

DR 73-4 City of Wichita Affirma-
tive Action Program

ACTION

| COMMITTEE | DATE |
|------------------|-----------------|
| M.A.P.C. | <i>Approved</i> |
| B.C.C./B. CO. C. | |

2/8/73

February 16, 1973

Ralph Wulz, City Manager

Jack H. Galbraith, Chief Planner

DR 73-4 - City of Wichita Affirmative
Action Program Policy and Procedure Manual

This is to advise that the Planning Commission, at its regular meeting on February 8, 1973, considered the above-captioned Manual and Bob Lakin's memo to you dated February 1, 1973.

Relative to the housing element as discussed in Bob's memo, paragraphs 2, 3, 4 and 5, the Planning Commission concurred with these comments and agreed that, rather than amend the Subdivision Regulations, demonstration of affirmative action should be at the building permit stage.

The Planning Commission only briefly discussed this item and their motion was to unanimously concur with the comments of the Director of Planning's memo dated February 1, 1973.

Please call if you have any questions concerning this matter.

JHG:ber

cc: Grover McKee, Director of Community Development
William E. Knox, Human Resources Coordinator

WICHITA-SEDGWICK COUNTY

RE: AGENDA ITEM NO. 9

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 1, 1973

TO Wichita-Sedgwick County Metropolitan
Area Planning Commission

FROM Robert A. Lakin, Director of Planning *RA*

SUBJECT Affirmative Action Program

The Board of City Commissioners has requested and received the attached Affirmative Action Program for possible adoption.

In it are provisions relating to the MAPD and MAPC. Although I can agree with the general thrust, specific provisions applicable to planning are misdirected in achieving the housing element.

Please review my letter to Wulz for more specific comments. Between now and the 8th, we will try to have specific language changes available.

The Board of City Commissioners and City Manager have requested all Departments and Commissions to provide comment and input to this document so it can be returned to the Board of City Commissioners with recommendations prior to adoption.

RAL:ber

Attachment

*Chris Freeding
Comments Developed Dept*

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 1, 1973

TO Ralph Wulz, City Manager

FROM Robert A. Lakin, Director of Planning *ROL*

SUBJECT Affirmative Action Program

After discussing this matter with Mr. McKee, I have some observations, together with some specific recommendations for language changes to the draft of the Affirmative Action Program.

Page 18

The application of the program as set forth in Paragraph 2 of Section II, provides that "all other business transactions and all housing activities including, etc." and "in all transactions" in which the City of Wichita is a party shall have the Affirmative Action Program applied to it. The word "transaction" to me seems to be quite broad and, although there may be a legal distinction which Mr. Dekker may draw, transactions, I would think, could be construed to include many of the general acts of business in which the City involves itself in its regular Commission meetings. Included in this would be the granting of zoning, parties to the vacation of streets and easements, granting of cereal malt beverage licenses, approval of private club licenses, granting of minor street privilege permits, etc. If this is intended, it seems to me that the administrative programs to carry this out are inadequate.

Page 30

In the sections of responsibility for administration, the Metropolitan Area Planning Department and the Planning Commission are cited for responsibilities which I assume to be related to the fair housing element. Some observations about this section. If the thought for including the Planning Department and Commission is that it is independent of the City Manager's control, such as the Urban Renewal Agency and others cited, this premise is incorrect. I would think that the duties and responsibilities for the Department would be the same as those falling generally under the charge to Department and Division Heads. I see no problem, however, if the first sentence in Paragraph R. on page 30 is retained. I would note, however, that the responsibility for administering the fair housing element is assigned in Paragraph H. to the Human Resources Development Coordinator, together with such additional requirements that are made under Paragraph O. to the Wichita Fair Housing Board.

The language in the second sentence of Paragraph R. relating to contracting and suppliers, would appear to me to be inappropriate as related to subdivisions. In most instances, plats are approved for individuals who are the sellers of land and are often not the ones who put the land into development. There is also a time element involved in that sometimes land is platted and left undeveloped for many, many years and then transferred to some other ownership. If any language requirements are made related to subdivisions, it should be for subdivisions excluding those for commercial, industrial and public purposes. Even here, however, sometimes we get fooled in that residential units are often times built in light commercial or "C" zoning. Many times it isn't possible on a single large lot plat to determine specifically what the uses will be. If some language is needed in this paragraph concerning public improvements which are required as a part of the process of subdivision approval, then it could be stated that the Wichita-Sedgwick County MAPD will develop proposed amendments to the Subdivision Regulations which would require any platlor of land installing improvements himself to have an affirmative action program with regard to purchasing and personnel policies.

Amend
Sub Regs

In discussing with Mr. McKee the intent of administrative responsibility, it was suggested that in the approval of the plats the MAPC could make requirements, such as by restrictive covenant, or other devices, to require any developer or future developer, to follow the affirmative action programs. Because these become tied with title chains and financing, I can see some significant problems developing, particularly if such a restriction were filed and the land not developed and the policies of the City change in some future time frame. There would be a lot of litigation involving quiet title actions, etc., which could, indeed, hurt the housing market and produce situations akin to that in Orienta Park 2nd Addition. A more positive approach, in my judgment, would be to require that anyone obtaining building permits in the City of Wichita for development of residential units, shall have demonstrated that they have complied with the Affirmative Action Program of the City concerning fair housing. This could include a showing of marketing plans, etc. I would suppose that a number of alternates are available for handling this, such as each person applying for permits to receive a certification from the Human Resources Development Coordinator (named responsible in Paragraph H.) or providing a license or certification to such firms generally who have qualified. This catches the development on the spot as it is ready to go and is not something tied in a restrictive covenant which is only enforced in the event somebody decides to litigate the issue. In my opinion, such a certification or licensing provision would be a much more direct and efficient, plus effective, way of bringing the affirmative action programs to bear on the housing market.

#

Page 3 - Metropolitan Planning Commission
February 1, 1973

If, indeed, the affirmative action program is intended to open up the housing market to the disadvantaged and poor and others who may be discriminated against, it would seem to me that general City ordinances could be developed which would simply require anyone proposing to sell property for occupancy for residential purposes to accomplish certain things. These requirements could be developed by the Human Resources Development Coordinator, and I assume would include being advertised in papers of general circulation, newspapers of special circulation, statements in the advertisement concerning equal opportunity, etc. If this comes to pass, I think it should be applicable to all forms of housing, including those for sale or rental on a commercial basis and those on an individual sales basis with or without the utilization of a realtor.

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If consideration is given to the foregoing, I would suggest that on Page 37, under B.1, the language be changed to provide that "copies of the City policies concerning sale or construction of housing be developed by the Human Resources Development Coordinator and provided to all constructors, realtors and financing institutions within Sedgwick County."

Because of the nature of the Metropolitan Area Planning Commission and the Planning Department as a joint City-County Board, I would suggest that any action that requires Planning Commission approval, such as amending the Subdivision Regulations, be recognized as also requiring the action and approval by the Board of County Commissioners before it could be placed into full force and effect.

The next meeting of the Planning Commission will be on February 8. I will furnish them a draft copy of the Affirmative Action Program, together with these comments which I have directed to you. I would appreciate very much if one of McKee's staff members could be at our Planning Commission meeting to answer any questions they might have concerning the Affirmative Action Program.

RAL:ber

cc: Grover McKee, Director of Community Development
William E. Knox, Human Resources Coordinator

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 16, 1973

TO All Department and Division Heads
All Advisory Boards and Commissions

FROM Ralph Wulz, City Manager


SUBJECT Affirmative Action Program
Policy and Procedure Manual

Attached is a draft of a proposed Affirmative Action Program Policy and Procedure Manual for the City of Wichita currently under consideration by the City Commission.

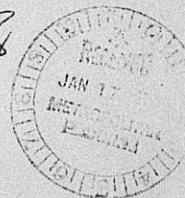
The document was reviewed, received and filed by the City Commission at its January 9, 1973 meeting at which time the Commissioners directed a review of the program by the various administrative and advisory boards as well as the City of Wichita departments and divisions. The City Commissioners indicated a specific interest in a written commentary as to the inclusiveness of the Affirmative Action Program in regard to the various federal and state statutes and executive orders and municipal ordinances. Recommendations as to any suggested changes in the statement of goal and objectives are requested.

Please review the document and furnish this office with your written commentary.

In addition to directing your comments to the considerations raised by the City Commission, your ideas on any way in which the manual can be improved and strengthened, along with the language proposed to strengthen the manual, are requested by February 1, 1973.


Ralph Wulz
City Manager

RW:jh
Attachment



DRAFT - SUBJECT TO REVISION

AFFIRMATIVE

ACTION

PROGRAM

POLICY AND PROCEDURE

MANUAL

City of Wichita, Kansas

January, 1973

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SECTION I

The City of Wichita's Affirmative Action Program

1. Statement of Policy and Goals

It is the policy of the City of Wichita to provide equal opportunities for all Wichita citizens in whatever lawful endeavors the individual citizen desires to pursue, regardless of the citizen's race, religion, color, sex, national origin, or ancestry. Moreover, it is the policy and goal of the City of Wichita to take affirmative steps to encourage the participation of all citizens in the benefits of the community's physical assets as well as its social and economic programs such that participation in professional activities, employment activities, commercial activities, business activities, entrepreneurial endeavors, tangible and intangible real and personal property ownership, educational activities and social activities in Wichita shall be proportionate to the makeup of the adult population of the City of Wichita as to race, creed, color, sex, national origin, and/or ancestry.

2. Policy Application - All Persons and Employers

It is the policy of the City of Wichita to concern itself that all persons and employers in the community conduct their affairs for the benefit of all citizens, regardless of the citizen's race, creed, color, sex, national origin, and/or ancestry. Moreover, it is the goal of the City of Wichita to take affirmative steps to insure that certain employment, economic and housing opportunities are available to the citizens of Wichita in a manner proportionate to the composition of the adult population of the City of Wichita as to race, creed, color, sex, national origin and/or ancestry. The United States of America, the State of Kansas, and the City of Wichita have heretofore enacted certain laws which are general in application, and which, as a whole, provide the legal basis for such policies and goals for the community-at-large.

3. Legal Basis for the Program

A. Federal Law

The Laws of the United States of America* provide, among other things, that it shall be unlawful. . . . :

*The Civil Rights Act of 1964, as amended. The City of Wichita is defined as a "person" and an "employer" under the Act.

1. For any person, on the grounds of race, color, or national origin to be excluded from participation, be denied the benefits of, or to be subjected to discrimination under any program or activity receiving Federal assistance.
2. For any employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.
3. For any employer to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.
4. For any employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.
5. For any labor organization to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin; to limit, segregate, or classify its membership, or to classify or fail to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section.
6. For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

In addition, Executive Order No. 11246, titled Equal Employment Opportunity, states that:

PART I - Nondiscrimination in
Government Employment

SECTION 101. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color, or national origin, and to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency. The policy of equal opportunity applies to every aspect of Federal employment policy and practice.

PART II - Nondiscrimination in Employment
by Government Contractors and
Subcontractors

Subpart B - Contractors' Agreements

SECTION 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. "

SECTION 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or

an agency referring workers of providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, creed, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the Order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.

