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Chapter 26. CONTRACTS

[HISTORY: Adopted by the Common Council of the City of Middletown as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Financial procedures — See Ch. [44](#).
Purchasing — See Ch. [78](#).

Article I. Equal Opportunity in Employment

[Adopted 4-7-1980; amended 3-1-1993]

§ 26-1. Contract provisions required.

Every contract made by or on behalf of the City of Middletown for the construction, lease, alteration or repair of any public building or public work, or for the purchase, manufacture, sale or distribution of materials, equipment or supplies, shall contain provisions providing for equal opportunity in employment.

§ 26-2. Enforcement officer.

The Human Relations Director, who is the City's Affirmative Action Officer, shall have the authority to enforce this article.

§ 26-3. Provisions to be included.

[Amended 2-3-2003]

- A. Every contract for the construction, alteration or repair of any public building or public work shall contain the following provisions approved by the Human Relations Director:

The contractor agrees and warrants that in the performance of this contract he will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, political belief, Vietnam Era Veteran status, union membership, genetic history, criminal record (unless the provisions of § 46a-60, 46a-80(b) or 46a-81 of the Connecticut General Statutes are controlling or there is a bona fide occupational qualification excluding persons in one of the protected groups), present or past history of mental or physical disability, or sexual orientation in any manner prohibited by the laws of the United States or of the State of Connecticut or the City of Middletown in any manner prohibited by the laws of the United States, the State of Connecticut, or the City of Middletown. The contractor also agrees to provide the Affirmative Action Officer of the City of Middletown with such information that may be requested concerning the employment practices and procedures of the contractor as related to the provisions of this section.

- B. The aforesaid provision shall include, but not be limited to, the following: advertising, recruitment, layoff, termination, rates of pay or other forms of compensation, and conditions or privileges of employment selection for apprenticeship, selection or retention of subcontractors, or in the procurement of materials, equipment or services.

§ 26-4. Notices to be posted on project site.

The contractor shall hereinafter post on the project site, in conspicuous places available for employees and applicants for employment, notices setting forth its nondiscrimination requirements.

§ 26-5. Subcontractors and suppliers.

In all pre-contractual contracts between the contractor and any subcontractor or supplier either for work to be performed under a subcontract or for the procurement of materials, equipment or services, each subcontractor or supplier shall be notified in writing by the contractor of the contractor's obligations under this contract relative to nondiscrimination, and each subcontractor or supplier, by his contracting agent, shall agree to and be bound by the terms of this contract.

§ 26-6. Effect on other laws.

Nothing contained herein is intended to relieve any contractor from compliance with all applicable federal, state and municipal legislation or provisions concerning equal employment opportunity, affirmative action, nondiscrimination and related subjects during the term of its contract on this project.

Article II. Tradesworkers and Laborers

[Adopted 3-1-1982]

§ 26-7. Provisions to be incorporated.

[Amended 2-3-2003; 9-4-2007 by Ord. No. 23-07] All contracts entered into between the City of Middletown and contractors which utilize tradesworkers or laborers by the contractor in the performance of the contract shall incorporate the following provisions:

