

CHAPTER 6

AFFIRMATIVE ACTION PROGRAMS-CONTRACTORS

POLICY

600. Affirmative Action Policy.

The following long-standing policies of Jackson County, Missouri are reaffirmed. (Ord. 1068, Sec. 1, Eff. 8-2-83)

601. Promote Equal Opportunity.

Jackson County, Missouri reaffirms its long-standing policy to promote equal opportunity for employment, advancement and continuation of employment among all qualified persons regardless of their race, color, national origin, religion, age, sex or handicap. (Ord. 1068, Sec. 1(1), Eff. 8-2-83)

602. County Contracts.

Jackson County, Missouri reaffirms its long-standing policy to let certain county contracts only to contractors which demonstrate their commitment to a policy of equal employment opportunity by adopting and implementing affirmative action plans. (Ord. 1068, Sec. 1(2), Eff. 8-2-83)

603. Construction of Chapter.

Nothing in this chapter shall be construed to require a contractor or subcontractor to hire unqualified or incompetent personnel or to discharge qualified or competent personnel. (Ord. 1068, Sec. 7.B, Eff. 8-2-83)

604. - 609.00 RESERVED

DEFINITIONS

610. Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context explicitly indicates otherwise. (Ord. 1068, Sec. 2, Eff. 8-2-83)

611. Affiliate.

An affiliate is a contractor effectively controlled by another individual or entity under common ownership or control. A franchise company shall not be deemed to be an affiliate of the franchisor if the owners of the franchise company have the right to profit from their franchise company have the right to profit from their effort, proportionate to ownership, and bear the risk of loss. (Ord. 1068, Sec. 2.A. Eff. 8-2-83)

612. Acceptable Affirmative Action Plan.

An acceptable affirmative action plan is one which has been determined by the Compliance

Review Officer to meet the nine (9) elements of acceptability set out in Sections 630.00 through 639.00 and under which action has been, is being, or will be taken by the adopting individual or entity toward the goal of equal opportunity for employment, advancement and continuation of employment among all qualified persons regardless of their race, color, national origin, religion, age, sex or handicap. (Ord. 1068, Sec. 2.B, Eff. 8-2-83)

613. Compliance Review Officer.

Compliance Review Officer is the person hired pursuant to Section 620.00 through 625.00 may be referred to by the abbreviation CRO. (Ord. 1068, Sec. 8, Eff. 8-2-83)

614. County.

County refers to Jackson County, Missouri (Ord. 1068, Sec. 2, Eff. 8-2-83)

615. Contract.

Contract means any lawful agreement to which the county is a party, except the following. (Ord. 1068, Sec. 2.C, Eff. 8-2-83)

615.1 With Governments.

contract does not include any contract between Jackson County, Missouri and other governmental entities. (Ord. 1068, Sec. 2.E(2), Eff. 8-2-83)

615.2 Real Property.

Contract does not include any contract for the purchase, sale or lease of interest in real property. (Ord. 1068, Sec. 2.E(3), Eff. 8-2-83)

615.3 Emergency Contracts.

Contract does not include any contract established in emergencies. (Ord. 1068, Sec. 2.E(4), Eff. 8-2-83)

615.4 Single Supplier.

Contract does not include any contract for the purchase of commodities or services controlled and supplied by only one (1) contractor. (Ord. 1068, Sec. 2.E(5), Eff. 8-2-83)

615.5 Borrowing Money.

Contract does not include any contract for the borrowing of money at interest, for the purchase of county general obligation or revenue bonds or for the purchase of county tax anticipation notes. (Ord. 1068, Sec. 2.E(6), Eff. 8-2-83)

616. Contractor.

Contractor means any individual or entity employing six (6) or more persons. In determining whether an individual or entity employs six (6) or more persons, the following rules shall govern. (Ord. 1068, Sec. 2.G, Eff. 8-2-83)

616.1 Employees Counted.

All employees, including owner-employees and all employees of every affiliate of the individual or entity, shall be counted regardless of whether they are full-time or part-time, permanent or temporary. (Ord. 1068, Sec. 2.G(1), Eff. 8-2-83)

616.2 Employees not Counted.

Notwithstanding anything to the contrary, those employees who are parents, spouses, or children of the individual or of any owner of the entity shall not be counted. (Ord. 1068, Sec. 2.G(2), Eff. 8-2-83)