SECTION 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial suppliers or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: Provided, That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: And provided further, That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies

SECTION 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor.

in discharging their primary responsibility for securing compliance with the terms of this Order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

SECTION 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

SECTION 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

SECTION 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or

recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D - Sanctions and Penalties

SECTION 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

- (1) Publish, or cause to be published, the names of contractors or unions which it has concluded have compiled or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.
- (2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.
- (3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.
- (4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.
- (5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the non-discrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.
- (6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a) (2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a) (5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

SECTION 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

SECTION 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

SECTION 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209 (a) (6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

Subpart E - Certificates of Merit

SECTION 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SECTION 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SECTION 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III - Nondiscrimination Provisions in
Federally Assisted Construction
Contracts

SECTION 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 203 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SECTION 302. (a) "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program

participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SECTION 303. (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

SECTION 304. Any executive department or agency which imposes by rule, regulation, or order requirements of non-discrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That action to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

The Civil Rights Act of 1968 states that it shall be unlawful. . . :

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, or national origin.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because race, color, religion, or national origin.
3. To make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.
4. To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.
6. For any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

B. State Laws

The General Statutes of Kansas* provide, among other things, that it shall be unlawful. . . . :

1. For an employer, because of race, religion, color, sex, national origin or ancestry of any person to refuse to hire or employ, or to bar or to discharge from employment such person or to otherwise discriminate against such person in compensation or in terms, conditions, or privileges of employment; or to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business motive.
2. For a labor organization, because of the race, religion, color, sex, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.
3. For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of his race, religion, color, sex, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, an limitation, specification or discrimination as to race, religion, color, sex, national origin or ancestry.
4. For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, national origin or ancestry, in admission, hiring assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.
5. For any person being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny, or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this act because of race, religion, color, sex, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

*Chapter 44, Article 10, Kansas Statutes Annotated, as amended.

6. For any person, as defined herein, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (K.S.A. 44-1009; L. 1965, ch. 323, sec. 6; L. 1970, ch. 192, sec. 5; L. 1972, ch. 194; July 1)
7. For any person to refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or to refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, color, sex, national origin or ancestry.
8. For any person to discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, national origin or ancestry.
9. For any person to make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
10. For any person to represent to any person because of race, religion, color, sex, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is in fact so available.
11. For any person for profit to induct or attempt to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin or ancestry.
12. For any person to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting real property, or to discriminate against him in the terms of conditions of such access, membership or participation, because of race, religion, color, sex, national origin or ancestry.

13. For any person to discriminate against any person in his use or occupancy of real property because of the race, religion, color, sex, national origin or ancestry of the people with whom such person associates. (L. 1970, ch. 193, sec. 2; L. 1972, ch. 194; July 1)
14. For any person to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining real property because of the race, religion, color, sex, national origin or ancestry of: (1) Such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants, or occupants of the real property in relation to which such loan or other financial assistance is to be made or given.
15. For any person to discriminate against any person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, religion, color, sex, national origin or ancestry of: (1) Such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given; or
16. For any person to use a form of application for financial assistance, or to make any inquiry, or make or keep any record in connection with any such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification or discrimination because of race, religion, color, sex, national origin or ancestry. (L. 1970, ch. 193, sec. 3; L. 1972, ch. 194; July 1)
17. Every contract for or on behalf of the state or any county or municipality or other political subdivision of the state, or any agency of or authority created by any of the foregoing, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees to incorporate into his operations the provisions of equal opportunity and affirmative action. (K. S. A. 44.1030)

C. City of Wichita Laws

The Ordinances of the City of Wichita* provide, among other things, that it shall be unlawful for any person. . . .:

1. To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or to refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, sex, color, national origin or ancestry.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, sex, color, national origin or ancestry.
3. To make, print, publish, disseminate or use, cause to be made, printed, published, disseminated, or used, any notice statement advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, sex, color, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
4. To represent to any person because of race, religion, sex, color, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is, in fact, so available.
5. To induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, sex, color, national origin or ancestry.
6. To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or any other service, organization or facility relating to the business of selling or renting real property, or to discriminate against him in terms or conditions of such access, membership or participation because of race, religion, sex, color, national origin or ancestry.
7. To discriminate against any person in his use or occupancy of real property because of the race, religion, sex, color, national origin or ancestry of the people with whom such person associates.
8. To make any representation to any prospective purchaser that any block, neighborhood or area has, will, or might undergo a change

* Ordinance No. 31 - 722.

with respect to the religious, racial, sexual, or nationality composition of the block, neighborhood or area for the purpose of discouraging the purchase of a housing accommodation in a particular area.

9. To engage in, or hire or conspire with others to commit acts or activities of any nature, the purpose of which is to harrass, degrade, embarrass or cause economic loss:
 - (a) To a person who shall offer to provide housing accommodations, facilities, or services to any person regardless of race, color, religion, sex, national origin or ancestry of the person; or,
 - (b) To a person because such person has provided housing accommodations, facilities or services to a person of a particular race, color, religion, sex, national origin or ancestry.
10. To engage in any reprisal against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under the terms of this ordinance.
11. To aid, abet, incite, compel, or coerce, any person to engage in any of the discriminatory practices defined by this ordinance.

The Ordinances of the City of Wichita provide further that it shall be unlawful for any bank, building and loan association, insurance company or other person, firm or enterprise, whose business consists in whole or in part in the making of real estate loans, to:

1. Deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining real property because of the race, religion, sex, color, national origin or ancestry of: (1) such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given.
2. Discriminate against any person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, religion, sex, color, national origin or ancestry of: (1) such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purpose of such loan or other financial assistance; or (3) the present or prospective

owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given; or,

3. Use a form of application for financial assistance, or to make any inquiry, or make or keep any record in connection with any such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification or discrimination because of race, religion, sex, color, national origin or ancestry.

4. Policy Application - Affairs of the City of Wichita

It is the policy of the City of Wichita to conduct its affairs for the benefit of all citizens, regardless of the citizen's race, creed, color, sex, national origin, and/or ancestry. In the conduct of the City's business, it is the goal of the City of Wichita to take affirmative steps in making employment, vending, contracting, and subcontracting available to all persons and employers in a manner proportionate to the composition of the adult population in the City of Wichita. This will apply to the internal organization of the City staff as well as the external operations over which the City of Wichita has control.

To implement this Affirmative Action Program, the City of Wichita has established Personnel and Purchasing Elements which cite the legal basis for and which implements this program. The applications of the Personnel and Purchasing Elements are more fully described in the City of Wichita Administrative Personnel Policy and Procedure Manual and the Purchasing Manual respectively, which are, by reference incorporated herein.

SECTION II - Affirmative Action Program Administration

1. Statement of Policy

It is the policy of the City of Wichita to implement fully the equal opportunity and affirmative action requirements of Presidential Executive Order Number 11246 as amended, the Civil Rights Acts of 1964 and 1968 as amended, Titles 24 and 41 of the Code of Federal Regulations together with implementing regulations and requirements as may from time-to-time be promulgated by agencies of the Federal government, the Kansas Act Against Discrimination and the City of Wichita Ordinance Prohibiting Discrimination such that, over a period of time, individual citizens will participate in Wichita's employment and housing in the same ratio as the adult population of the City of Wichita.

2. The Affirmative Action Program Application

The City of Wichita Affirmative Action Program applies to all areas of the City's Merit System of Administration, purchasing, contracting, and all other business transactions and all housing activities including but not limited to all recruiting, hiring, promotion, demotion, and all other terms, conditions and privileges of employment, and in the selling, leasing, renting or other transfer of property, and in all transactions, agreements and contracts in which the City of Wichita is a party.

3. Affirmative Action Program Administrative Requirements

All provisions of the City of Wichita's Administrative Personnel Policy and

Procedure Manual, the Administration Department Procedure Manual, the Purchasing Manual, Administrative Procedures and Regulations, and Department Head Letters are included herein by reference.

The following administrative requirements shall be met by the City of Wichita in the operation of the Affirmative Action Program.

- A. The Personnel Element All vacancies in the City of Wichita organization shall be publicised, advertised and filled in such a manner as to insure that all Wichita adult citizens are given an equal opportunity to be aware of such vacancies, regardless of race, creed, color, sex, national origin, and/or ancestry.
1. A job opportunity list identifying the City of Wichita as an Equal Opportunity employer and stating that the City will consider all applications for employment without regard to race, creed, color, sex, national origin, and/or ancestry and covering all agencies in the City's organization will be posted no less than bi-weekly.
 2. Periodically, but in no case less than once each six months, the City will review the minimum requirements of all City job descriptions and revise them as needed, such that all citizens are afforded an equal opportunity to meet such minimum requirements without regard to race, creed, color, sex, national origin, and/or ancestry.
 3. Periodically, and insofar as practicable, all colleges, universities, public and private schools and employment agencies will be encouraged by letter to send qualified job applicants to the City of Wichita without regard to race, creed, color, sex, national origin,

and/or ancestry.

4. All persons employed by the City of Wichita will be promoted, transferred, demoted, or laid off without regard to race, creed, color, sex, national origin, and/or ancestry.
 5. The City of Wichita's Merit System of Personnel Administration shall benefit all employees of the City of Wichita without regard to race, creed, color, sex, national origin, and/or ancestry.
 6. All publicity or advertising relating to any vacancy shall be general in nature and shall include no reference, nor be listed, classified or cataloged in such a manner so as to encourage or discourage application by any person on the basis of race, creed, color, sex, national origin, and/or ancestry for such vacancy.
 7. Transfers, promotions, terminations, restrictions, and penalties shall be made in accordance with the policies as stated in the Administrative Personnel Policy and Procedure Manual except in the case of policies that conflict with the policies stated in the Affirmative Action Manual in which case precedence shall be given to the latter.
- B. The Purchasing Element. All purchasing, contracting, selling, leasing and/or other business transactions shall be publicized, advertised and conducted so as to insure that Wichita adult citizens are given an opportunity to be aware of and participate in such transactions, regardless of race, creed, color, sex, national origin, and/or ancestry.

1. In all business transactions entered into by the City of Wichita, the City will consider all contracts, bids and specifications, and solicit business from all contractors and suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
2. Periodically, and insofar as possible, all contractors and suppliers will be encouraged by letter to submit bids or otherwise attempt to qualify to enter into business with the City without regard to race, creed, color, sex, national origin, and/or ancestry.
3. The City of Wichita's purchasing policies and procedures shall apply to all contractors and suppliers that enter into or attempt to enter into business with the City of Wichita without regard to race, creed, color, sex, national origin, and/or ancestry.
4. All publicity or advertising seeking contractors and/or suppliers to enter into business with the City of Wichita shall include no reference, nor be listed, classified, or cataloged in such a manner so as to encourage or discourage bids and specifications by any firm on the basis of race, creed, color, sex, national origin, and/or ancestry for such business.
5. A concerted effort will be given to all contractors and suppliers in qualifying by helping them secure bonds and submitting bids regardless of race, creed, color, sex, national origin, and/or ancestry.
6. All contractors and suppliers will be given instructions and guidelines

on the Affirmative Action Program and special attention will be called to the terms and conditions on the Purchase Order Form, Item No. 14.

- C. The Contractors and Suppliers Element All contractors, vendors, suppliers and others who buy from, sell to, contract with, or otherwise enter into a transaction with the City of Wichita shall conduct their business affairs such a manner that all adult Wichita citizens are given an opportunity by such contractors, vendors, suppliers, and others to participate in the benefits of such transaction, including employment, subcontracting, and supplying without regard to race, creed, color, sex, national origin, and/or ancestry.
1. All such contractors shall identify themselves as Equal Opportunity Employers and state that the contractor will, in seeking to fill job vacancies, consider all applications for employment without regard to race, creed, color, sex, national origin, and/or ancestry.
 2. Periodically, but in no case less than once each six months, the contractors and suppliers will review the minimum requirements of all job descriptions in their firm or business and revise them as needed, such that all citizens are afforded an equal opportunity to meet such requirements without regard to race, creed, color, sex, national origin, and/or ancestry.
 3. Periodically, and insofar as practicable, all colleges, universities, public and private schools and employment agencies, from which the contractor and suppliers seek applicants, will be encouraged by letter

to send qualified job applicants to the contractor or supplier without regard to race, creed, color, sex, national origin, and/or ancestry.

4. All persons employed by the contractors and/or suppliers will be promoted, transferred, demoted, or laid off without regard to race, creed, color, sex, national origin, and/or ancestry.
5. The personnel policies and procedures of each contractor and supplier shall benefit all employees of such contractor and supplier without regard to race, creed, color, sex, national origin, and/or ancestry.
6. In all business transactions entered into by the contractor and suppliers, the contractors and suppliers will consider all contracts, bids and specifications and solicit business from all subcontractors and suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
7. Periodically, and insofar as possible, all subcontractors and suppliers will be encouraged by letter to submit bids or otherwise attempt to qualify to enter into business with City contractors or suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
8. The purchasing policies and procedures of all City of Wichita contractors and suppliers shall apply to all subcontractors and suppliers that enter into, or attempt to enter into, business with the City's contractors and suppliers without regard to race, creed,

color, sex, national origin, and/or ancestry.

