

3361:20-23-13

Contracts: policy statement on equal employment opportunity covenant requirements for contractors.

As a recipient of federal, state and city funds, the university of Cincinnati is required to comply with "Federal Executive orders 11246 and 11375," "State of Ohio Executive Order 1972" and its own affirmative action plan banning employment discrimination. Specifically, those holding university contracts or orders or those seeking university employment opportunity practices as the university in respect to their own employees and subcontractors.

Those contractors and vendors engaged by the university, who are subject to the department of public works' rule and regulations on equal employment opportunity, will be required to adhere to the following obligations. Such contractors and vendors hereby agree to incorporate or cause to be incorporated into any contract or modification thereof, as such is defined in "section 202" of the director of the department of public works' rule and regulations on equal employment opportunity, and which is paid for in whole or in part with a grant, contract, loan, insurance policy or guaranty which is distributed, allocated, or approved by a department, authority, commission or agency of the state of Ohio subject to the terms of such regulations, the following equal employment opportunity clause: during the performance of the contract, the contractor agrees as follows:

- (A) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sex orientation, handicap, status as disabled veteran or veteran of the Vietnam era, or age. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, sex orientation, handicap, status as disabled veteran or veteran of the Vietnam era or age. Such action shall apply but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- (B) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color,

religion, national origin, sex, sex orientation, handicap, status as disabled veteran or veteran of the Vietnam era or age.

- (C) The contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract, a notice to be provided by the state administering agency or the office of contract compliance, University of Cincinnati, advising said labor union or workers' representatives of contractor's commitments under this covenant and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (D) The contractor will comply with all provisions of the department of public works regulation on equal employment opportunity, and with the implementing rules, regulations, and applicable orders of the state equal employment opportunity coordinator and the office of contract compliance, university of Cincinnati.
- (E) The contractor agrees he will fully cooperate with the state administering agency, the state equal employment opportunity coordinator, the office of contract compliance, university of Cincinnati and with any other official or agency of the state or federal government which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under this contract, and said contractor shall comply promptly with all requests and directions from the state administering agency, the state equal employment opportunity coordinator, the office of contract compliance, university of Cincinnati and any of the state of Ohio's officials and agencies in this regard, both before and during the contract.
- (F) Full cooperation as expressed in paragraph (E) above, shall include, but not be limited to, being a witness and permitting employees to be witnesses and complainants in any proceeding involving questions of unlawful employment practices, furnishing all information and reports required by the department of public works regulation on equal employment opportunity and by the rules, regulations and orders of the state equal employment coordinator and the office of contract compliance, university of Cincinnati pursuant thereto, and permitting access to the contractor's books, records, and accounts by the state administering agency, the state equal employment opportunity coordinator and the office of contract compliance, university of Cincinnati for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- (G) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract, or with any of the said rules, regulations or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further state contracts or state assisted contracts in accordance with procedures authorized in the department of public works regulation on equal employment opportunity, and such other sanctions may be instituted and remedies invoked as provided in said regulations or by rule, regulation or order of the state equal employment opportunity coordinator, the office of contract compliance, university of Cincinnati, or as otherwise provided by law.
- (H) The contractor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through paragraph (H) in every subcontract or purchase order under this contract unless exempted by rules, regulations or orders of the state equal employment opportunity coordinator or the office of contract compliance, university of Cincinnati, issued pursuant to "section 204" of the department of public works regulation on equal employment opportunity so that such provisions will be binding upon any such subcontractor or vendor. The contractor will take such action with respect to any such subcontract or purchase order as the state administering agency or the office of contract compliance, university of Cincinnati may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with litigation by a subcontractor, vendor or other party as a result of such direction by the state administering agency or the office of contract compliance, university of Cincinnati, the contractor may request the state of Ohio to enter into such litigation to protect the interests of the state.
- (I) The contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices within the state of Ohio when it participates in a state assisted contract; provided that, if the contractor so participating is a political subdivision, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such political subdivision which does not participate in work on or under said contract.
- (J) The contractor agrees that will assist and cooperate actively with the state administering agency, the state equal employment opportunity coordinator and the office of contract compliance, university of Cincinnati in obtaining

the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the state equal employment opportunity coordinator, and the office of contract compliance, university of Cincinnati, that it will furnish the state administering agency, the state equal employment opportunity coordinator and the office of contract compliance, university of Cincinnati, such information as they may require for the supervision of such compliance, and that it will otherwise assist the state administering agency and the office of contract compliance, university of Cincinnati in the discharge of said agency's primary responsibility for securing compliance both before and during contract.

- (K) The contractor further agrees that it will refrain from entering into any contract or contract modification subject to the department of public works' regulation on equal employment opportunity, with a contractor barred from, or who has not demonstrated eligibility for state contracts and state assisted contracts pursuant to said regulation and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon such contractors by the state administering agency, the state equal employment opportunity coordinator and the office of contract compliance, university of Cincinnati pursuant to "Part II, Subpart D" of said regulation.
- (L) The contractor agrees that if it fails or refuses to comply with these undertakings, the state administering agency and the office of contract compliance, university of Cincinnati, may take any or all of the following actions: cancel, terminate, or suspend in whole or in part of this grant, contract, loan, insurance policy, or guaranty; refrain from extending any further assistance to the contractor under the program with respect to which the failure or refusal occurred until satisfaction or assurance of future compliance has been received from said contractor; or refer the case to the attorney general for appropriate legal proceedings.

Effective: November 1, 1984

Amends: Rule 3361:20-23-13 of the Administrative Code

Certification: *Evelyn V. Bush signature*
Evelyn V. Bush

Date: October 5, 1984

Promulgated under: R.C. Section 111.15
Rule amplifies: R.C. 3361.
Prior effective dates: March 16, 1978