

## **Policy Guidelines Concerning Equal Employment Opportunity For Persons Previously Convicted**

**PURPOSE:** To establish guidelines applicable to any party contracting with the City of Pittsburgh (“Contractor”) in order to ensure equal employment opportunity for persons previously convicted (“Ban the Box”);

**POLICY STATEMENT:** It is the policy of the City of Pittsburgh to:

- I. Ensure that candidates with histories of previous criminal convictions seeking employment from a Contractor (new hires, rehires, reinstatements, and internal promotional candidates) are not discouraged by the application process and that Contractors will implement City Code Section 161.16A;
- II. Allow Contractors to conduct background investigations at an appropriate time for all new hire and rehire employee positions and internal promotional candidates. These policy guidelines accord with The Criminal History Record Act and the Fair Credit Reporting Act.
- III. Establish a notification and complaint process to ensure compliance with the legislative text and these policy guidelines.

## **DEFINITIONS**

“Applicant” means any person considered for, or who requests to be considered for, employment by a Contractor in relation to work being performed pursuant to a contract with the City.

“City” means the City of Pittsburgh or any division, department, agency or office thereof, including the Mayor’s Office of Equal Protection, unless specifically excluded by this section.

“Contractor” refers to individuals or entities contracting with the City of Pittsburgh, including both contractors and sub-contractors, subject to exceptions for public safety agreements/contracts and those entered into with other political jurisdictions, the Commonwealth of Pennsylvania or the United States of America. “Contractor” also includes instrumentalities of the Commonwealth for which the City is the parent agency with the exception of those instrumentalities which are multi-municipal (i.e., Allegheny County Sanitation Authority; Sports and Exhibition Authority for Counties of the Second Class; Steel Valley Authority and the Southwestern Pennsylvania Commission.)

“Conviction” means any sentence arising from a plea or verdict of guilty, including a sentence of incarceration, a suspended sentence, a sentence of probation or a sentence of unconditional discharge.

“Employment” means any occupation, vocation, job, or work for pay, including temporary or seasonal work, contracted work, contingent work and work through the services of a temporary or other employment agency; or any form of vocational or educational training with or without pay. Employment shall not, for the purposes of this section, include any sworn position.

“Otherwise Qualified” means any Applicant who meets the stated hiring criteria for a position or consideration for a position.

“Relationship to the job” means the nature of criminal conduct for which the person was convicted has a direct and/or specific negative bearing on a person's fitness or ability to perform one (1) or more of the duties or responsibilities necessarily related to the employment sought.

## **APPLICATION PROCESSING PROCEDURES FOR NEW AND PROMOTIONAL HIRES**

1. In accordance with these policy guidelines, the Contractor must inform all employees applying for a new position or promotion about the City’s equal employment opportunity requirements at the time of application and/or before nomination.
2. Excluding agreements/contracts for the public safety sensitive positions of police officer, fire fighter, paramedic and school crossing guard, and except as otherwise required by state and federal law, a Contractor shall not inquire about an Applicant’s conviction history until after it has been determined that the Applicant is otherwise qualified for the position.
3. After an Applicant has been identified as otherwise qualified and selected for the position, the Contractor may make a conditional offer of employment to the Applicant, pending a conviction history check.

4. Such an offer may inform the Applicant that employment is contingent upon the individual successfully completing the final stages of the hiring process (for example, conditional offer acceptance form, background investigation, real estate investigation, driver's license verification (if applicable), medical examination, etc.).
5. The Contractor may consider the "relationship to the job", i.e. whether the criminal conduct for which the Applicant was convicted has a direct and/or specific negative bearing on a person's fitness or ability to perform one or more of the duties or responsibilities necessarily related to the employment sought.
6. The Contractor may implement an appeal process that will allow Applicants to provide clarifying information to the Contractor for consideration prior to a final decision about the offer. If a conditional offer is withdrawn as a result of a criminal history check, the applicant may be given the opportunity to provide a written explanation with additional information to consider about that conviction.

## **NOTIFICATION PROCESS**

1. At the time these policy guidelines go into effect, the Mayor's Office of Equal Protection will begin a notification process to ensure compliance with the Ban the Box legislation.
2. The Mayor's Office of Equal Protection will begin the notification process by sending each Contractor a letter, which will provide notice that the City has updated the law and adopted policy guidelines. The legislative text and the policy guidelines will be attached to the letter.
3. The letter will inform the Contractor that all future contracts with the City will contain a fair hiring provision, pursuant to City Code Section 161.16(h) ("[e]very contract shall contain a provision stating that the contractor and all of its subcontractors shall comply with Chapter 181, Human Resources, at Section 181.12(b)...").