9. All publicity or advertising seeking subcontractors and/or suppliers to enter into business with contractors and suppliers doing business with the City of Wichita shall include no reference, nor be listed, classified or cataloged in such a manner so as to encourage or discourage bids by any subcontractor or supplier on the basis of race, creed, color, sex, national origin, and/or ancestry for such business.
10. A concerted effort will be given to all subcontractors and suppliers in qualifying them to do business with contractors and suppliers doing business with the City of Wichita regardless of race, creed, color, sex, national origin, and/or ancestry.

D. The Fair Housing Element. All housing in the City of Wichita shall be publicized, advertised, rented, leased, bought, sold, or otherwise transferred in such a manner so as to insure that all Wichita adult citizens are given an equal opportunity to be aware of such housing and to live in such housing regardless of race, creed, color, sex, national origin, and/or ancestry.

1. All new housing subdivision in the City of Wichita will be identified as Equal Opportunity subdivisions, and any statements, publicity, and/or advertising pertaining thereto shall state that all real estate transactions therein shall occur without regard to race, creed, color, sex, national origin, and/or ancestry. (K. S. A. 1972 Supp. 44.1001).

2. All banks, savings and loan associations or other real estate lending institutions will be identified as equal opportunity lenders and any statements, publicity and/or advertising pertaining thereto shall state that all real estate financing transactions therein shall occur without regard to race, creed, color, sex, national origin, and/or ancestry.

4. Responsibility for Administration

- A. The City Manager. The City Manager is responsible for administrative compliance with all of the elements of the Affirmative Action Program as it applies to all personnel, purchasing, contractual and fair housing matters under the jurisdiction of the City Manager.
- B. The Board of Park Commissioners. The General Statutes of Kansas provide that: "said Board of Park Commissioners may, at will, appoint, employ, and discharge such engineers, surveyors, attorneys, agents, clerks and servants as it may deem necessary, and fix the duties and compensation of all such appointees. . . ."

The Director of the Board is the executive officer for the Board and, as such, handles the Affirmative Action Program and is responsible for administrative compliance of all affirmative action elements under the jurisdiction of the Board of Park Commissioners.

- C. The Library Board. The General Statutes of Kansas provide that the Library Board "shall have the power to appoint a suitable librarian and necessary assistants and fix their compensation."

The Librarian serves as the administrative head of the Library and, as such, is responsible for administrative compliance with all elements of the Affirmative Action Program as they apply to the Library.

- D. The Art Museum Board. The General Statutes of Kansas provide that "the Governing Board of the City of Wichita may authorize the Art Museum Board to appoint, employ, and remove a Director of the Museum, the necessary subordinate employees and fix their compensation. "

The Director of the Art Museum serves as the executive officer and as such is responsible for administrative compliance of all elements of the Affirmative Action Program as they apply to the Art Museum.

- E. The Board of Commissioners of the Urban Renewal Agency. The General Statutes of Kansas provide that "The Agency may employ an Executive Director, technical experts, and such other agents and employees, permanent and temporary, as it may require and determine their qualifications, duties and compensation.

The Executive Director is responsible for administrative compliance with all elements of the Affirmative Action Program in matters under the jurisdiction of the Urban Renewal Agency.

- F. The Personnel Director. The City's Personnel Director is directed by the City Manager to administer the Personnel Element of the Affirmative Action Program.

The duties of the Personnel Director in this regard, in addition to those listed in the Administrative Personnel Policy and Procedure Manual, include the following:

1. The assurance of non-discriminatory and affirmative action recruiting.
2. The assurance of non-discriminatory and affirmative action hiring.
3. Establishment of apprenticeship and other training programs.
4. The assurance of non-discriminatory and affirmative action placement and promotion.
5. The assurance of non-discriminatory and affirmative action pay, compensation, and working conditions.
6. The assurance of non-discriminatory and affirmative action demotion, lay-off, or termination.
7. All other duties as may be necessary to implement the Personnel Element of the Affirmative Action Program.

- G. The Purchasing Manager. The City's Purchasing Manager is directed by the City Manager to administer the Purchasing Element of the Affirmative Action Program.

In addition to the duties and procedures outlined in the Administration Department Procedure Manual and the Purchasing Manual, the functions of the Purchasing Manager will include:

1. The assurance of non-discriminatory and affirmative action contractual arrangements.
2. The assurance of non-discriminatory and affirmative action bidding.
3. The assurance of non-discriminatory and affirmative action bonding and other requirements.

4. The assurance of non-discriminatory and affirmative action payment on completed purchasing agreements.
5. All other duties as may be necessary to implement the Purchasing and Contractors and Suppliers elements of the Affirmative Action Program.

H. The Human Resource Development Coordinator. The Human Resource Development Coordinator is directed by the City Manager to administer the Fair Housing Element of the Affirmative Action Program.

The responsibilities of the Human Resource Development Coordinator in this regard includes:

1. The assurance of non-discriminatory and affirmative action housing and housing subdivision development.
2. The assurance of non-discriminatory and affirmative action in real estate lending transactions.
3. All other duties as may be necessary to implement the Fair Housing Element of the Affirmative Action Program.

I. The Department and Division Heads - The Department Directors and Division Heads will provide effective supervision to their employees and maintain proper working relationships. The Department Directors and Division Heads, along with the Personnel Director, the Purchasing Manager, and the Human Resource Development Coordinator are responsible for administering the elements of the Affirmative Action Program.

J. The City Commission The City Commission determines the budget for salaries and fixes the compensation of all officers and employees under its jurisdiction. In addition, the City Commission will determine the provisions of the Affirmative Action Program.

- K. The Personnel Advisory Board - The Personnel Advisory Board serves in an advisory capacity on personnel problems pertaining to the Personnel Element of the Affirmative Action Program. This will be done in accordance with the By-Laws as stated in the Administrative Personnel Policy and Procedure Manual, Section VII and its findings and actions shall be reported to the Human Resource Development Advisory Board (HRDAB).
- L. The Employees' Council - The Employees' Council is concerned with the general welfare of the employees of the City. The functions of the Employees' Council are defined by its By-Laws in the Administrative Personnel Policy and Procedure Manual, Section VIII.
- M. The Wichita Employees Retirement Board - The responsibilities of this Board shall remain as stated in the Administrative Personnel Policy and Procedure Manual.
- N. Police and Fire Retirement Board - The responsibilities of the Board shall remain as stated in the Administrative Personnel Policy and Procedure Manual.
- O. The Community Grievance Officer - The duties of the Community Grievance Officer will remain as stated in City Ordinance 32-079.
- P. The Board of Bids and Contracts - The Board of Bids and Contracts is empowered to review all bids for public improvements (streets, sewers, etc.) and bids on all purchases exceed \$1,500. The Board's recommendations are forwarded to the City Commission for final consideration.

In addition to policies of the Board of Bids and Contracts as stated in the Administration Department Procedure Manual, Section 3, Page 3, the Board will assure the City Commission in its recommendations that all bids received by contractors and suppliers on any given upcoming purchase or contract that said contractors and suppliers have included in their bid specifications the necessary forms regarding the individual vendors, contractors or subcontractors Affirmative Action Program.

The Board of Bids and Contracts will not accept bids from contractors and suppliers without the statement referred to above.

Q. The Wichita Fair Housing Board - The Wichita Fair Housing Board is created by the City of Wichita Ordinance No. 31-722. The Board's responsibilities and duties as listed therein are incorporated in this document.

R. The Wichita Sedgwick County Metropolitan Area Planning Department (WSC MAPD) - The responsibility of the WSC MAPD is to advise the Wichita-Sedgwick County Metropolitan Area Planning Commission (WSC MAPC) in all matters leading to a comprehensive development plan. Concerning community development plans, the WSC MAPD will prepare alternative courses of action on the development of housing subdivisions. [On preparation of the alternatives, the WSC MAPD will provide the WSC MAPC assurance that each contractor and supplier has an affirmative action program with regard to purchasing and personnel policies and that the developer(s) of the subdivision have an Affirmative Action Program with respect to fair housing policies before final action is taken by the WSC MAPC.]

S. The Human Resource Development Advisory Board (HRDAB).

This Board will serve in an advisory capacity on problems relating to the Affirmative Action Program. The responsibilities of the Board are defined in the City Code (2. 12. 250 to 2. 12. 320) and shall be incorporated herein.

T. The Affirmative Action Program Officer - The City Manager shall appoint an Affirmative Action Program Officer. He will coordinate the entire Affirmative Action Program and report all findings to the Human Resource Development Advisory Board. The Affirmative Action Program Officer shall be responsible for assembling and maintaining statistical data for use in labor market analysis by the City and its contractors and vendors. He will receive assistance from the following staff members or their representatives:

1. Director of Law
2. Personnel Director
3. Purchasing Manager
4. Human Resource Development Coordinator
5. Director of Public Works
6. Urban Renewal Agency Executive Director

In addition, the Affirmative Action Program Officer will provide all necessary administrative support to include investigation and review actions which may be required by Federal agencies.

5. Procedure for Discrimination Complaints.

The following procedure is hereby established to handle complaints of discrimination by applicants for employment and by contractors or suppliers:

- A. The grievance shall first be taken to the division head responsible for hiring or contracting.
- B. Should the grievance not be resolved by the division head the applicant for employment or contractor or supplier should take the grievance up the "chain of command" to the department director. The applicant or contractor or supplier shall initiate his grievance to the department director ten (10) days from the date of notice of the action by the division head.
- C. If Step "B" above produces no satisfactory solution, the applicant or supplier shall within ten (10) days of the completion of Step "B" put his grievance in the form of a signed letter to the Personnel Director or Purchasing Manager setting forth specific reasons for his action in the case. This letter must be submitted within ten (10) days after the grievance is brought to the department head. This letter must set forth the pertinent facts relating to the cause of the complaint being filed.

The Personnel Director or Purchasing Manager shall, within ten (10)

days of receipt of the letter from the applicant or contractor or suppliers, contact the applicant or contractor or suppliers and other personnel concerned and attempt to arbitrate a settlement. The written results of the efforts of the Personnel Director or Purchasing Manager will be given the applicant or contractor or suppliers within twenty (20) days of the receipt of the original letter of the applicant or contractor or supplier.

- D. If the applicant or contractor or supplier is not satisfied with the Personnel Director's or Purchasing Manager's efforts, he may appeal his grievance to the Human Resource Development Advisory Board. The applicant or contractor or supplier must notify in writing the Personnel Director or Purchasing Manager that he is thereby appealing to the Human Resource Development Advisory Board. The required letter must be filed within ten (10) days after the applicant or contractor or supplier has received the written results of the settlement attempted by the Personnel Director or Purchasing Manager (Step C).

- E. The Chairman of the Board shall set a date for a hearing on the appeal. This hearing must be conducted within thirty (30) days after the request has been filed with the Personnel Director or Purchasing Manager. The complainant shall be notified by registered mail of the date of the hearing at least five (5) days prior to the day of the hearing. Both the statements of the applicant or contractor or supplier and the department director will be given

to the Board by the Personnel Director or Purchasing Manager and will be considered by the Board at the time of the hearing.

F. Human Resource Development Advisory Board Hearing.

The hearing shall be informal and conducted with a view to the presentation of all the material facts. It shall be a open hearing. The complainant shall be permitted to engage the services of an attorney at the complainant's own expense.

Within ten (10) days after the hearing, the Board shall file a written report on its findings and conclusions to the appointing authority. The appointing authority shall then render his decision in writing, and this decision shall be final.

If the case is of such a nature that more than one hearing is required, the Board shall order additional hearings, such additional hearings shall be open to the public.