- A. The contractor shall hire residents of the City of Middletown to perform the necessary labor.
- B. In the event the contractor is restricted by labor contracts, or the required specific skills are not available in the City of Middletown, the contractor may hire tradesworkers and laborers who reside outside the City, provided that prior to commencement of performance the contractor submits its reasons for such action in writing, along with supporting documents, to the City. Such documents may consist of, but are not limited to, labor contracts; lists of names and addresses of tradesworkers, laborers or labor representatives contacted in the City of Middletown; and lists of required skilled labor positions for which personnel were not available in the City of Middletown. The contractor shall submit such relevant documents and other relevant information as may be requested by the City to determine compliance with this article. If the Common Council, after review and report by City staff and the Contract Compliance Committee, determines that the contractor has failed to comply with this article, it may require corrective action to be taken by the contractor to effect compliance or may terminate the contract. If the corrective action required is not done by the contractor, the Council may terminate the contract. If the Council terminates the contract, such termination shall be without any liability of the City of Middletown to the contractor, its subcontractors or any other party.
- C. Prior to commencement of performance, and at any time after commencement of performance of the contract by the contractor, the Purchasing Agent may require submission of relevant documents and other relevant information related to the employment of tradeworkers and laborers in performance of any specific contract with the City. The contractor shall respond promptly to all inquiries and requests for information and documents made by the City.
- D. Prior to commencement of performance of the contract, the contractor shall forward to the department overseeing the contract a written statement which indicates the name of each worker scheduled to perform work for the contractor on the contract, the worker's city of residence and occupational title. The same shall be provided for all subcontractors working on the contract. The department shall forward copies of such statements to the Purchasing Agent, upon receipt. The contractor shall provide written amendments to these statements in order to provide advance notice to the City of the scheduled employment of other workers the contractor chooses to perform work on the contract. These amendments shall be on file with the City before such other workers report to work. The department overseeing the project and the office of the Purchasing Agent shall keep separate files of each construction project.
- E. The contractor shall forward to the department overseeing the contract biweekly payroll records which cover the preceding biweekly contract period, which shall be on forms approved in advance by the City. Copies of these reports shall be forwarded by the City department overseeing the project to the Purchasing Agent, upon receipt.
- F. A copy of this article shall be included and be part of the bid and contract documents. Reference to the page number of this article shall be made in the index or table of contents of the bid and contract documents.
- G. All tradesworkers and laborers hired to perform work under contracts that meet the total cost of construction amounts set out in Connecticut General Statutes § 31-53, as amended, shall be paid at the prevailing rates for the same work in the same trade in the City and shall receive the fringe benefits normally offered at that time for the particular trade. "Prevailing rates" as used herein shall mean the latest rates published by the Connecticut Labor Department unless otherwise required to qualify for a federal grant pertaining to the contract.

§ 26-8. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CONTRACTOR

Includes the general or prime contractor and all subcontractors performing work under the contractor. The prime or general contractor shall be responsible for the compliance of the subcontractors.

TRADESMEN and LABORERS

The employees employed by the contractor in positions for which prevailing rates are published by the Connecticut Labor Department. Local tradesmen and laborers shall not include workers temporarily residing in the City during the term of a contract.

§ 26-9. Inspections and enforcement.

- A. The department overseeing the contract shall conduct biweekly on-site inspections in order to verify the accuracy of written reports and statements and to assure that the intent of this article is met.
- B. The director of the City department overseeing the project shall notify the Purchasing Agent in writing as to the correctness of written records furnished by the contractors.
- C. The Purchasing Agent shall inform the Contract Compliance Committee whether or not each contractor has forwarded the required written records to the City, hired local laborers and tradesmen to perform the necessary work, and paid the prevailing wages and provided the prevailing fringe benefits to employees.

§ 26-10. Contract Compliance Committee.

- A. There shall be a committee known as the "Contract Compliance Committee." The Committee shall consist of three electors of the City who shall be appointed by the Mayor with the consent of the Common Council. Two of the Committee members shall be Common Council members not of the same political party who shall serve during their term of office, one of whom shall be designated Chairman by the Mayor. The third Committee member shall be a member of an organized trade labor group who shall serve a two-year term commencing on the date of appointment.
- B. If the Committee determines that a contractor is not in compliance, it shall make a report of its findings to the Mayor and Common Council with its recommendations as to whether corrective action should be required of the contractor or whether the contractor should be terminated.
- C. The Purchasing Agent shall provide staff assistance to the Committee.

Article III. Adequate Delivery of Service

[Adopted 4-1-1991]

§ 26-11. Provisions to be incorporated.

All service contracts entered into for the benefit of the citizens of Middletown between the City of Middletown and contractors shall incorporate the following provisions:

- A. A description of the services provided under the contract.
- B. The name, address, and proof of agreement between a second agency which could step in at a moment's notice should the contracting agency not be able to fulfill its designated service.
- C. The contracted agency will be held responsible both financially and administratively with respect to the provision of backup services in the event the agency could not fulfill its contract obligations for Middletown citizens in accordance with the contract with the City.