616.3 Evidence Required.

Every individual or entity claiming not to be a contractor shall submit documentary evidence, satisfactory to the CRO, verifying the number of its employees and the employees of its affiliates. (Ord. 1068, Sec. 2.G(3), Eff. 8-2-83)

617. Subcontractor.

Subcontractor means any individual or entity employing six (6) or more persons and which shall undertake, by virtue of a separate contract with another individual or entity, whether or not such individual or entity is a contractor to fulfill all or any part of the obligation of the other under a contract with Jackson County, Missouri. In determining whether a subcontracting individual or entity employees six (6) or more persons, the rules of Sections 616.01, 616.02, and 616.03 shall govern. (Ord. 1068, Sec. 2.I, Eff. 8-2-83)

618. - 619. RESERVED

COMPLIANCE REVIEW OFFICER

620. Compliance Review Officer.

There is hereby established a non-merit position of compliance Review Officer as a member of the staff of the County Auditor. The CRO shall be supervised and directed by the County Auditor. (Ord. 1068, Sec. 8, Eff. 8-2-83; Ord. 1780, 11/21/89; Ord. 1900, Eff. 12/19/90; Ord. 2654, Eff. 04/23/97)

621. Appointment.

The CRO shall be selected by a majority of the County Legislature after the Finance and Audit Committee, or in the event that Committee shall not exist, a Committee of the Legislature so designated by the Chairman of the Legislature, has selected a candidate for the position of CRO. The candidate selected shall receive the position of CRO upon a majority vote of the Legislature approving that person. (Ord. 1068, Sec. 8, Eff. 8-2-83; Ord. 1900, Eff. 12/19/90)

622. Removal.

The person selected as CRO may be removed by a majority vote of two-thirds (2/3) of the County Legislature after review and recommendation of removal by the Finance and Audit Committee or other Committee so designated by the Chairman of the Legislature if the Finance and Audit Committee does not exist. (Ord. 1068, Sec. 8, Eff. 8-2-83; Ord. 1950, Eff. 04/10/91)

623. Limitation.

The person holding the position of CRO shall not simultaneously hold any other positions or office with the county, except that this section shall not preclude the CRO from holding an unpaid county office or position of a temporary nature. (Ord. 1068, Sec. 8, Eff. 8-2-83; Ord. 2110, Eff. 6/25/92)

624. Salary.

The salary of the CRO shall not be less than \$20,000 or more than \$35,000. (Ord. 1068, Sec. 8.D, Eff. 8-2-83; Ord. 1621, Eff. 02/10/88)

625. Required to Attend Meetings.

The CRO shall attend all meetings of the Finance and Audit Committee and other legislative meetings, as appropriate. (Ord. 1068, Sec. 8.C, Eff. 8-2-83; Ord. 1900; Eff. 12/19/90)

626. Mandates to Compliance Review Officer.

The following are mandates to the Compliance Review Officer. (Ord. 1068, Sec. 6, Eff. 8-2-83)

626.1 Notice to Bidder of Ineligibility.

The CRO shall notify every ineligible bidder of the CRO's determination of the ineligibility of the bidder for contracts because of noncompliance with this chapter, and the reasons for the determination of noncompliance and shall provide the bidder with a copy of this chapter unless already provided. (Ord. 1068, Sec. 6.A, Eff. 8-2-83)

626.2 Notice of Ineligibility to Others.

The CRO shall notify the County Legislature, the Manager of the Division of Finance and the Purchasing Director of those bidders who are ineligible for contract because of noncompliance with this chapter. (Ord. 1068, Sec. 6.B, Eff. 8-2-83)

626.3 Notice to Bidder of Reinstatement.

The CRO shall notify in writing every bidder whose eligibility has been reinstated for contract bidding under this chapter and shall also communicate that fact in writing to the County Legislature, the County Auditor, the Manager of the Division of Finance and the Purchasing Director. (Ord. 1068, Sec. 6.C, Eff. 8-2-83)

626.4 Notice of Noncompliance with Ordinance.

The CRO shall notify the County Legislature, the Manager of the Division of Finance and the Purchasing Director of those contractors which are not determined to be in compliance with any provision of Section 640.00 through 644.05 and the reasons for the determination on noncompliance. (Ord. 1068, Sec. 6.D, Eff. 8-2-83)