G. Attitude of the Board Toward Appeals.

The Board is advisory, and not a policy-making body. The Board is not a judicial agency, and shall not challenge the legality of the appointing authority's rules and policies. The Board must reach its decisions within the frame-work of the policies existing at the time the case to be decided arose.

When requested, the Board may wish to advise the appointing authorities on questions of policy.

H. The burden of proof rests on the appealing applicant or contractor or supplier. He must show that the action complained of by him constitutes discrimination and unfair treatment.

SECTION III - Implementation of the
Affirmative Action Program

1. The City of Wichita shall provide technical assistance to vendors, contractors, subcontractors in establishing their Affirmative Action Program. This technical assistance shall include:
 - A. Instruction as to content of such program.
 - B. Affirmative Action steps to be taken by vendors, contractors, and subcontractors in implementing the Affirmative Action Program.
 - C. Statistical data necessary for submitting bids to the City of Wichita.
 - D. Statistical data necessary for vendors, contractors and subcontractors doing regular periodic business with the City of Wichita.

2. The City of Wichita staff will provide to the appropriate Federal agencies all reports and data that are implied by the duties and responsibilities of the various City officials, appointees and boards listed in this document. The information in these reports will include but not be limited to:
 - A. Personnel Element
 1. Copies of non-discriminatory recruiting advertisements placed in the local media.
 2. Copies of letters sent to employment agencies, schools, colleges, and universities encouraging minority applicant referral.

3. Statistical data on the composition of the City of Wichita employment market compared with the employment composition of the City staff.
4. Statistical data on progress toward stated goal.
5. Copies of Job Opportunity list.
6. Specific review(s) of present job qualifications that were revised to change or otherwise update minimum job requirements.
7. Comments and critique of follow through supervision of the Personnel Element of the Affirmative Action Program.

B. The Fair Housing Element

1. Copies of the Wichita-Sedgwick County Metropolitan Area Planning Department instructions to housing developers to submit an Affirmative Action Program with all requests for subdivision development.
2. Copies of instructions to local real estate agencies (including building, sale and rental agencies or companies) and local real estate lending and banking agencies or companies.
3. Number of Fair Housing complaints received, processed and cleared and the action taken on each.
4. Other reports as required by the Wichita Fair Housing Board.

C. The Purchasing Element

1. The number of contractor and supplier Affirmative Action Programs submitted and filed in the Purchasing Division (These programs will be filed in the alphabetical vendor file).
 2. The number of contractor and supplier Affirmative Action Programs rejected by the Purchasing Manager because of inadequacies.
 3. Statistical data on the number of minority contractors and suppliers in the City of Wichita compared with the number of minority contractors and suppliers doing business with the City of Wichita.
 4. Copies of legal advertisements placed in official City newspaper concerning Affirmative Action bidding requirements.
 5. Copies of invitation-to-bid letters sent to all qualified contractors and suppliers.
 6. Details of assistance to contractors and suppliers in helping them qualify and in obtaining necessary bonds.
 7. Comments and critique of follow through supervision of the Purchasing and Contractor and Supplier Element of the Affirmative Action Program.
- D. All report forms required above will be approved by the Budget and Management Division and the Affirmative Action Program Officer.

3. The City of Wichita and each contractor and supplier will complete all other required compliance reports that may be prescribed by the Federal government.

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 16, 1973

TO All Department and Division Heads
All Advisory Boards and Commissions

FROM Ralph Wulz, City Manager


SUBJECT Affirmative Action Program
Policy and Procedure Manual

Attached is a draft of a proposed Affirmative Action Program Policy and Procedure Manual for the City of Wichita currently under consideration by the City Commission.

The document was reviewed, received and filed by the City Commission at its January 9, 1973 meeting at which time the Commissioners directed a review of the program by the various administrative and advisory boards as well as the City of Wichita departments and divisions. The City Commissioners indicated a specific interest in a written commentary as to the inclusiveness of the Affirmative Action Program in regard to the various federal and state statutes and executive orders and municipal ordinances. Recommendations as to any suggested changes in the statement of goal and objectives are requested.

Please review the document and furnish this office with your written commentary.

In addition to directing your comments to the considerations raised by the City Commission, your ideas on any way in which the manual can be improved and strengthened, along with the language proposed to strengthen the manual, are requested by February 1, 1973.


Ralph Wulz
City Manager

RW:jh
Attachment



DRAFT - SUBJECT TO REVISION

AFFIRMATIVE
ACTION
PROGRAM
POLICY AND PROCEDURE
MANUAL

City of Wichita, Kansas

January, 1973

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SECTION I

The City of Wichita's Affirmative Action Program

1. Statement of Policy and Goals

It is the policy of the City of Wichita to provide equal opportunities for all Wichita citizens in whatever lawful endeavors the individual citizen desires to pursue, regardless of the citizen's race, religion, color, sex, national origin, or ancestry. Moreover, it is the policy and goal of the City of Wichita to take affirmative steps to encourage the participation of all citizens in the benefits of the community's physical assets as well as its social and economic programs such that participation in professional activities, employment activities, commercial activities, business activities, entrepreneurial endeavors, tangible and intangible real and personal property ownership, educational activities and social activities in Wichita shall be proportionate to the makeup of the adult population of the City of Wichita as to race, creed, color, sex, national origin, and/or ancestry.

2. Policy Application - All Persons and Employers

It is the policy of the City of Wichita to concern itself that all persons and employers in the community conduct their affairs for the benefit of all citizens, regardless of the citizen's race, creed, color, sex, national origin, and/or ancestry. Moreover, it is the goal of the City of Wichita to take affirmative steps to insure that certain employment, economic and housing opportunities are available to the citizens of Wichita in a manner proportionate to the composition of the adult population of the City of Wichita as to race, creed, color, sex, national origin and/or ancestry. The United States of America, the State of Kansas, and the City of Wichita have heretofore enacted certain laws which are general in application, and which, as a whole, provide the legal basis for such policies and goals for the community-at-large.

3. Legal Basis for the Program

A. Federal Law

The Laws of the United States of America* provide, among other things, that it shall be unlawful. . . . :

*The Civil Rights Act of 1964, as amended. The City of Wichita is defined as a "person" and an "employer" under the Act.

1. For any person, on the grounds of race, color, or national origin to be excluded from participation, be denied the benefits of, or to be subjected to discrimination under any program or activity receiving Federal assistance.
2. For any employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.
3. For any employer to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.
4. For any employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.
5. For any labor organization to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin; to limit, segregate, or classify its membership, or to classify or fail to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section.
6. For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

In addition, Executive Order No. 11246, titled Equal Employment Opportunity, states that:

PART I - Nondiscrimination in
Government Employment

SECTION 101. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color, or national origin, and to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency. The policy of equal opportunity applies to every aspect of Federal employment policy and practice.

PART II - Nondiscrimination in Employment
by Government Contractors and
Subcontractors

Subpart B - Contractors' Agreements

SECTION 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union of workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information reports required by Executive Order No. 11246 of September, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contacting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. "

SECTION 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or

an agency referring workers of providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, creed, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the Order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.

SECTION 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial suppliers or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: Provided, That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: And provided further, That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies

SECTION 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor

in discharging their primary responsibility for securing compliance with the terms of this Order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

SECTION 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

SECTION 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

SECTION 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or

recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D - Sanctions and Penalties

SECTION 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have compiled or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, or organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the non-discrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a) (2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a) (5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

SECTION 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

SECTION 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

SECTION 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209 (a) (6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

Subpart E - Certificates of Merit

SECTION 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SECTION 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SECTION 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III - Nondiscrimination Provisions in
Federally Assisted Construction
Contracts

SECTION 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 203 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SECTION 302. (a) "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program

participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SECTION 303. (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

SECTION 304. Any executive department or agency which imposes by rule, regulation, or order requirements of non-discrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That action to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

The Civil Rights Act of 1968 states that it shall be unlawful. . . .:

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, or national origin.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because race, color, religion, or national origin.
3. To make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.
4. To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.
6. For any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

B. State Laws

The General Statutes of Kansas* provide, among other things, that it shall be unlawful. . . . :

1. For an employer, because of race, religion, color, sex, national origin or ancestry of any person to refuse to hire or employ, or to bar or to discharge from employment such person or to otherwise discriminate against such person in compensation or in terms, conditions, or privileges of employment; or to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business motive.
2. For a labor organization, because of the race, religion, color, sex, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.
3. For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of his race, religion, color, sex, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, national origin or ancestry.
4. For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, national origin or ancestry, in admission, hiring assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.
5. For any person being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny, or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this act because of race, religion, color, sex, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

*Chapter 44, Article 10, Kansas Statutes Annotated, as amended.

6. For any person, as defined herein, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (K.S.A. 44-1009; L. 1965, ch. 323, sec. 6; L. 1970, ch. 192, sec. 5; L. 1972, ch. 194; July 1)
7. For any person to refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or to refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, color, sex, national origin or ancestry.
8. For any person to discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, national origin or ancestry.
9. For any person to make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
10. For any person to represent to any person because of race, religion, color, sex, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is in fact so available.
11. For any person for profit to induct or attempt to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin or ancestry.
12. For any person to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting real property, or to discriminate against him in the terms of conditions of such access, membership or participation, because of race, religion, color, sex, national origin or ancestry.

13. For any person to discriminate against any person in his use or occupancy of real property because of the race, religion, color, sex, national origin or ancestry of the people with whom such person associates. (L. 1970, ch. 193, sec. 2; L. 1972, ch. 194; July 1)
14. For any person to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining real property because of the race, religion, color, sex, national origin or ancestry of: (1) Such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants, or occupants of the real property in relation to which such loan or other financial assistance is to be made or given.
15. For any person to discriminate against any person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, religion, color, sex, national origin or ancestry of: (1) Such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given; or
16. For any person to use a form of application for financial assistance, or to make any inquiry, or make or keep any record in connection with any such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification or discrimination because of race, religion, color, sex, national origin or ancestry. (L. 1970, ch. 193, sec. 3; L. 1972, ch. 194; July 1)
17. Every contract for or on behalf of the state or any county or municipality or other political subdivision of the state, or any agency of or authority created by any of the foregoing, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees to incorporate into his operations the provisions of equal opportunity and affirmative action. (K.S.A. 44.1030)

C. City of Wichita Laws

The Ordinances of the City of Wichita* provide, among other things, that it shall be unlawful for any person. . . .:

1. To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or to refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, sex, color, national origin or ancestry.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, sex, color, national origin or ancestry.
3. To make, print, publish, disseminate or use, cause to be made, printed, published, disseminated, or used, any notice statement advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, sex, color, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
4. To represent to any person because of race, religion, sex, color, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is, in fact, so available.
5. To induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, sex, color, national origin or ancestry.
6. To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or any other service, organization or facility relating to the business of selling or renting real property, or to discriminate against him in terms or conditions of such access, membership or participation because of race, religion, sex, color, national origin or ancestry.
7. To discriminate against any person in his use or occupancy of real property because of the race, religion, sex, color, national origin or ancestry of the people with whom such person associates.
8. To make any representation to any prospective purchaser that any block, neighborhood or area has, will, or might undergo a change

* Ordinance No. 31 - 722.

with respect to the religious, racial, sexual, or nationality composition of the block, neighborhood or area for the purpose of discouraging the purchase of a housing accommodation in a particular area.

9. To engage in, or hire or conspire with others to commit acts or activities of any nature, the purpose of which is to harrass, degrade, embarrass or cause economic loss:
 - (a) To a person who shall offer to provide housing accommodations, facilities, or services to any person regardless of race, color, religion, sex, national origin or ancestry of the person; or,
 - (b) To a person because such person has provided housing accommodations, facilities or services to a person of a particular race, color, religion, sex, national origin or ancestry.
10. To engage in any reprisal against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under the terms of this ordinance.
11. To aid, abet, incite, compel, or coerce, any person to engage in any of the discriminatory practices defined by this ordinance.