## **IMPLEMENTATION PROCESS FOR NEW CONTRACTS**

1. For all contracts entered into after the effective date of these policy guidelines, the Mayor's Office of Equal Protection will send a letter to the Contractor within ten (10) days of execution of the contract. The letter will request that the Contractor send any information in its possession about current policies in effect related to protections for Applicants with previous criminal convictions within three (3) months of the date of the letter.
2. Based on the responses from its Contractors, the Mayor's Office of Equal Protection will create a record indicating which Contractors have policies in place regarding protections for individuals with previous criminal convictions. The Mayor's Office of Equal Protection will continue to update this record as the City enters into new agreements with its Contractors.
3. Contractors should anticipate that the City will send at least one compliance letter annually requesting documentation that shows the Contractor's continued implementation of the law and policy guidelines.

## **COMPLAINT PROCEDURE AND INVESTIGATION**

1. The Mayor's Office of Equal Protection seeks to ensure that all Applicants seeking to work with City Contractors are aware that they are entitled to protections under the law. The Mayor's Office of Equal Protection shall conduct community outreach to educate workers and community members about the applicable protections.
2. Any individual or organization may file a complaint with the Mayor's Office of Equal Protection for any violation of this section. A complainant should download the complaint form at <http://pittsburghpa.gov>, fill it out, and email it to [compliance@pittsburghpa.gov](mailto:compliance@pittsburghpa.gov) or mail it to the following address:

Mayor's Office c/o Compliance Coordinator  
City County Building  
414 Grant Street, Pittsburgh PA 15219

3. The Mayor's Office of Equal Protection will evaluate the complaint by referring to the contract at issue in determining whether the Mayor's Office of Equal Protection should initiate an investigation. The City can enforce the law's requirements for the duration of the contract in question.
4. The Mayor's Office of Equal Protection shall review and investigate the complaint and make a finding of compliance or noncompliance within ninety (90) days of the complaint being filed.
5. The Mayor's Office of Equal Protection shall immediately notify, in writing, the Contractor who is the subject of the complaint. The notification will state that an Applicant has filed a complaint against the Contractor and the City is commencing an investigation, which will include an interview with the Contractor at a date to be named.
6. The Contractor shall permit agents of the Mayor to conduct site visits, interview employees, and/or examine books and records relating to the hiring process to determine whether the Contractor is in compliance.
7. The Mayor's Office of Equal Protection may extend the investigation period beyond ninety (90) days with the consent of the complaining party, including in situations where the employer fails to cooperate or review involves a particular factually or legally-complicated complaint.
8. Failure of the Mayor's Office of Equal Protection to issue a finding of compliance or noncompliance does not relieve the Contractor of its obligations under the law.

## **FINDING OF NONCOMPLIANCE**

1. If at any time the Mayor's Office of Equal Protection finds a violation of the law has occurred, it will issue a finding of noncompliance and notice of corrective action to the employer, with a copy to the complaining party.
2. The finding of noncompliance shall specify the areas of noncompliance, indicate such corrective action as may be necessary to achieve compliance, and impose deadlines for achieving compliance.

3. In the event that a Contractor is not in compliance, the City will begin enforcement proceedings. A Contractor subject to this Chapter who fails to comply with its provisions is in material breach of its contract with the City, and may be suspended or debarred from bidding on or participating in City contracts, pursuant to Section 161.22(b).
4. The Office of the Management and Budget and the Mayor's Office of Equal Protection will have direction to initiate debarment proceedings, unless otherwise required by law, and these proceedings will be rendered in the best interests of the City.
5. In the event that the Office of Management and Budget and the Mayor's Office of Equal Protection office initiate debarment proceedings, the City shall provide notice pursuant to Section 161.22(b).
6. All debarments shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the cause therefore. As a general rule, debarment will not exceed three (3) years. Debarment may be for a longer period of time where the offense is willful and egregious providing that notice thereof is furnished.\*
7. Procedures set forth in these Guidelines are subject to appeal to the Court of Common Pleas in accordance with the requirements for appeal of a final determination of a local agency.

\*Violation by a subcontractor of a Contractor shall also be deemed a violation by the covered employer. An investigation of a subcontractor would proceed in the same manner as that of a Contractor, but the Contractor will be expected to produce the materials required for an investigation on behalf of the subcontractor. If the City finds a violation, the City could move to debar the subcontractor from future subcontracting work or from working with the City in a capacity as a Contractor. In such case, both the subcontractor and Contractor would be afforded all investigation and hearing rights under the same section.