626.5 Notice of Deficiency in Plan.

If the CRO finds that the design of an affirmative action plan lacks an element of

acceptability set out in Sections 630.00 through 639.00 the CRO shall specify to the interested bidder, contractor, or subcontractor those elements of acceptability which need to be incorporated into the design of the plan and shall allow seven (7) working days after the notice to correct the deficiency. (Ord. 1068, Sec. 6.E, Eff. 8-2-83)

626.6 Compliance by Contractor.

The CRO shall review all evidence submitted under Section 642.00 and all other evidence available to the CRO, and shall determine whether or not the contractor has neglected to implement its affirmative action plan, or is otherwise in violation of this chapter. Notice of an adverse determination shall be promptly communicated to the contractor in writing by registered mail to the address listed on the bid of the contractor, with notice of the right of appeal granted under Section 653. The CRO shall specify to the attending contractor the corrective action required and shall request from the contractor a commitment in writing to accomplish the corrective action so specified. (Ord. 1068, Sec. 6.F, Eff. 8-2-83)

626.7 Bidders on contracts in Excess of Ten Thousand Dollars.

With respect to each bidder being considered, as indicated by the Purchasing Director or other county employee authorized to invite bids, for the award of a contract in excess of ten thousand dollars (\$10,000) the CRO shall find whether: (Ord. 1492, Eff. 12/16/86)

a. Contractor or Subcontractor.

The individual or entity is a contractor or subcontractor;

b. Eligibility.

The bidder or contractor is eligible under this chapter for the proposed contract.

c. Notice of Findings.

The CRO shall promptly communicate the findings under a. and b. to the County Legislature, the Legislative Auditor, the Manager of the Division of Finance and the Purchasing Director. (Ord. 1068, Sec. 6.G, Eff. 8-2-83)

626.8 Notice of Compliance Review Officer.

The CRO shall notify every affected bidder, contractor or subcontractor of all decisions, findings or other actions of the CRO and of its appeal right under Section 653. (Ord. 1068, Sec. 6, Eff. 8-2-83)

626.9 Other Duties.

In addition to other duties specified elsewhere, it shall be the duty of the CRO under this chapter:

a. Act to Assure Compliance.

To do every act reasonably necessary and feasible to assure compliance by

bidders, contractors and subcontractors with all requirements of this chapter and, in particular, with the requirement of adopting and implementing acceptable affirmative action plans;

b. Assist Bidders, Contractors and Subcontractors.

To actively assist bidders, contractors and subcontractors to achieve or maintain compliance with this chapter;

c. Maintain Public File.

To prepare and maintain a public file for each individual or entity submitting information to the CRO, to maintain in that file a correspondence log documenting all contact with those individuals or entities, and to keep and prepare records of the cumulative amounts of all contracts awarded during each calendar year to any contractor or its affiliates;

d. Recommend Revisions.

To recommend to the County Legislature and revisions to this chapter deemed prudent;

e. Design Documents and Forms.

To design documents, report forms, manuals and other papers needed to perform the functions of the CRO and to disseminate and accumulate relevant information in the enforcement of this chapter, provided that, in no event may the CRO require any bidder, contractor, or subcontractor to file any document, report form, manual, or other paper more frequently than semi-annually;

f. Cooperate with HRCC.

To cooperate with the office of Human Relations and Citizen Complaints in connection with the exercise of that office of its charter functions;

g. Verify Information.

To verify information from bidders, contractors or subcontractors with on-site visits and to request the submission of relevant employment data from such;

h. Semi-annual report to Legislature.

To present semi-annually to the County Legislature a report of the progress of the county in implementing the policy of this chapter, with illustrative specific case histories.

i. Review Certificates of Affirmative Action Compliance.

To review certificates of affirmative action compliance. If the CRO determines this certificate represents compliance with this ordinance, the bidder shall be deemed eligible. (Ord. 1068, Sec. 6.I, Eff. 8-2-83; Ord. 2816, Eff. 07/23/98)

j. Encourage Development of Affirmative Action Programs.