The Ordinances of the City of Wichita provide further that it shall be unlawful for any bank, building and loan association, insurance company or other person, firm or enterprise, whose business consists in whole or in part in the making of real estate loans, to:

1. Deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining real property because of the race, religion, sex, color, national origin or ancestry of: (1) such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given.
2. Discriminate against any person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, religion, sex, color, national origin or ancestry of: (1) such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purpose of such loan or other financial assistance; or (3) the present or prospective

owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given; or,

3. Use a form of application for financial assistance, or to make any inquiry, or make or keep any record in connection with any such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification or discrimination because of race, religion, sex, color, national origin or ancestry.
4. Policy Application - Affairs of the City of Wichita

It is the policy of the City of Wichita to conduct its affairs for the benefit of all citizens, regardless of the citizen's race, creed, color, sex, national origin, and/or ancestry. In the conduct of the City's business, it is the goal of the City of Wichita to take affirmative steps in making employment, vending, contracting, and subcontracting available to all persons and employers in a manner proportionate to the composition of the adult population in the City of Wichita. This will apply to the internal organization of the City staff as well as the external operations over which the City of Wichita has control.

To implement this Affirmative Action Program, the City of Wichita has established Personnel and Purchasing Elements which cite the legal basis for and which implements this program. The applications of the Personnel and Purchasing Elements are more fully described in the City of Wichita Administrative Personnel Policy and Procedure Manual and the Purchasing Manual respectively, which are, by reference incorporated herein.

SECTION II - Affirmative Action Program Administration

1. Statement of Policy

It is the policy of the City of Wichita to implement fully the equal opportunity and affirmative action requirements of Presidential Executive Order Number 11246 as amended, the Civil Rights Acts of 1964 and 1968 as amended, Titles 24 and 41 of the Code of Federal Regulations together with implementing regulations and requirements as may from time-to-time be promulgated by agencies of the Federal government, the Kansas Act Against Discrimination and the City of Wichita Ordinance Prohibiting Discrimination such that, over a period of time, individual citizens will participate in Wichita's employment and housing in the same ratio as the adult population of the City of Wichita.

2. The Affirmative Action Program Application

The City of Wichita Affirmative Action Program applies to all areas of the City's Merit System of Administration, purchasing, contracting, and all other business transactions and all housing activities including but not limited to all recruiting, hiring, promotion, demotion, and all other terms, conditions and privileges of employment, and in the selling, leasing, renting or other transfer of property, and in all transactions, agreements and contracts in which the City of Wichita is a party.

3. Affirmative Action Program Administrative Requirements

All provisions of the City of Wichita's Administrative Personnel Policy and

Procedure Manual, the Administration Department Procedure Manual, the Purchasing Manual, Administrative Procedures and Regulations, and Department Head Letters are included herein by reference.

The following administrative requirements shall be met by the City of Wichita in the operation of the Affirmative Action Program.

- A. The Personnel Element All vacancies in the City of Wichita organization shall be publicised, advertised and filled in such a manner as to insure that all Wichita adult citizens are given an equal opportunity to be aware of such vacancies, regardless of race, creed, color, sex, national origin, and/or ancestry.
1. A job opportunity list identifying the City of Wichita as an Equal Opportunity employer and stating that the City will consider all applications for employment without regard to race, creed, color, sex, national origin, and/or ancestry and covering all agencies in the City's organization will be posted no less than bi-weekly.
 2. Periodically, but in no case less than once each six months, the City will review the minimum requirements of all City job descriptions and revise them as needed, such that all citizens are afforded an equal opportunity to meet such minimum requirements without regard to race, creed, color, sex, national origin, and/or ancestry.
 3. Periodically, and insofar as practicable, all colleges, universities, public and private schools and employment agencies will be encouraged by letter to send qualified job applicants to the City of Wichita without regard to race, creed, color, sex, national origin,

and/or ancestry.

4. All persons employed by the City of Wichita will be promoted, transferred, demoted, or laid off without regard to race, creed, color, sex, national origin, and/or ancestry.
 5. The City of Wichita's Merit System of Personnel Administration shall benefit all employees of the City of Wichita without regard to race, creed, color, sex, national origin, and/or ancestry.
 6. All publicity or advertising relating to any vacancy shall be general in nature and shall include no reference, nor be listed, classified or cataloged in such a manner so as to encourage or discourage application by any person on the basis of race, creed, color, sex, national origin, and/or ancestry for such vacancy.
 7. Transfers, promotions, terminations, restrictions, and penalties shall be made in accordance with the policies as stated in the Administrative Personnel Policy and Procedure Manual except in the case of policies that conflict with the policies stated in the Affirmative Action Manual in which case precedence shall be given to the latter.
- B. The Purchasing Element. All purchasing, contracting, selling, leasing and/or other business transactions shall be publicized, advertised and conducted so as to insure that Wichita adult citizens are given an opportunity to be aware of and participate in such transactions, regardless of race, creed, color, sex, national origin, and/or ancestry.

1. In all business transactions entered into by the City of Wichita, the City will consider all contracts, bids and specifications, and solicit business from all contractors and suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
2. Periodically, and insofar as possible, all contractors and suppliers will be encouraged by letter to submit bids or otherwise attempt to qualify to enter into business with the City without regard to race, creed, color, sex, national origin, and/or ancestry.
3. The City of Wichita's purchasing policies and procedures shall apply to all contractors and suppliers that enter into or attempt to enter into business with the City of Wichita without regard to race, creed, color, sex, national origin, and/or ancestry.
4. All publicity or advertising seeking contractors and/or suppliers to enter into business with the City of Wichita shall include no reference, nor be listed, classified, or cataloged in such a manner so as to encourage or discourage bids and specifications by any firm on the basis of race, creed, color, sex, national origin, and/or ancestry for such business.
5. A concerted effort will be given to all contractors and suppliers in qualifying by helping them secure bonds and submitting bids regardless of race, creed, color, sex, national origin, and/or ancestry.
6. All contractors and suppliers will be given instructions and guidelines

on the Affirmative Action Program and special attention will be called to the terms and conditions on the Purchase Order Form, Item No. 14.

- C. The Contractors and Suppliers Element All contractors, vendors, suppliers and others who buy from, sell to, contract with, or otherwise enter into a transaction with the City of Wichita shall conduct their business affairs such a manner that all adult Wichita citizens are given an opportunity by such contractors, vendors, suppliers, and others to participate in the benefits of such transaction, including employment, subcontracting, and supplying without regard to race, creed, color, sex, national origin, and/or ancestry.
1. All such contractors shall identify themselves as Equal Opportunity Employers and state that the contractor will, in seeking to fill job vacancies, consider all applications for employment without regard to race, creed, color, sex, national origin, and/or ancestry.
 2. Periodically, but in no case less than once each six months, the contractors and suppliers will review the minimum requirements of all job descriptions in their firm or business and revise them as needed, such that all citizens are afforded an equal opportunity to meet such requirements without regard to race, creed, color, sex, national origin, and/or ancestry.
 3. Periodically, and insofar as practicable, all colleges, universities, public and private schools and employment agencies, from which the contractor and suppliers seek applicants, will be encouraged by letter

to send qualified job applicants to the contractor or supplier without regard to race, creed, color, sex, national origin, and/or ancestry.

4. All persons employed by the contractors and/or suppliers will be promoted, transfered, demoted, or laid off without regard to race, creed, color, sex, national origin, and/or ancestry.
5. The personnel policies and procedures of each contractor and supplier shall benefit all employees of such contractor and supplier without regard to race, creed, color, sex, national origin, and/or ancestry.
6. In all business transactions entered into by the contractor and suppliers, the contractors and suppliers will consider all contracts, bids and specifications and solicit business from all subcontractors and suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
7. Periodically, and insofar as possible, all subcontractors and suppliers will be encouraged by letter to submit bids or otherwise attempt to qualify to enter into business with City contractors or suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
8. The purchasing policies and procedures of all City of Wichita contractors and suppliers shall apply to all subcontractors and suppliers that enter into, or attempt to enter into, business with the City's contractors and suppliers without regard to race, creed,

color, sex, national origin, and/or ancestry.

9. All publicity or advertising seeking subcontractors and/or suppliers to enter into business with contractors and suppliers doing business with the City of Wichita shall include no reference, nor be listed, classified or cataloged in such a manner so as to encourage or discourage bids by any subcontractor or supplier on the basis of race, creed, color, sex, national origin, and/or ancestry for such business.

10. A concerted effort will be given to all subcontractors and suppliers in qualifying them to do business with contractors and suppliers doing business with the City of Wichita regardless of race, creed, color, sex, national origin, and/or ancestry.

D. The Fair Housing Element. All housing in the City of Wichita shall be publicized, advertised, rented, leased, bought, sold, or otherwise transferred in such a manner so as to insure that all Wichita adult citizens are given an equal opportunity to be aware of such housing and to live in such housing regardless of race, creed, color, sex, national origin, and/or ancestry.

1. All new housing subdivision in the City of Wichita will be identified as Equal Opportunity subdivisions, and any statements, publicity, and/or advertising pertaining thereto shall state that all real estate transactions therein shall occur without regard to race, creed, color, sex, national origin, and/or ancestry. (K. S. A. 1972 Supp. 44.1001).

2. All banks, savings and loan associations or other real estate lending institutions will be identified as equal opportunity lenders and any statements, publicity and/or advertising pertaining thereto shall state that all real estate financing transactions therein shall occur without regard to race, creed, color, sex, national origin, and/or ancestry.

4. Responsibility for Administration

A. The City Manager. The City Manager is responsible for administrative compliance with all of the elements of the Affirmative Action Program as it applies to all personnel, purchasing, contractual and fair housing matters under the jurisdiction of the City Manager.

B. The Board of Park Commissioners. The General Statutes of Kansas provide that: "said Board of Park Commissioners may, at will, appoint, employ, and discharge such engineers, surveyors, attorneys, agents, clerks and servants as it may deem necessary, and fix the duties and compensation of all such appointees...."

The Director of the Board is the executive officer for the Board and, as such, handles the Affirmative Action Program and is responsible for administrative compliance of all affirmative action elements under the jurisdiction of the Board of Park Commissioners.

C. The Library Board. The General Statutes of Kansas provide that the Library Board "shall have the power to appoint a suitable librarian and necessary assistants and fix their compensation."

The Librarian serves as the administrative head of the Library and, as such, is responsible for administrative compliance with all elements of the Affirmative Action Program as they apply to the Library.

- D. The Art Museum Board. The General Statutes of Kansas provide that "the Governing Board of the City of Wichita may authorize the Art Museum Board to appoint, employ, and remove a Director of the Museum, the necessary subordinate employees and fix their compensation. "

The Director of the Art Museum serves as the executive officer and as such is responsible for administrative compliance of all elements of the Affirmative Action Program as they apply to the Art Museum.

- E. The Board of Commissioners of the Urban Renewal Agency. The General Statutes of Kansas provide that "The Agency may employ an Executive Director, technical experts, and such other agents and employees, permanent and temporary, as it may require and determine their qualifications, duties and compensation.

The Executive Director is responsible for administrative compliance with all elements of the Affirmative Action Program in matters under the jurisdiction of the Urban Renewal Agency.

- F. The Personnel Director. The City's Personnel Director is directed by the City Manager to administer the Personnel Element of the Affirmative Action Program.

The duties of the Personnel Director in this regard, in addition to those listed in the Administrative Personnel Policy and Procedure Manual, include the following:

1. The assurance of non-discriminatory and affirmative action recruiting.
2. The assurance of non-discriminatory and affirmative action hiring.
3. Establishment of apprenticeship and other training programs.
4. The assurance of non-discriminatory and affirmative action placement and promotion.
5. The assurance of non-discriminatory and affirmative action pay, compensation, and working conditions.
6. The assurance of non-discriminatory and affirmative action demotion, lay-off, or termination.
7. All other duties as may be necessary to implement the Personnel Element of the Affirmative Action Program.

- G. The Purchasing Manager. The City's Purchasing Manager is directed by the City Manager to administer the Purchasing Element of the Affirmative Action Program.