- D. A twenty-day advance notification period is required of each agency to inform the City of an expected interruption of services per its contract.

Article IV. Apprentices

[Adopted 12-7-1998]

§ 26-12. Provisions to be incorporated.

All contracts entered into between the City of Middletown and contractors which utilize apprenticeable trades or occupations by the contractor in the performance of the contract shall incorporate the following provisions: The contractor shall be affiliated with a state-certified apprenticeship program for each apprenticeable trade or occupation represented in its work force that is not otherwise governed by applicable state statutes and regulations.

§ 26-13. Exception.

In the event the contractor is restricted by labor contracts, the contractor may not have to comply with the provisions of § [26-12](#), provided that prior to commencement of performance the contractor submits its reasons for such action in writing along with supporting documents to the City. Such documents may consist of, but are not limited to, labor contracts.

§ 26-14. Enforcement.

The contractor shall submit such relevant documents and other relevant information as may be requested by the City to determine compliance with this article. If the Common Council, after review and report by City staff and the Contract Compliance Committee, determines that the contractor has failed to comply with this article, it may require corrective action to be taken by the contractor to effect compliance or may terminate the contract. If the corrective action required is not done by the contractor, the Council may terminate the contract. If the Council terminates the contract, such termination shall be without any liability of the City of Middletown to the contractor, its subcontractors or any other party.

Article V. Fair Classification of Tradesmen and Laborers

[Adopted 9-7-1999]

§ 26-15. Compliance with state and federal laws required.

All contractors entering into contracts with the City of Middletown for the construction, alteration or repair of any public building or public work shall comply with all applicable state and federal laws governing fair treatment of employees, including but not limited to unemployment compensation and workers' compensation. All contractors entering into contracts with the City of Middletown for the construction, alteration or repair of any public building or public work shall comply with all applicable state and federal laws governing fair treatment of independent contractors, including but not limited to payment of the relevant prevailing wage rates.

§ 26-16. Determination of status as employee.

For purposes of this article, any person who meets nine or more of the following criteria shall be considered an employee:

- A. The person is required to comply with company instructions about when, where, and how work is done.
- B. The person has been trained by the company.
- C. The person is integrated into the company's general business operations.
- D. The person must render services personally.
- E. The person uses assistants provided by the company.

- F. The person has a continuing relationship with the company.
- G. The person is required to work a set number of hours.
- H. The person must devote substantially full-time work to the company.
- I. The person works at the company's premises or job site.
- J. The person must perform work in a preset sequence.
- K. The person must submit regular progress reports.
- L. The person is paid by the hour, week, or month; payroll deductions include federal and/or state income taxes, FICA insurance.
- M. The person is reimbursed for all business and travel expenses.
- N. The person uses company tools and materials.
- O. The person has no significant investment in the facilities that are used.
- P. The person has no risk of loss.
- Q. The person works for only one company.
- R. The person does not offer services to the public.
- S. The person can be discharged by the company.
- T. The person can terminate the relationship without incurring liability.

§ 26-17. Enforcement.

Enforcement of this article shall be monitored by the building committee or the director of the City department or agency for which the construction is being done. If the construction, alteration or repair is being overseen by a building committee, the building committee shall monitor compliance with this article. Nothing in this section shall be construed to prevent the Public Works Department, the Contract Compliance Committee, the Purchasing Department or the Common Council from conducting independent investigations and/or initiating enforcement through appropriate channels.

§ 26-18. Applicability.

This article shall only be applicable to contracts signed on or after the date of its passage.

§ 26-19. Notice of status.

Any contractor utilizing the services of tradesmen or laborers who are not classified as employees under this article shall provide written notice to said tradesmen or laborers of their status. Said notice shall include a provision advising the tradesman or laborer that he or she is not eligible for workers' compensation, health insurance, or unemployment compensation from the contractor.

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