

DIVISION	POLICY NUMBER
VIII. Budget and Financial Services	8.04.01 [1]
CATEGORY	DATE
8.04.01 Equal Employment Opportunity – Contractors & Subcontractors	Adopted: 1974 Revised: 1982, 02/1994, 02/2019

8.04.01 **IDHR RULES**

The IDHR (Illinois Department of Human Rights) Rules define “contract” as follows:

"Section 750.5. The term "public contract" means “any contract, purchase order, lease or other agreement or understanding, written or otherwise, between the State of Illinois or any of its political subdivisions or municipal corporations or any agent thereof and any other person for the procurement of anything or service of value, such as, for example, any real or personal property, equipment, merchandise, goods, materials, labor or services for or by the State or political subdivision or municipal corporation. Public Contract further means any loan or grant by the State of Illinois or any of its political subdivisions or municipal corporations from which such a contract, purchase order, lease or other agreement or understanding may be financed in whole or in part."

The EQUAL EMPLOYMENT OPPORTUNITY CLAUSE is required by the Illinois Department of Human Rights as a material term of all public contracts:

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Act, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

1. That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.



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2. That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
3. That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.
4. That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and this Part, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
5. That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.
6. That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
7. That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with



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applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

Notwithstanding the foregoing, pursuant to Section 750.20, All contract specifications furnished by any contracting agency to bidders or contractors shall contain the Equal Employment Opportunity Clause set forth above and such clause shall be included as a material term of any contract; however, a contracting agency having published rules and regulations which govern all its contracts and which include the Equal Employment Opportunity Clause may incorporate such clause by reference in such agency's individual contracts or contract specifications. By operation of this Part, the Equal Employment Opportunity Clause shall be deemed to be a part of every public contract whether or not such contract is in writing and regardless of whether said clause is physically incorporated therein.

Subcontracts

Pursuant to Section 750.5, the term “subcontract” means any agreement, arrangement or understanding, written or otherwise, between a public contractor and any person under which any portion of the public contractor's obligations under one or more public contracts is performed, undertaken or assumed. The term "subcontract", however, shall not include any agreement, arrangement or understanding in which the parties stand in the relationship of an employer and an employee, or between a bank or other financial institution and its customers.

“Subcontractor” means any person having a subcontract as defined above.

Each public contractor and subcontractor shall in turn include the Equal Employment Opportunity Clause set forth above in each of its subcontracts under which any portion of the contract obligations are undertaken or assumed, said inclusion to be either verbatim or by reference so that the provisions of the clause will be binding upon such subcontractors.



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Further, pursuant to Section 5/2-105, Every party to a public contract and every eligible bidder shall:

- (1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- (2) Comply with the procedures and requirements of the Department's regulations concerning equal employment opportunities and affirmative action;
- (3) Provide such information, with respect to its employees and applicants for employment, and assistance as the Department may reasonably request;
- (4) Have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the vendor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act.

A copy of the policies shall be provided to the Department upon request.