

## AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

### Section 1 - AFFIRMATIVE ACTION REQUIREMENTS

Bidders are advised of the requirements of the following Town By-law, which was adopted at the Special Framingham Town Meeting of December 8, 1971 and approved by the Attorney General on March 14, 1972.

Section 2 - No Town agency shall enter into any contract for the purchase of goods or services for the construction, maintenance, renovation or repair of any building, structure, street, way, utility or other public works with any contractor which does not take affirmative action to provide equal employment for all qualified persons without regard to race, color, religion, sex or national origin.

Section 3 - Each bidder and contractor shall include with all bids and all compliance and progress reports submitted to any Town agency or a report, which shall include:

A certificate stating that he is currently in compliance with the provisions of the Massachusetts General Laws, Chapter 151 governing non discrimination in employment and setting forth the affirmative action he is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin. A copy of any such report shall be filed in the office of the Town Clerk and shall upon filing become a public record.

Section 4 - Every Town Agency shall include in every contract hereinafter entered into the purchase of goods or services or for the construction, maintenance, renovation services or repair of any buildings, structure, street, way utility or other public works the following provisions:

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will take affirmative action to ensure that employees are solicited and employed and that the employees are treated during employment without regard to race, color, religion, sex or national origin.
- b. The contractor will in all solicitation or advertisements for employees placed by on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- c. The contractor and subcontractors will include the provisions of subsections (a) and (b) above in every subcontract or purchase order.

Section 5 - As used in this section, affirmative action means positive steps to ensure all qualified persons equal employment without regard to race, color, religion, sex or national origin at all stages of the employment process, recruitment, selection, placement, promotion, training, layoff and termination.

It may include, but not limited to the following:

- Inclusion in all solicitation and advertisements for employees of a statement that the contractor is an "Equal Opportunity Employer."
- Placement of solicitation and advertisements for employees in media that reaches minority groups.
- Notification in writing of all recruitment sources that the contractor solicit the referral of applicants without regard to race, color, religion, sex or national origin.
- Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist in recruitment efforts.
- Participation in or establishment of apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups.

- Modification or collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are abased on race, color, religion, sex or national origin.

Section 6 - The Human Relations Commission shall receive and investigate or cause to be investigated complaints by employees or prospective employees of a Town contractor, subcontractor, or supplier. Findings and determinations on such investigations, together with the records and recommendations, shall be reported by the Human Relations Commission to the Board of Selectmen and the contracting agency concerned. The Human Relations Commission shall cooperate with the Board of Selectmen and with each contracting agency by providing assistance in reviewing affirmative action plans, and to contractors seeking qualified minority group employees, and shall itself seek such employees.

Section 7 - The provision of this section shall not apply to any contract for less than \$5,000 or to bidders and contractors employing fewer than six persons provided that where the contract is for less than \$5,000 but not less than \$2,000, any Town agency may apply the provision of this section to any contract, bidder, or contractor.

### **EQUAL EMPLOYMENT OPPORTUNITY**

No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Reference Title VI of the Civil Rights Act of 1964 (42 USC 2000d) and Section 112 of Public Law 92-65.

Form EDA-503. The Recipient and all Contractors, subcontractors, suppliers, lessees and other parties directly participating in the Recipient's project agree that during and in connection with the associated agreement relating to the Federally assisted program.

- (1) They will comply, to the extent applicable, as Contractors, subcontractors, lessees, suppliers, or in any other capacity, with the applicable provisions of the Regulations of the United States Department of Commerce (Part 8 of Subtitle A of Title 15 of the Code of Federal Regulations) issued pursuant to Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and will not thereby discriminate against any person on the grounds of race, color, or national origin in their employment practices, in any of their own contractual arrangements, in all services or accommodations which they offer to the public, and in any of their other business operations.
- (2) They will provide information required by or pursuant to said Regulations to ascertain compliance with the Regulations and these assurances, and (3) their non-compliance with the nondiscrimination requirements of said Regulations and these assurances shall constitute a breach of their contractual arrangements with the Recipient whereby said agreements may be canceled, terminated or suspended in whole or in part or may be subject to enforcement otherwise by appropriate legal proceedings.

Executive Order 11246, 30 Fed. Reg. 12319 (1965) (Equal Opportunity Clause)

During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will no discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure the applicants, are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or

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- transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.
  - c. 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, sex, or national origin.
  - d. 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 agency contracting officer, advising the labor union or workers' representative of the Contractor's commitment under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - e. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of rules, regulations, and relevant orders of the Secretary of Labor.
  - f. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, record, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. Each Contractor and subcontractor of federally financed construction work is required to file an Equal Employment Opportunity Employer Information Report (EEO-1 on Standard Form 100) annually on March 31. Forms and instructions are available at the EDA Regional Office.
  - g. In the event of the Contractor' noncompliance with the non-discrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed (and remedies involved) as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  - h. The Contractor will include the provisions of paragraphs a through h in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

1.Exemptions to Above Equal Opportunity Clause (4) CFR Chap.60):

- (1) Contracts and subcontracts not exceeding \$10,000 (other than government bills of lading) are exempt. The amount of the contract, rather than the amount of the Federal financial assistance, shall govern in determining the applicability of this exemption.
- (2) Except in the case of subcontractors for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.
- (3) Contracts and subcontracts not exceeding \$100,000 for standard commercial supplies or raw materials are exempt.

#### OTHER PROHIBITED INTEREST

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interest personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

TOWN OF FRAMINGHAM, MASSACHUSETTS

Date \_\_\_\_\_

To: Town of Framingham, Massachusetts Purchasing Department:

I have read the Affirmative Action Requirements and Equal Employment Opportunity as adopted by the Town of Framingham on December 8, 1971 and approved by the Massachusetts Attorney General on March 14, 1972 and agree to affirmatively implement all practices necessary to comply with said requirements.

A copy of a portion of the Town By-law is attached as part of the bid specifications.

Signed \_\_\_\_\_  
Name Title

Company \_\_\_\_\_

**Contract No.:**

**For:**