

- (g) Enforcement. The Department of Affirmative Action may review contractors' compliance with affirmative action plans, contract provisions and provisions of this ordinance at any time up to one (1) year after the expiration of the contract. A contractor is in compliance with this ordinance when it adheres to the provisions of this ordinance, its contract, and its affirmative action plan.
- The Department of Affirmative Action shall review the compliance status of each contractor at least once every two (2) years and shall use the following compliance review procedure:
1. The Affirmative Action Division Head or designee shall give each contractor at least five (5) days written notice of the commencement of a compliance review, and shall examine the contractor's affirmative action plan and supporting documents, as well as other documents and records furnished by the contractor under Sec. 39.02(9)(f).
 2. The Affirmative Action Division Head or designee may schedule an on-site review, as provided in Sec. 39.02(9)(f)2., by notifying the contractor in writing no less than ten (10) days in advance.
 3. After a compliance review, the Affirmative Action Division Head shall provide the contractor with a written compliance report, which shall either state that the contractor is in compliance, or if the contractor is found not to be in compliance, the report shall list specifically the facts on which such finding is based, and what remedial actions should be taken by the contractor in order to achieve compliance.
The Division of Affirmative Action shall provide technical assistance where feasible and appropriate to assist the contractor in achieving compliance.
 4. Within thirty (30) days after receipt of a report of noncompliance, or such longer period as the Affirmative Action Division Head may permit in writing, the contractor shall submit an amended affirmative action plan, specifying and agreeing to take such remedial actions as will achieve compliance.
 5. If the contractor fails or refuses to submit such an amended affirmative action plan, or refuses to comply with the provisions thereof, the Affirmative Action Division Head, after consultation with the City Attorney and the City department or division responsible for the administration of the contract, shall send the contractor by certified mail a Demand to Cure Default. The Demand shall specify the factual basis for the finding of noncompliance and what remedial actions are demanded.
The Demand shall also set a date certain by which the contractor must either offer to comply or request a hearing. An offer to comply shall consist of a proposed amended affirmative action plan, specifying and agreeing to take such remedial actions as will achieve compliance. If the Affirmative Action Division Head approves the proposed amended affirmative action plan, the contractor's default is cured. If the proposed amended affirmative action plan is not approved, the Affirmative Action Division Head shall specify in writing the reasons for disapproval.
 6. If the contractor requests a hearing, the Affirmative Action Commission shall schedule a hearing within five (5) working days after receiving the request. The initial date of the hearing shall be not more than fifteen (15) working days after the request is filed with the Affirmative Action Division Head.

7. At the hearing, the Affirmative Action Division Head shall have the burden to persuade the Affirmative Action Commission of the facts supporting his/her findings. Each party shall have the right to appear in person and by counsel, to call and examine all witnesses, and to introduce exhibits. The Affirmative Action Commission shall have the power to compel by subpoena the attendance of and examine under oath or affirmation, persons, whether as parties or as witnesses, and to compel by subpoena duces tecum the production before it of books, records, papers or other evidence which may relate to the subject matter of the hearing. In the admission of evidence, the Affirmative Action Commission shall abide by the provisions of Sec. 227.45, Wis. Stats. The Commission shall make written findings of fact and conclusions of law on the following issues:
 - a. Whether the finding of noncompliance should be sustained.
 - b. If the finding of noncompliance is sustained, the Affirmative Action Commission shall decide whether the contract should be cancelled, terminated, or suspended, in whole or in part; whether the contractor should be found ineligible for further City contracts, and if so, what measures taken by the contractor will restore such eligibility; and whether liquidated damages should be sought under the provisions of the contract. The Commission may decide to allow the contractor additional time in which to take the necessary remedial action.
8. The Affirmative Action Commission shall provide written findings and conclusions and a written order within thirty (30) days after the conclusion of the hearing and shall serve copies thereof upon the contractor by certified mail. The Commission's findings and conclusions shall constitute final administrative determinations and shall be subject to review in court as by law may be provided.
9. If the Affirmative Action Commission orders the contract to be cancelled, terminated or suspended, the receipt by the contractor of such order shall constitute a written notice of termination under the termination procedures provided in the contract.
10. If the Commission orders that a contractor shall be ineligible for further City contracts, no bids or proposals of the contractor may be opened or considered, or contracts entered into, until the Affirmative Action Division Head certifies that the contractor has taken the measures specified by the Commission to restore eligibility, or until the expiration of two (2) years from the date of the order, whichever is sooner.
11. If the Affirmative Action Commission, after consultation with the City Attorney, determines that liquidated damages should be sought, the City Attorney shall institute court action to recover such damages.
12. If the contractor fails to comply with the Demand to Cure Default and fails to request a hearing, the contract shall be terminated. In addition, the Affirmative Action Division Head may request the Affirmative Action Commission to order additional remedies. Such a hearing shall be held according to the procedures in Section 39.02(9)(g)7.-12. above.

(Sec. 3.23(9)(g) Am. by ORD-06-00078, 6-30-06)