To encourage the development of affirmative action programs by County bidders, contractors and subcontractors. (Ord. 2816, Eff. 07/23/98)

626.10 Supply Copies of this Chapter.

The CRO shall send a copy of Chapter 6 to all bidders who request a copy of said chapter. (Ord. 1109, Sec. 5, Eff. 8-24-83)

626.11 Anti-Drug Sales Tax: Review of Minority Hiring and Employment.

The CRO shall monitor the proceeds of the Anti-Drug Sales Tax for minority hiring practices. (Ord. 1819, Eff. 05/02/90)

a. All entities that receive funds through the Anti-Drug sales tax shall be monitored by the CRO for compliance with the twenty percent goal of minority hiring and employment.

i. This goal is intended for new hires.

b. The CRO shall monitor all invitations for bids and award of contracts in excess of ten thousand dollars (\$10,000) made with proceeds from the Anti-Drug Sales Tax to insure that bidders/contractors comply with the provisions of Chapter 6 relating to affirmative action plans as determined by §612 of Chapter 6. (Ord. 1819, Eff. 05/02/90)

627. Compliance Review Officer - Prevailing Wage.

In addition to other duties enumerated in this chapter, it shall be the duty of the Compliance Review Officer to monitor construction companies awarded County contracts to insure compliance with the State of Missouri's Prevailing Wage laws and any other State or Federal laws which may impact on a company's ability to bid competitively. (Ord. 1492, Eff. 12/16/86)

PREVAILING WAGE

628. Penalty for Violation of Prevailing Wage Statute.

Any County contractor found to be in violation of the Missouri statute providing for payment of the prevailing wage on public works contracts (290.210 RSMo, et seq.) shall pay a penalty to County over and above that which is provided for in the State statute, such penalties to be as follows:

Offense Number

Penalty

First offense

An amount equal to the amount of wages found to be owed to workers by the Missouri Department of Labor

and Industrial Relations.

Second offense

An amount three times the amount of wages found to be owed to workers by the Missouri Department of Labor and Industrial Relations.

Third and subsequent offenses

An amount five times the amount of wages found to be owed to workers by the Missouri Department of Labor and Industrial Relations.

(Ord. 1801, Eff. 02/05/90)

628.1 Separability.

The provisions of this ordinance are separable, and the invalidity of any phrase, clause or section of the ordinance shall not affect the validity or effectiveness of the remainder of the ordinance. (Ord. 1801, Eff. 02/05/90)

629. Assistant to the Compliance Review Officer.

There is hereby established a non-merit position of assistant to the Compliance Review Officer as a member of the staff of the Compliance Review Office. The assistant to the Compliance Review Officer shall be hired by the Compliance Review Officer. (Ord. 1493, Eff. 12/16/86; Ord. 1800, Eff. 02/05/90)

629.1 Salary.

The salary of the assistant to the Compliance Review Officer shall be not less than \$18,000 or more than \$25,000. (Ord. 1493, Eff. 12/16/86; Ord. 1621, Eff. 02/10/88; Ord. 1800, Eff. 02/05/90)

629.2 Duties.

The assistant to the Compliance Review Officer shall perform all duties as assigned by the Compliance Review Officer. (Ord. 1493, Eff. 12/16/86; Ord. 1800, Eff. 02/05/90)

AFFIRMATIVE ACTION PLAN

630. Affirmative Action Plan.

An acceptable affirmative action plan shall contain, but is not limited to the following elements. (Ord. 1068, Sec. 7.A, Eff. 8-2-83)

631. Policy Statement.

An affirmative action plan shall contain a policy statement embracing the goal of equal opportunity for employment, advancement, and continuation of employment among all

qualified persons regardless of their race, color, national origin, religion, age, sex or handicap, and expressing a commitment to affirmative action as a means to such goal. (Ord. 1068, Sec. 7.A(1), Eff. 8-2-83)

632. Written Delegation of Responsibility.

An affirmative action plan shall contain a written delegation of the ultimate responsibility for implementing and assuring compliance with the affirmative action plan by a top management officer of the bidder. (Ord. 1068, Sec. 7.A(), Eff. 8-2-83)

633. Annual Publication and Dissemination.

An affirmative action plan shall require an annual publication and dissemination of the equal employment opportunity policy and affirmative action plan to all employees, to all services or sources through or from which new or potential employees are obtained, recruited or referred, and to all other interested outsiders. (Ord. 1068, Sec. 7.A(3), Eff. 8-2-83)

634. Annual Census.

An affirmative action plan shall require an annual census for each job classification of those employees who fit within any or all of the following classes: female, handicapped, non-Caucasian, and between forty (40) and seventy (70) years of age. (Ord. 1068, Sec. 7.A(4), Eff. 8-2-83)

