemed compliant with Chapter 5-4.

Implementation Status: Staff in the Contract and Land Management Department and the Purchasing Department have worked with the Legal Department to update the Non-Discrimination Certificate that must be returned with every solicitation response to include sexual orientation and gender identity. Additionally, the Certificate has been updated to reflect the other components of the resolution specific to Chapter 5-4.

A contractor's signature on this Certificate ensures that the Contractor will comply with the terms of Chapter 5-4 of the City Code and functionally becomes their policy for their participation in that specific City Contract.

Staff has targeted January 1, 2010 for the implementation of this change in our solicitation documents. Between now and then, staff will work to educate vendors about this upcoming change in the following ways:

- 1. An email will be sent to all vendors registered with the City of Austin to inform them of this policy change and to provide them with the sample documentation. (U.S. Postal mail will be used for vendors without email addresses).*

2. *CLMD and Purchasing will highlight this upcoming change at pre-solicitation meetings.*

Staff is also developing the documentation that will be posted in conspicuous places on each job-site as outlined in Chapter 5-4-2. Information about the posting requirements will be transmitted to each vendor as the contracts are executed.

The resolution also directed the City Manager to assist contractors with this administrative change by preparing a model non-discrimination policy for use by City contractors.

Implementation Status: The Human Resources Department has drafted a model non-discrimination policy for distribution as part of the referenced communication plan. Additionally, the Non-Discrimination Certificate to be required with each solicitation serves that purpose as well.

The City Manager was directed to review and amend all economic development loan programs and incentives, such as the Economic Development business Information Forms, to encourage Domestic Partner benefits and non-discrimination policies including sexual orientation and gender identity.

Implementation Status: In accordance with Resolution No. 20090806-037, EGRSO has reviewed and proposed amendments to the Business Retention and Enhancement Loan Program (BRE) guidelines and loan application and the City's Economic Development Policy and Business Information Form. These amendments are made to encourage domestic partner benefits and non-discrimination policies, including sexual orientation and gender identity.

Council directed staff to review the City's current compliance processes related to contractor non-discrimination and report back to Council on changes that would ensure more effective compliance monitoring.

Implementation Status: Complaints of discrimination made by applicants and employees of City contractors are directed to the Equal Employment Opportunity/Fair Housing Office of the City. Typically there are less than three complaints of discrimination based on sexual orientation received annually by the City of Austin's Equal Employment Opportunity/Fair Housing Office; to date none of those complaints have been levied against City contractors. No complaints of discrimination based on gender identity have been received to date. If the EEO/Fair Housing Office were to receive a complaint of discrimination levied against a City contractor, they would immediately report the claim to the Director of Human Resources who would in turn notify the Department Director responsible for the contract. If the investigation resulted in the finding of a violation, the Director of Human Resources would make a recommendation to the Department Director that the contractor be found in non-compliance. We believe that the current processes in place are sufficient to ensure contract compliance related to non-discrimination.

Lastly, the City Manager was directed to report to the Minority-Owned and Women-Owned Business Enterprise and Small Business Council Subcommittee and Council on the Human

Resources Department's review of the City's personnel policies and other internal guidelines related to non-discrimination for sexual orientation and gender identity.

Implementation Status: This status report of activities is being provided to the full Council, which includes the members of the Minority-Owned and Women-Owned Business Enterprise and Small Business Council Subcommittee. Staff is available to provide any additional information or reports that may be requested by the Subcommittee or the Council.

If there are any questions on the progress of implementation of this resolution, please do not hesitate to contact me.



Rudy Garza
Assistant City Manager

cc: Marc Ott, City Manager
Anthony Snipes, Chief of Staff
Mike Trimble, Contract and Land Management Director
Mark Washington, Human Resources Director
Byron Johnson, Purchasing Officer
Karen Sharp, Assistant Director, HRD
Rosie Truelove, Division Manager, CLMD
Mark Walsh, Purchasing