

## CITY OF MILWAUKEE

JAMES B. BRENNAN  
City Attorney

DAVID A. FELGER  
THOMAS E. HAYES  
Deputy City Attorneys



## OFFICE OF CITY ATTORNEY

800 CITY HALL  
MILWAUKEE, WISCONSIN 53202  
278-2601

August 15, 1980

RICHARD F. MARUSZEWSKI  
WALTER J. SCHUTZ  
MAURICE L. MARKEY  
WILLIAM J. LUKACEVICH  
NICHOLAS M. SIGEL  
THEOPHILUS C. CROCKETT  
JOSEPH H. McGINN  
DAVID R. MOGILKA  
JOHN F. KITZKE  
HERBERT F. SONNENBERG  
CHARLES R. THEIS  
GRANT F. LANGLEY  
PATRICK B. McDONNELL  
RUDOLPH M. KONRAD  
JOSEPH N. MISANY  
MARY ELLEN POULOS  
BEVERLY A. TEMPLE  
SCOTT RITTER  
SANDRA S. RUFFALO  
JEFFREY A. WAGNER  
MICHAEL A. I. WHITCOMB  
JEFFREY L. BASSIN  
GREGG J. GUNTA  
THOMAS O. GARTNER  
LINDA ULISS BURKE  
Assistant City Attorneys

Mr. H. F. Leatherby  
City Purchasing Agent  
607 City Hall

Dear Sir:

This is in response to your letter of August 6, 1980, relating to Ordinance #66, file 80-222-a, which prohibits discrimination against persons because of their sexual orientation, in which you inquire:

- "1. Is the Non-Discrimination clause, as contained in the Standard Conditions for Bidding, sufficient or should it be revised?
- "2. What purchasing documents should contain the Non-Discrimination clause? e.g. Purchase Orders, Informal and Formal Bids, Contracts, etc...
- "3. Can vendors who refuse to non-discriminate against persons, because of their sexual preferences, be solicited for bids and awarded City business?
- "4. To what extent, if any, is the Purchasing Department responsible for the enforcement of this Ordinance in relation to the procurement of goods and services for the City?"

We answer as follows:

1. The non-discrimination clause as contained in the Standard Conditions for Bidding should be revised in view of the

recent amendment to sec. 109-15 of the Milwaukee Code of Ordinances by Ordinance #66, file 80-222-a. A suggested wording for the paragraph relating to non-discrimination is submitted as follows:

"Non-Discrimination - in performing in accordance with the terms of the Bid Request, the vendor agrees not to discriminate against any employe or applicant for employment because of age, race, creed, color, sex, sexual orientation, physical condition, developmental disability as defined in sec. 51.437(1), Wisconsin Statutes, or national origin or ancestry. Vendor is required to include a similar provision in all subcontracts. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor further agrees to take affirmative action to insure equal employment opportunities for persons with disabilities. The contractor agrees to post in conspicuous places available for employes and applicants for employment notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause. - Wisconsin Statutes 16.765 (1) and (2), and provisions of section 109-15 of the Milwaukee Code of Ordinances."

2. All documents now containing an anti-discrimination clause should be amended to include compliance with the amendment of sec. 109-15 of the Milwaukee Code of Ordinances by Ordinance #65, file 80-222-a.

3. Vendors who refuse to comply with sec. 109-15 of the Milwaukee Code of Ordinances as amended by Ordinance #66, file 80-222-a, cannot be awarded City business because agreement to comply is made a condition of the contract by law.

4. Enforcement of sec. 109-15 of the Milwaukee Code of Ordinances as amended by Ordinance #66, file 80-222-a, falls to the Commission on Community Relations under sec. 109-15(5) of the Milwaukee Code of Ordinances. The Purchasing Department has no police

Mr. H. F. Leatherby

-3-

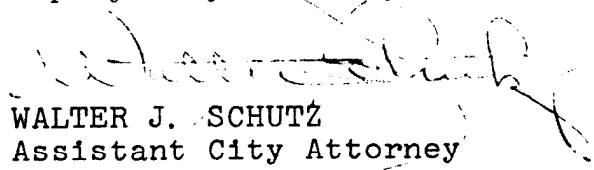
8/15/80

or enforcement responsibility except to see that sec. 109-15 of the Milwaukee Code of Ordinances as amended by Ordinance #66, file 80-222-a, is complied with to the extent that all contracting agencies of the City shall include in all contracts hereafter negotiated or renegotiated by them for the procurement of goods and services for the City, for which procurement the Purchasing Department is responsible, a provision obligating the contractor not to discriminate against any qualified employe or qualified applicant for employment because of age, race, creed, color, sex, sexual orientation, national origin or ancestry, and shall require him to include similar provisions in all subcontracts.

We hope we have satisfactorily responded to you inquiries. If you have any further questions with respect to the above, please feel free to contact us at any time.

Very truly yours,

  
THOMAS E. HAYES  
Deputy City Attorney

  
WALTER J. SCHUTZ  
Assistant City Attorney

WJS:h