635. Annual Statement of Goals.

An affirmative action plan shall contain an annual written statement of the specific goals of the plan for the year and the procedures and timetables for obtaining those goals, all for the purpose of correcting or preventing a deficiency, in regard to each job classification, in the employment or utilization of persons falling within any or all of the classes specified in Section 634.00. (Ord. 1068, Sec. 7.A(5), Eff. 8-2-83)

636. Annual Review.

An affirmative action plan shall require a review, at least annually, of the equal employment opportunity policy and affirmative action plan obligations with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with all on-site supervisory personnel prior to the initiation of work at any job sites; a written record must be made and maintained to identify the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter. (Ord. 1068, Sec. 7.A(6), Eff. 8-2-83)

637. Advertising.

An affirmative action plan shall require an inclusion in all advertisements for employees of a notice to the fact that the company is an equal employment opportunity employer or an affirmative action employer. (Ord. 1068, Sec. 7.A(7), Eff. 8-2-83)

638. Collective Bargaining Agreement.

An affirmative action plan shall require consistency between any collective bargaining agreements and the affirmative action plan. (Ord. 1068, Sec. 7.A(8), Eff. 8-2-83)

639. Annual Written Report.

An affirmative action plan shall contain the top management officer of the bidder having ultimate responsibility for implementing and assuring compliance shall submit, at least annually, a written report stating the efforts of that officer and the efforts of his employer to implement past or current goals of the plan and the result thereof. (Ord. 1068, Sec. 7.A(9), Eff. 8-2-83)

REQUIREMENTS OF BIDDERS, CONTRACTORS AND SUBCONTRACTORS

640. Equal Opportunity, Contractors and Subcontractors.

No contractor or subcontractor shall deny equal opportunity for employment, advancement and continuation of employment to any qualified person because of the race, color, national origin, religion, age, sex or handicap of that person. (Ord. 1068, Sec. 3.A, Eff. 8-2-83)

641. Contracts in Excess of Ten Thousand Dollars, Affirmative Action Requirements.

The following rules govern contracts in excess of ten thousand dollars (\$10,000). (Ord. 1068, Sec. 3.B, Eff. 8-2-83; Ord. 1492, Eff. 12/16/86)

641.1 Subcontractors Used by Bidders.

Every contractor bidder on a contract in excess of ten thousand dollars (\$10,000) shall use only subcontractors which have adopted acceptable affirmative action plan and shall submit those affirmative action plans to the CRO. (Ord. 1068, Sec. 3.B, Eff. 8-2-83; Ord. 1492, Eff. 12/16/86)

641.2 Affirmative Action Plan of Contractor.

Every contractor bidding on a contract in excess of ten thousand dollars (\$10,000) shall submit to the CRO an acceptable affirmative action plan. (Ord. 1068, Sec. 3.B, Eff. 8-2-83; Ord. 1492, Eff. 12/16/86)

641.3 Additional Information.

Every bidder on any contract shall notify the CRO or the Purchasing Director, on request and by affidavit, of the number of its employees and the identity of each of its subcontractors or affiliates. (Ord. 1068, Sec. 3.C, Eff. 8-2-83)

642. Contracts in Excess of Ten Thousand Dollars.

Every contractor whose contracts, including the contracts of its affiliates exceed ten thousand dollars (\$10,000) in any calendar year shall submit to the CRO an acceptable affirmative action plan to remain eligible for further contracts during the calendar year. (Ord. 1068, Sec. 3.D, Eff. 8-2-83; Ord. 1492, Eff. 12/16/86)

643. Affirmative Action Plan, Failure to Implement.

In the event the CRO determines that a contractor has failed to implement an acceptable affirmative action plan as specified in Sections 630.00 through 639.00 the CRO shall notify the County Legislature, the Manager of the Division of Finance and the Purchasing Director

of that failure and those contractors will be ineligible to receive a county contract until a determination by the CRO that an acceptable affirmative action plan has been implemented. (Ord. 1068, Sec. 3.E, Eff. 8-2-83)

644. Contractors, Contracts let Under Ordinance 366, Section 3.190.

Every contractor which is a party to a contract let under Section 3.190 of Ordinance 366, or other sections in amendment thereto or in lieu thereof, shall accept, as part of that contract, the following provisions and shall comply with those provisions. (Ord. 1068, Sec. 3.F, Eff. 8-2-83)