In addition to the duties and procedures outlined in the Administration Department Procedure Manual and the Purchasing Manual, the functions of the Purchasing Manager will include:

1. The assurance of non-discriminatory and affirmative action contractual arrangements.
2. The assurance of non-discriminatory and affirmative action bidding.
3. The assurance of non-discriminatory and affirmative action bonding and other requirements.

4. The assurance of non-discriminatory and affirmative action payment on completed purchasing agreements.
5. All other duties as may be necessary to implement the Purchasing and Contractors and Suppliers elements of the Affirmative Action Program.

H. The Human Resource Development Coordinator. The Human Resource Development Coordinator is directed by the City Manager to administer the Fair Housing Element of the Affirmative Action Program.

The responsibilities of the Human Resource Development Coordinator in this regard includes:

1. The assurance of non-discriminatory and affirmative action housing and housing subdivision development.
2. The assurance of non-discriminatory and affirmative action in real estate lending transactions.
3. All other duties as may be necessary to implement the Fair Housing Element of the Affirmative Action Program.

I. The Department and Division Heads - The Department Directors and Division Heads will provide effective supervision to their employees and maintain proper working relationships. The Department Directors and Division Heads, along with the Personnel Director, the Purchasing Manager, and the Human Resource Development Coordinator are responsible for administering the elements of the Affirmative Action Program.

J. The City Commission The City Commission determines the budget for salaries and fixes the compensation of all officers and employees under its jurisdiction. In addition, the City Commission will determine the provisions of the Affirmative Action Program.

- K. The Personnel Advisory Board - The Personnel Advisory Board serves in an advisory capacity on personnel problems pertaining to the Personnel Element of the Affirmative Action Program. This will be done in accordance with the By-Laws as stated in the Administrative Personnel Policy and Procedure Manual, Section VII and its findings and actions shall be reported to the Human Resource Development Advisory Board (HRDAB).
- L. The Employees' Council - The Employees' Council is concerned with the general welfare of the employees of the City. The functions of the Employees' Council are defined by its By-Laws in the Administrative Personnel Policy and Procedure Manual, Section VIII.
- M. The Wichita Employees Retirement Board - The responsibilities of this Board shall remain as stated in the Administrative Personnel Policy and Procedure Manual.
- N. Police and Fire Retirement Board - The responsibilities of the Board shall remain as stated in the Administrative Personnel Policy and Procedure Manual.
- O. The Community Grievance Officer - The duties of the Community Grievance Officer will remain as stated in City Ordinance 32-079.
- P. The Board of Bids and Contracts - The Board of Bids and Contracts is empowered to review all bids for public improvements (streets, sewers, etc.) and bids on all purchases exceed \$1,500. The Board's recommendations are forwarded to the City Commission for final consideration.

In addition to policies of the Board of Bids and Contracts as stated in the Administration Department Procedure Manual, Section 3, Page 3, the Board will assure the City Commission in its recommendations that all bids received by contractors and suppliers on any given upcoming purchase or contract that said contractors and suppliers have included in their bid specifications the necessary forms regarding the individual vendors, contractors or subcontractors Affirmative Action Program.

The Board of Bids and Contracts will not accept bids from contractors and suppliers without the statement referred to above.

- Q. The Wichita Fair Housing Board - The Wichita Fair Housing Board is created by the City of Wichita Ordinance No. 31-722. The Board's responsibilities and duties as listed therein are incorporated in this document.
- R. The Wichita Sedgwick County Metropolitan Area Planning Department (WSC MAPD) - The responsibility of the WSC MAPD is to advise the Wichita-Sedgwick County Metropolitan Area Planning Commission (WSC MAPC) in all matters leading to a comprehensive development plan. Concerning community development plans, the WSC MAPD will prepare alternative courses of action on the development of housing subdivisions. [On preparation of the alternatives, the WSC MAPD will provide the WSC MAPC assurance that each contractor and supplier has an affirmative action program with regard to purchasing and personnel policies and that the developer(s) of the subdivision have an Affirmative Action Program with respect to fair housing policies before final action is taken by the WSC MAPC.]

S. The Human Resource Development Advisory Board (HRDAB).

This Board will serve in an advisory capacity on problems relating to the Affirmative Action Program. The responsibilities of the Board are defined in the City Code (2. 12. 250 to 2. 12. 320) and shall be incorporated herein.

T. The Affirmative Action Program Officer - The City Manager shall appoint an Affirmative Action Program Officer. He will coordinate the entire Affirmative Action Program and report all findings to the Human Resource Development Advisory Board. The Affirmative Action Program Officer shall be responsible for assembling and maintaining statistical data for use in labor market analysis by the City and its contractors and vendors. He will receive assistance from the following staff members or their representatives:

1. Director of Law
2. Personnel Director
3. Purchasing Manager
4. Human Resource Development Coordinator
5. Director of Public Works
6. Urban Renewal Agency Executive Director

In addition, the Affirmative Action Program Officer will provide all necessary administrative support to include investigation and review actions which may be required by Federal agencies.

5. Procedure for Discrimination Complaints.

The following procedure is hereby established to handle complaints of discrimination by applicants for employment and by contractors or suppliers:

- A. The grievance shall first be taken to the division head responsible for hiring or contracting.
- B. Should the grievance not be resolved by the division head the applicant for employment or contractor or supplier should take the grievance up the "chain of command" to the department director. The applicant or contractor or supplier shall initiate his grievance to the department director ten (10) days from the date of notice of the action by the division head.
- C. If Step "B" above produces no satisfactory solution, the applicant or supplier shall within ten (10) days of the completion of Step "B" put his grievance in the form of a signed letter to the Personnel Director or Purchasing Manager setting forth specific reasons for his action in the case. This letter must be submitted within ten (10) days after the grievance is brought to the department head. This letter must set forth the pertinent facts relating to the cause of the complaint being filed.

The Personnel Director or Purchasing Manager shall, within ten (10)

days of receipt of the letter from the applicant or contractor or suppliers, contact the applicant or contractor or suppliers and other personnel concerned and attempt to arbitrate a settlement. The written results of the efforts of the Personnel Director or Purchasing Manager will be given the applicant or contractor or suppliers within twenty (20) days of the receipt of the original letter of the applicant or contractor or supplier.

- D. If the applicant or contractor or supplier is not satisfied with the Personnel Director's or Purchasing Manager's efforts, he may appeal his grievance to the Human Resource Development Advisory Board. The applicant or contractor or supplier must notify in writing the Personnel Director or Purchasing Manager that he is thereby appealing to the Human Resource Development Advisory Board. The required letter must be filed within ten (10) days after the applicant or contractor or supplier has received the written results of the settlement attempted by the Personnel Director or Purchasing Manager (Step C).
- E. The Chairman of the Board shall set a date for a hearing on the appeal. This hearing must be conducted within thirty (30) days after the request has been filed with the Personnel Director or Purchasing Manager. The complainant shall be notified by registered mail of the date of the hearing at least five (5) days prior to the day of the hearing. Both the statements of the applicant or contractor or supplier and the department director will be given

to the Board by the Personnel Director or Purchasing Manager and will be considered by the Board at the time of the hearing.

F. Human Resource Development Advisory Board Hearing.

The hearing shall be informal and conducted with a view to the presentation of all the material facts. It shall be a open hearing. The complainant shall be permitted to engage the services of an attorney at the complainant's own expense.

Within ten (10) days after the hearing, the Board shall file a written report on its findings and conclusions to the appointing authority. The appointing authority shall then render his decision in writing, and this decision shall be final.

If the case is of such a nature that more than one hearing is required, the Board shall order additional hearings, such additional hearings shall be open to the public.

G. Attitude of the Board Toward Appeals.

The Board is advisory, and not a policy-making body. The Board is not a judicial agency, and shall not challenge the legality of the appointing authority's rules and policies. The Board must reach its decisions within the frame-work of the policies existing at the time the case to be decided arose.

When requested, the Board may wish to advise the appointing authorities on questions of policy.

H. The burden of proof rests on the appealing applicant contractor or supplier. He must show that the action complained of by him constitutes discrimination and unfair treatment.

SECTION III - Implementation of the
Affirmative Action Program

1. The City of Wichita shall provide technical assistance to vendors, contractors, subcontractors in establishing their Affirmative Action Program. This technical assistance shall include:
 - A. Instruction as to content of such program.
 - B. Affirmative Action steps to be taken by vendors, contractors, and subcontractors in implementing the Affirmative Action Program.
 - C. Statistical data necessary for submitting bids to the City of Wichita.
 - D. Statistical data necessary for vendors, contractors and subcontractors doing regular periodic business with the City of Wichita.

2. The City of Wichita staff will provide to the appropriate Federal agencies all reports and data that are implied by the duties and responsibilities of the various City officials, appointees and boards listed in this document. The information in these reports will include but not be limited to:
 - A. Personnel Element
 1. Copies of non-discriminatory recruiting advertisements placed in the local media.
 2. Copies of letters sent to employment agencies, schools, colleges, and universities encouraging minority applicant referral.

3. Statistical data on the composition of the City of Wichita employment market compared with the employment composition of the City staff.
4. Statistical data on progress toward stated goal.
5. Copies of Job Opportunity list.
6. Specific review(s) of present job qualifications that were revised to change or otherwise update minimum job requirements.
7. Comments and critique of follow through supervision of the Personnel Element of the Affirmative Action Program.

B. The Fair Housing Element

1. Copies of the Wichita-Sedgwick County Metropolitan Area Planning Department instructions to housing developers to submit an Affirmative Action Program with all requests for subdivision development.
2. Copies of instructions to local real estate agencies (including building, sale and rental agencies or companies) and local real estate lending and banking agencies or companies.
3. Number of Fair Housing complaints received, processed and cleared and the action taken on each.
4. Other reports as required by the Wichita Fair Housing Board.

C. The Purchasing Element

1. The number of contractor and supplier Affirmative Action Programs submitted and filed in the Purchasing Division (These programs will be filed in the alphabetical vendor file).
 2. The number of contractor and supplier Affirmative Action Programs rejected by the Purchasing Manager because of inadequacies.
 3. Statistical data on the number of minority contractors and suppliers in the City of Wichita compared with the number of minority contractors and suppliers doing business with the City of Wichita.
 4. Copies of legal advertisements placed in official City newspaper concerning Affirmative Action bidding requirements.
 5. Copies of invitation-to-bid letters sent to all qualified contractors and suppliers.
 6. Details of assistance to contractors and suppliers in helping them qualify and in obtaining necessary bonds.
 7. Comments and critique of follow through supervision of the Purchasing and Contractor and Supplier Element of the Affirmative Action Program.
- D. All report forms required above will be approved by the Budget and Management Division and the Affirmative Action Program Officer.

3. The City of Wichita and each contractor and supplier will complete all other required compliance reports that may be prescribed by the Federal government.

Austin Rising
5051 East Lincoln
Wichita, Kansas 67218
January 31, 1973

Mr. Ralph Wulz
City Manager
City of Wichita
204 South Main
Wichita, Kansas 67202

Dear Mr. Wulz:

In your memorandum of January 16th you requested written comments regarding goals and objectives of the Affirmative Action Program Policy and Procedure Manual and any other ideas on improving the manual.

Section I, Paragraphs 1. and 2. cover the statement of policy and the application thereof. The policy stated is sound but I recommend we add one additional explanatory statement to indicate that the City is going to achieve racial balance by choosing a qualified applicant for every job. However, we will not evade the intent of the program by choosing an over-qualified individual or even the best qualified applicant.

The goal mentioned in Paragraph 2. of Section I is fine and it should be implemented in a manner consistent with my comments in the previous paragraph.

Paragraph 3.A.2. of Section I should have an additional statement which gives the employer the right to disqualify any rehires if there have been past experiences which would indicate that the employee has a record of being belligerent, difficult to instruct, or an anti-organization attitude.

On page 18, Section II, Paragraph 1, you may wish to point out that the performance quality standards will not be lowered to accomplish the desired goal ratio.