644.1 Representations not Fraudulent, Contractor Warranty.

The contractor warrants that all of its representations to the CRO relative to the consideration by the CRO of the contractor for the award of this contract and/or its performance under this contract were true and free from fraud at the time when made. (Ord. 1068, Sec. 3.F(1), Eff. 8-2-83)

644.2 Not Discriminate.

The contractor shall not discriminate against any qualified person because of the race, color, national origin, religion, age, sex or handicap of that person in recruitment and recruitment advertising, employment, upgrading, promotion, demotion or transfer, lay-off or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training including apprenticeship. (Ord. 1068, Sec. 3.F(2), Eff. 8-2-83)

644.3 Inspection by CRO.

The contractor will permit, on reasonable notice and at reasonable times, the CRO to visit its premises, inspect and copy thereon its business records, survey its work forces and interview its employees, as may be necessary to verify compliance with this chapter and implementation of the affirmative action plan of the contractor. The contractor further agrees to furnish such further information that may be reasonably required of the contractor within ten (10) working days of the date it is requested in writing by the CRO. (Ord. 1068, Sec. 3.F(3), Eff. 8-2-83)

644.4 Subcontractors, Agreements with Contractors.

The contractor will require that all contracts between it and subcontractors shall contain the following provisions.

a. Not Discriminate.

The subcontractor shall not discriminate against any qualified person because of her or his race, color, national origin, religion, age, sex or handicap in recruitment and recruitment advertising, employment, upgrading, promotion, demotion or transfer, lay-off or termination, rates of pay or other forms of compensation, other terms of conditions of employment and selection for training including apprenticeship.

b. Inspection by CRO.

The subcontractor will permit, on reasonable notice and at reasonable times, the CRO to visit its premises, inspect and copy thereon its business records, survey its work forces and interview its employees, as may be necessary to verify compliance with this chapter and implementation of the affirmative action plan of the Subcontractor. The subcontractor further agrees to furnish such further information as may be reasonably required of it within ten (10) working days of the date it is requested in writing by the CRO. (Ord. 1068, Sec. 3.F(4), Eff. 8-2-83)

645. - 649. RESERVED

SANCTIONS

650. Ineligible for Contract.

No bidder or contractor is eligible for any contract as long as it has not complied with Sections 640.00 through 654.03. (Ord. 1068, Sec. 4.A, Eff. 8-2-83)

651. Contracts let Under Ordinance 366, Section 3.190.

No payment shall be made by the county under any contract let under Section 3.190 of Ordinance 366, or other section in amendment thereto or in lieu thereof, until the CRO has determined in writing that such bidder or contractor and its subcontractors have complied with Section 640.00 through 644.00. (Ord. 1068, Sec. 4.B, Eff. 8-2-83)

652. Effect of Ineligibility.

Every bidder or contractor whose contract is rescinded under Sections 644.00 through 644.03 shall be ineligible for any future contract until the cited deficiency has been corrected and the contractor has notified the CRO in writing of the correction. The eligibility of the contractor or bidder will be reinstated on determination by the CRO that, in fact, the deficiency in question has been remedied. (Ord. 1068, Sec. 4.C, Eff. 8-2-83)

653. Right to Appeal.

Any individual or entity who is aggrieved by any decision, finding or action of the CRO shall have the right to appeal that action within ten (10) working days after the receipt by the individual or entity of notice of adverse action. (Ord. 1068, Sec. 9.A, Eff. 8-2-83)

C/R: Chapter 77, Compliance Review Board of Appeal

654. Contractor Sanctions, Appeal Procedure.

Any aggrieved party may appeal to the Legislature or such committee as may be determined by the Legislature to hear such appeals in writing, within five (5) days of written receipt of the CRO's adverse decision. The Committee shall follow administrative procedures pursuant to Chapter 536 of the Revised Statutes of Missouri in ruling upon the appeal and shall render all decisions on appeal within two weeks after the mailing date of an adverse determination by the CRO. (Ord. 1068, Sec. 9.B, Eff. 8-2-83)

655. Retention of Authority by County Legislature.

The County Legislature retains the authority to make all final decisions of the awarding of any county contract within its jurisdiction. (Ord. 1068, Sec. 10, Eff. 8-2-83)

656. - 657. RESERVED

DEBARMENT OF BIDDERS FOR PUBLIC WORKS CONTRACTS

658. Debarment of Bidders for Public Works Contracts.

No contract in the amount of \$10,000.00 or more for the construction of County improvements of whatsoever kind or character or for the doing of any public work shall be let to any bidder which is itself debarred from the award of County contracts as hereinafter set out or is managed, controlled or more than 50% owned by a person or an entity so debarred. A contractor which is itself debarred or is managed, controlled or more than 50% owned by a person or an entity that is debarred shall not act as a subcontractor on any such County contract, if the amount of the subcontract is \$10,000.00 or more. (Ord. 1801, Eff. 02/05/90)

658.1 Standard for Debarment.

In the event that any contractor or subcontractor on a County contract for the construction of improvements or the doing of any public work is determined, as hereinafter set out, to be wilfully and without good cause violating the requirements of the contract in any of the ways listed below, then such contractor and its chief operating officer and any owner or part owner who participated in the management of the company at the time of the violation shall be debarred from participating, either as a contractor or subcontractor, in other such County contracts for a period of one year for the first offense, three years for the second offense and five years for any subsequent offense, except that in the case of extenuating circumstances which are set out in writing in detail by the Review Committee, such periods may be reduced by not more than one-half:

- a. Incorporating materials into the work which are not in accordance with the specification.
- b. Doing work on the contract without the insurance required by the contract being in force.
- c. Failing to complete the contract work.
- d. Failing to show good faith in attempting to meet County's MBE/WBE requirements.
- e. Failing to enter into a contract after having been awarded the contract.
- f. Failing to obtain required permits.

- g. Failing to comply with County's requirements relating to equal opportunity in employment.
- h. Disposing of waste in a location which has not been approved as provided in the contract.
- i. Failing to obtain all permits and observe all required safety precautions in connection with the handling, storage and use of explosives.
- j. Concealing work from inspectors.
- k. Falsifying test results.
- l. Failing to repair property which was damaged in the course of doing the work.
- m. Failing to pay suppliers.
- n. Failing to pay any County tax.
- o. Failing to pay the wage rates prescribed in the contract.
- p. Failing to include provisions in subcontracts which are required to be included under the contract terms.
- q. Permitting a subcontractor to do any of the things listed herein or failing to take reasonable measures to assure that subcontractors do not do the things listed herein.
- r. Failing to comply with the contract requirements in any other manner which is deemed to be so serious and compelling as to justify debarment. (Ord. 1801, Eff. 02/05/90)

658.2 Procedure for Debarment.

Action to debar a contractor may be initiated by any department head and shall proceed as follows:

a. Initiation of proceeding.

The proceeding may be initiated by any department head who shall issue a written notice of the proposed debarment to the contractor and to the chairman of the Review Committee. The notice shall include a statement of the reasons for the proposed debarment, the date of mailing and the date, time, and place of a hearing on the matter. If the contractor cannot be located for purposes of delivery of the notice, the proceeding shall be held in

abeyance until notice can be given.

b. Notice.

Any notice required by the proceeding and any other notice to the contractor shall be sent postage prepaid by certified U.S. mail to the contractor at its last known address or at its registered office, if it is a corporation.

c. Hearing panel.

The hearing panel shall consist of the director of the initiating department, the Manager of the Division of Administration and the Manager of the Division of Finance. The County Executive shall appoint one of the three above listed persons as the chairman of the Review Committee.

d. Conduct of hearing.

The hearing shall be held in accordance with the procedures to be established by the chairman of the Review Committee. Unless a delay is requested by the contractor, the hearing shall be no more than thirty (30) days after notice is received by the contractor.

e. Decision.

Within sixty (60) days after the hearing, the panel shall issue its decision in writing stating whether the contractor is debarred from contracting with County and, if so, for what period of time.

f. Notice of decision.

The contractor shall be given prompt notice of the decision of the hearing panel; and a copy of such decision shall be promptly mailed or otherwise furnished to the contractor.

g. Finality of decision.

The decision of the hearing panel shall be final and conclusive unless the contractor, within thirty (30) days after issuance of the decision, commences a timely action for review in a court of competent jurisdiction in accordance with applicable law.

(Ord. 1801, Eff. 02/05/90)