I am proud of the progress Wichita has made in sincerely attempting to offer equal opportunity to all qualified individuals. I believe in this principle but care should be taken to get the results of a qualified, efficient heterogeneous group.

I trust these comments will be helpful.

Sincerely,

Austin Rising

cc: Robert A. Lakin - Metropolitan Area Planning Commission
J. E. Isaacs - Beech Aircraft



WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 1, 1973

TO Wichita-Sedgwick County Metropolitan
Area Planning Commission

FROM Robert A. Lakin, Director of Planning *na*

SUBJECT Affirmative Action Program

The Board of City Commissioners has requested and received the attached Affirmative Action Program for possible adoption.

In it are provisions relating to the MAPD and MAPC. Although I can agree with the general thrust, specific provisions applicable to planning are misdirected in achieving the housing element.

Please review my letter to Wulz for more specific comments. Between now and the 8th, we will try to have specific language changes available.

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WICHITA-SEDGWICK COUNTY

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cc: Grover McKee, Director of Community Development
William E. Knox, Human Resources Coordinator

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 1, 1973

TO Ralph Wulz, City Manager

FROM Robert A. Lakin, Director of Planning *RAL*

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in my judgment, would be to require that anyone ^{obtaining} getting building permits in the City of Wichita for development of residential units, shall have demonstrated that they have complied with the Affirmative Action Program of the City concerning fair housing. This could include a showing of marketing plans, etc. I would suppose that a number of alternates are available for handling this, such as each person applying for permits to receive a certification from the Human Resources Development Coordinator (named responsible in paragraph H) or providing a license or certification to such firms generally who have qualified. This catches the development on the spot as it is ready to go and is not something tied in a restrictive covenant which is only enforced in the event somebody decides to litigate the issue. In my opinion, such a certification or licensing provision would be a much more direct and efficient, plus effective, way of bringing the affirmative action programs to bear on the housing market. ~~Although affirmative action programs could stay in title chains, there are the problems that would exist when development is built, occupied and then resold time and time again over the years, either on a commercial or on an individual basis.~~ If, indeed, the affirmative action program is intended to open up the housing market to the disadvantaged and poor and others who may be discriminated against, it would seem to me that general City ordinances could be developed which would simply require anyone proposing to sell property for occupancy for residential purposes to accomplish certain things. These requirements could be developed by the Human Resources Development Coorrinator, and I assume would include being

advertised in papers of general circulation, newspapers of special circulation, statements in the advertisement concerning equal opportunity, etc. If this comes to pass, I think it should be applicable to all forms of housing, including those for sale or rental on a commercial basis and those on an individual sales basis with or without the utilization of a realtor.

If consideration is given to the foregoing, ~~then~~ I would suggest that on Page 37, under B.1., ~~that~~ the language be changed ^{to provide} that "copies of the City policies concerning sale or construction of housing be developed by the Human Resources Development Coordinator and provided to all contractors, realtors and financing institutions within Sedgwick County."

Note: To go back in a previous paragraph.

One additional item that might be required is that no building permits will be issued to out-of-state developers or individuals unless they shall have certified themselves under the general ordinances and provisions applicable to affirmative action programs in housing.

Because of the nature of the Metropolitan Area Planning Commission and the Planning Department as a joint City-County Board, I would suggest that any action that requires Planning Commission approval, such as amending the Subdivision Regulations, be recognized as also requiring the action and approval by the Board of County Commissioners before it could be placed into full force and affect.

The next meeting of the Planning Commission will be on February 8. I will furnish them a draft copy of the Affirmative Action Program, together with these comments which I have directed to you. I would appreciate very much if one of ^{McKee} your staff members could be at our Planning Commission meeting to answer any questions they might have concerning the Affirmative Action Program.

RAL:ber

cc: Grover McKee, Director of Community Development
William E. Knox, Human Resources Coordinator

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 16, 1973

TO All Department and Division Heads
All Advisory Boards and Commissions

FROM Ralph Wulz, City Manager


SUBJECT Affirmative Action Program
Policy and Procedure Manual

Attached is a draft of a proposed Affirmative Action Program Policy and Procedure Manual for the City of Wichita currently under consideration by the City Commission.

The document was reviewed, received and filed by the City Commission at its January 9, 1973 meeting at which time the Commissioners directed a review of the program by the various administrative and advisory boards as well as the City of Wichita departments and divisions. The City Commissioners indicated a specific interest in a written commentary as to the inclusiveness of the Affirmative Action Program in regard to the various federal and state statutes and executive orders and municipal ordinances. Recommendations as to any suggested changes in the statement of goal and objectives are requested.

Please review the document and furnish this office with your written commentary.

In addition to directing your comments to the considerations raised by the City Commission, your ideas on any way in which the manual can be improved and strengthened, along with the language proposed to strengthen the manual, are requested by February 1, 1973.


Ralph Wulz
City Manager

RW:jh
Attachment



DRAFT - SUBJECT TO REVISION

AFFIRMATIVE
ACTION
PROGRAM
POLICY AND PROCEDURE
MANUAL

City of Wichita, Kansas

January, 1973

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SECTION I

The City of Wichita's Affirmative Action Program

1. Statement of Policy and Goals

It is the policy of the City of Wichita to provide equal opportunities for all Wichita citizens in whatever lawful endeavors the individual citizen desires to pursue, regardless of the citizen's race, religion, color, sex, national origin, or ancestry. Moreover, it is the policy and goal of the City of Wichita to take affirmative steps to encourage the participation of all citizens in the benefits of the community's physical assets as well as its social and economic programs such that participation in professional activities, employment activities, commercial activities, business activities, entrepreneurial endeavors, tangible and intangible real and personal property ownership, educational activities and social activities in Wichita shall be proportionate to the makeup of the adult population of the City of Wichita as to race, creed, color, sex, national origin, and/or ancestry.

2. Policy Application - All Persons and Employers

It is the policy of the City of Wichita to concern itself that all persons and employers in the community conduct their affairs for the benefit of all citizens, regardless of the citizen's race, creed, color, sex, national origin, and/or ancestry. Moreover, it is the goal of the City of Wichita to take affirmative steps to insure that certain employment, economic and housing opportunities are available to the citizens of Wichita in a manner proportionate to the composition of the adult population of the City of Wichita as to race, creed, color, sex, national origin and/or ancestry. The United States of America, the State of Kansas, and the City of Wichita have heretofore enacted certain laws which are general in application, and which, as a whole, provide the legal basis for such policies and goals for the community-at-large.

3. Legal Basis for the Program

A. Federal Law

The Laws of the United States of America* provide, among other things, that it shall be unlawful. . . . :

*The Civil Rights Act of 1964, as amended. The City of Wichita is defined as a "person" and an "employer" under the Act.

1. For any person, on the grounds of race, color, or national origin to be excluded from participation, be denied the benefits of, or to be subjected to discrimination under any program or activity receiving Federal assistance.
2. For any employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.
3. For any employer to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.
4. For any employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.
5. For any labor organization to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin; to limit, segregate, or classify its membership, or to classify or fail to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section.
6. For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

In addition, Executive Order No. 11246, titled Equal Employment Opportunity, states that:

PART I - Nondiscrimination in
Government Employment

SECTION 101. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color, or national origin, and to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency. The policy of equal opportunity applies to every aspect of Federal employment policy and practice.

PART II - Nondiscrimination in Employment
by Government Contractors and
Subcontractors

Subpart B - Contractors' Agreements

SECTION 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contacting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. "

SECTION 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or

in discharging their primary responsibility for securing compliance with the terms of this Order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

SECTION 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

SECTION 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

SECTION 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or

an agency referring workers of providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, creed, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the Order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.

SECTION 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial suppliers or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: Provided, That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: And provided further, That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies

SECTION 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor

recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D - Sanctions and Penalties

SECTION 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have compiled or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, or organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the non-discrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a) (2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a) (5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

SECTION 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

SECTION 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

SECTION 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209 (a) (6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

Subpart E - Certificates of Merit

SECTION 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SECTION 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SECTION 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III - Nondiscrimination Provisions in
Federally Assisted Construction
Contracts

SECTION 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 203 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SECTION 302. (a) "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program

participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SECTION 303. (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

SECTION 304. Any executive department or agency which imposes by rule, regulation, or order requirements of non-discrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That action to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

The Civil Rights Act of 1968 states that it shall be unlawful. . . :

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, or national origin.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because race, color, religion, or national origin.
3. To make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.
4. To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.
6. For any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

B. State Laws

The General Statutes of Kansas* provide, among other things, that it shall be unlawful. . . .:

1. For an employer, because of race, religion, color, sex, national origin or ancestry of any person to refuse to hire or employ, or to bar or to discharge from employment such person or to otherwise discriminate against such person in compensation or in terms, conditions, or privileges of employment; or to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business motive.
2. For a labor organization, because of the race, religion, color, sex, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.
3. For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of his race, religion, color, sex, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, national origin or ancestry.
4. For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, national origin or ancestry, in admission, hiring assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.
5. For any person being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny, or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this act because of race, religion, color, sex, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

*Chapter 44, Article 10, Kansas Statutes Annotated, as amended.

6. For any person, as defined herein, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (K.S.A. 44-1009; L. 1965, ch. 323, sec. 6; L. 1970, ch. 192, sec. 5; L. 1972, ch. 194; July 1)
7. For any person to refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or to refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, color, sex, national origin or ancestry.
8. For any person to discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, national origin or ancestry.
9. For any person to make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
10. For any person to represent to any person because of race, religion, color, sex, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is in fact so available.
11. For any person for profit to induct or attempt to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin or ancestry.
12. For any person to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting real property, or to discriminate against him in the terms of conditions of such access, membership or participation, because of race, religion, color, sex, national origin or ancestry.

13. For any person to discriminate against any person in his use or occupancy of real property because of the race, religion, color, sex, national origin or ancestry of the people with whom such person associates. (L. 1970, ch. 193, sec. 2; L. 1972, ch. 194; July 1)
14. For any person to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining real property because of the race, religion, color, sex, national origin or ancestry of: (1) Such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants, or occupants of the real property in relation to which such loan or other financial assistance is to be made or given.
15. For any person to discriminate against any person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, religion, color, sex, national origin or ancestry of: (1) Such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given; or
16. For any person to use a form of application for financial assistance, or to make any inquiry, or make or keep any record in connection with any such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification or discrimination because of race, religion, color, sex, national origin or ancestry. (L. 1970, ch. 193, sec. 3; L. 1972, ch. 194; July 1)
17. Every contract for or on behalf of the state or any county or municipality or other political subdivision of the state, or any agency of or authority created by any of the foregoing, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees to incorporate into his operations the provisions of equal opportunity and affirmative action. (K. S. A. 44.1030)

C. City of Wichita Laws

The Ordinances of the City of Wichita* provide, among other things, that it shall be unlawful for any person. . . . :

1. To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or to refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, sex, color, national origin or ancestry.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, sex, color, national origin or ancestry.
3. To make, print, publish, disseminate or use, cause to be made, printed, published, disseminated, or used, any notice statement advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, sex, color, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.
4. To represent to any person because of race, religion, sex, color, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is, in fact, so available.
5. To induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, sex, color, national origin or ancestry.
6. To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or any other service, organization or facility relating to the business of selling or renting real property, or to discriminate against him in terms or conditions of such access, membership or participation because of race, religion, sex, color, national origin or ancestry.
7. To discriminate against any person in his use or occupancy of real property because of the race, religion, sex, color, national origin or ancestry of the people with whom such person associates.
8. To make any representation to any prospective purchaser that any block, neighborhood or area has, will, or might undergo a change

* Ordinance No. 31 - 722.

with respect to the religious, racial, sexual, or nationality composition of the block, neighborhood or area for the purpose of discouraging the purchase of a housing accommodation in a particular area.

9. To engage in, or hire or conspire with others to commit acts or activities of any nature, the purpose of which is to harrass, degrade, embarrass or cause economic loss:
 - (a) To a person who shall offer to provide housing accommodations, facilities, or services to any person regardless of race, color, religion, sex, national origin or ancestry of the person; or,
 - (b) To a person because such person has provided housing accommodations, facilities or services to a person of a particular race, color, religion, sex, national origin or ancestry.
10. To engage in any reprisal against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under the terms of this ordinance.
11. To aid, abet, incite, compel, or coerce, any person to engage in any of the discriminatory practices defined by this ordinance.

The Ordinances of the City of Wichita provide further that it shall be unlawful for any bank, building and loan association, insurance company or other person, firm or enterprise, whose business consists in whole or in part in the making of real estate loans, to:

1. Deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining real property because of the race, religion, sex, color, national origin or ancestry of: (1) such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purposes of such loan or other financial assistance; or (3) the present or prospective owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given.
2. Discriminate against any person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, religion, sex, color, national origin or ancestry of: (1) such person; (2) any person associated with such person in connection with such loan or other financial assistance or associated with him in connection with the purpose of such loan or other financial assistance; or (3) the present or prospective

owners, lessees, tenants or occupants of the real property in relation to which such loan or other financial assistance is to be made or given; or,

3. Use a form of application for financial assistance, or to make any inquiry, or make or keep any record in connection with any such application which indicates, directly or indirectly, an intention to make any preference, limitation, specification or discrimination because of race, religion, sex, color, national origin or ancestry.
4. Policy Application - Affairs of the City of Wichita

It is the policy of the City of Wichita to conduct its affairs for the benefit of all citizens, regardless of the citizen's race, creed, color, sex, national origin, and/or ancestry. In the conduct of the City's business, it is the goal of the City of Wichita to take affirmative steps in making employment, vending, contracting, and subcontracting available to all persons and employers in a manner proportionate to the composition of the adult population in the City of Wichita. This will apply to the internal organization of the City staff as well as the external operations over which the City of Wichita has control.

To implement this Affirmative Action Program, the City of Wichita has established Personnel and Purchasing Elements which cite the legal basis for and which implements this program. The applications of the Personnel and Purchasing Elements are more fully described in the City of Wichita Administrative Personnel Policy and Procedure Manual and the Purchasing Manual respectively, which are, by reference incorporated herein.

SECTION II - Affirmative Action Program Administration

1. Statement of Policy

It is the policy of the City of Wichita to implement fully the equal opportunity and affirmative action requirements of Presidential Executive Order Number 11246 as amended, the Civil Rights Acts of 1964 and 1968 as amended, Titles 24 and 41 of the Code of Federal Regulations together with implementing regulations and requirements as may from time-to-time be promulgated by agencies of the Federal government, the Kansas Act Against Discrimination and the City of Wichita Ordinance Prohibiting Discrimination such that, over a period of time, individual citizens will participate in Wichita's employment and housing in the same ratio as the adult population of the City of Wichita.

2. The Affirmative Action Program Application

The City of Wichita Affirmative Action Program applies to all areas of the City's Merit System of Administration, purchasing, contracting, and all other business transactions and all housing activities including but not limited to all recruiting, hiring, promotion, demotion, and all other terms, conditions and privileges of employment, and in the selling, leasing, renting or other transfer of property, and in all transactions, agreements and contracts in which the City of Wichita is a party.

3. Affirmative Action Program Administrative Requirements

All provisions of the City of Wichita's Administrative Personnel Policy and

Procedure Manual, the Administration Department Procedure Manual, the Purchasing Manual, Administrative Procedures and Regulations, and Department Head Letters are included herein by reference.

The following administrative requirements shall be met by the City of Wichita in the operation of the Affirmative Action Program.

- A. The Personnel Element All vacancies in the City of Wichita organization shall be publicised, advertised and filled in such a manner as to insure that all Wichita adult citizens are given an equal opportunity to be aware of such vacancies, regardless of race, creed, color, sex, national origin, and/or ancestry.
1. A job opportunity list identifying the City of Wichita as an Equal Opportunity employer and stating that the City will consider all applications for employment without regard to race, creed, color, sex, national origin, and/or ancestry and covering all agencies in the City's organization will be posted no less than bi-weekly.
 2. Periodically, but in no case less than once each six months, the City will review the minimum requirements of all City job descriptions and revise them as needed, such that all citizens are afforded an equal opportunity to meet such minimum requirements without regard to race, creed, color, sex, national origin, and/or ancestry.
 3. Periodically, and insofar as practicable, all colleges, universities, public and private schools and employment agencies will be encouraged by letter to send qualified job applicants to the City of Wichita without regard to race, creed, color, sex, national origin,

and/or ancestry.

4. All persons employed by the City of Wichita will be promoted, transferred, demoted, or laid off without regard to race, creed, color, sex, national origin, and/or ancestry.
 5. The City of Wichita's Merit System of Personnel Administration shall benefit all employees of the City of Wichita without regard to race, creed, color, sex, national origin, and/or ancestry.
 6. All publicity or advertising relating to any vacancy shall be general in nature and shall include no reference, nor be listed, classified or cataloged in such a manner so as to encourage or discourage application by any person on the basis of race, creed, color, sex, national origin, and/or ancestry for such vacancy.
 7. Transfers, promotions, terminations, restrictions, and penalties shall be made in accordance with the policies as stated in the Administrative Personnel Policy and Procedure Manual except in the case of policies that conflict with the policies stated in the Affirmative Action Manual in which case precedence shall be given to the latter.
- B. The Purchasing Element. All purchasing, contracting, selling, leasing and/or other business transactions shall be publicized, advertised and conducted so as to insure that Wichita adult citizens are given an opportunity to be aware of and participate in such transactions, regardless of race, creed, color, sex, national origin, and/or ancestry.

1. In all business transactions entered into by the City of Wichita, the City will consider all contracts, bids and specifications, and solicit business from all contractors and suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
2. Periodically, and insofar as possible, all contractors and suppliers will be encouraged by letter to submit bids or otherwise attempt to qualify to enter into business with the City without regard to race, creed, color, sex, national origin, and/or ancestry.
3. The City of Wichita's purchasing policies and procedures shall apply to all contractors and suppliers that enter into or attempt to enter into business with the City of Wichita without regard to race, creed, color, sex, national origin, and/or ancestry.
4. All publicity or advertising seeking contractors and/or suppliers to enter into business with the City of Wichita shall include no reference, nor be listed, classified, or cataloged in such a manner so as to encourage or discourage bids and specifications by any firm on the basis of race, creed, color, sex, national origin, and/or ancestry for such business.
5. A concerted effort will be given to all contractors and suppliers in qualifying by helping them secure bonds and submitting bids regardless of race, creed, color, sex, national origin, and/or ancestry.
6. All contractors and suppliers will be given instructions and guidelines

on the Affirmative Action Program and special attention will be called to the terms and conditions on the Purchase Order Form, Item No. 14.

- C. The Contractors and Suppliers Element All contractors, vendors, suppliers and others who buy from, sell to, contract with, or otherwise enter into a transaction with the City of Wichita shall conduct their business affairs such a manner that all adult Wichita citizens are given an opportunity by such contractors, vendors, suppliers, and others to participate in the benefits of such transaction, including employment, subcontracting, and supplying without regard to race, creed, color, sex, national origin, and/or ancestry.
1. All such contractors shall identify themselves as Equal Opportunity Employers and state that the contractor will, in seeking to fill job vacancies, consider all applications for employment without regard to race, creed, color, sex, national origin, and/or ancestry.
 2. Periodically, but in no case less than once each six months, the contractors and suppliers will review the minimum requirements of all job descriptions in their firm or business and revise them as needed, such that all citizens are afforded an equal opportunity to meet such requirements without regard to race, creed, color, sex, national origin, and/or ancestry.
 3. Periodically, and insofar as practicable, all colleges, universities, public and private schools and employment agencies, from which the contractor and suppliers seek applicants, will be encouraged by letter

to send qualified job applicants to the contractor or supplier without regard to race, creed, color, sex, national origin, and/or ancestry.

4. All persons employed by the contractors and/or suppliers will be promoted, transferred, demoted, or laid off without regard to race, creed, color, sex, national origin, and/or ancestry.
5. The personnel policies and procedures of each contractor and supplier shall benefit all employees of such contractor and supplier without regard to race, creed, color, sex, national origin, and/or ancestry.
6. In all business transactions entered into by the contractor and suppliers, the contractors and suppliers will consider all contracts, bids and specifications and solicit business from all subcontractors and suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
7. Periodically, and insofar as possible, all subcontractors and suppliers will be encouraged by letter to submit bids or otherwise attempt to qualify to enter into business with City contractors or suppliers without regard to race, creed, color, sex, national origin, and/or ancestry.
8. The purchasing policies and procedures of all City of Wichita contractors and suppliers shall apply to all subcontractors and suppliers that enter into, or attempt to enter into, business with the City's contractors and suppliers without regard to race, creed,

color, sex, national origin, and/or ancestry.

9. All publicity or advertising seeking subcontractors and/or suppliers to enter into business with contractors and suppliers doing business with the City of Wichita shall include no reference, nor be listed, classified or cataloged in such a manner so as to encourage or discourage bids by any subcontractor or supplier on the basis of race, creed, color, sex, national origin, and/or ancestry for such business.
 10. A concerted effort will be given to all subcontractors and suppliers in qualifying them to do business with contractors and suppliers doing business with the City of Wichita regardless of race, creed, color, sex, national origin, and/or ancestry.
- D. The Fair Housing Element. All housing in the City of Wichita shall be publicized, advertised, rented, leased, bought, sold, or otherwise transferred in such a manner so as to insure that all Wichita adult citizens are given an equal opportunity to be aware of such housing and to live in such housing regardless of race, creed, color, sex, national origin, and/or ancestry.
1. All new housing subdivision in the City of Wichita will be identified as Equal Opportunity subdivisions, and any statements, publicity, and/or advertising pertaining thereto shall state that all real estate transactions therein shall occur without regard to race, creed, color, sex, national origin, and/or ancestry. (K. S. A. 1972 Supp. 44.1001).

2. All banks, savings and loan associations or other real estate lending institutions will be identified as equal opportunity lenders and any statements, publicity and/or advertising pertaining thereto shall state that all real estate financing transactions therein shall occur without regard to race, creed, color, sex, national origin, and/or ancestry.

4. Responsibility for Administration

A. The City Manager. The City Manager is responsible for administrative compliance with all of the elements of the Affirmative Action Program as it applies to all personnel, purchasing, contractual and fair housing matters under the jurisdiction of the City Manager.

B. The Board of Park Commissioners. The General Statutes of Kansas provide that: "said Board of Park Commissioners may, at will, appoint, employ, and discharge such engineers, surveyors, attorneys, agents, clerks and servants as it may deem necessary, and fix the duties and compensation of all such appointees. . . ."

The Director of the Board is the executive officer for the Board and, as such, handles the Affirmative Action Program and is responsible for administrative compliance of all affirmative action elements under the jurisdiction of the Board of Park Commissioners.

C. The Library Board. The General Statutes of Kansas provide that the Library Board "shall have the power to appoint a suitable librarian and necessary assistants and fix their compensation. "

The Librarian serves as the administrative head of the Library and, as such, is responsible for administrative compliance with all elements of the Affirmative Action Program as they apply to the Library.

- D. The Art Museum Board. The General Statutes of Kansas provide that "the Governing Board of the City of Wichita may authorize the Art Museum Board to appoint, employ, and remove a Director of the Museum, the necessary subordinate employees and fix their compensation. "

The Director of the Art Museum serves as the executive officer and as such is responsible for administrative compliance of all elements of the Affirmative Action Program as they apply to the Art Museum.

- E. The Board of Commissioners of the Urban Renewal Agency. The General Statutes of Kansas provide that "The Agency may employ an Executive Director, technical experts, and such other agents and employees, permanent and temporary, as it may require and determine their qualifications, duties and compensation.

The Executive Director is responsible for administrative compliance with all elements of the Affirmative Action Program in matters under the jurisdiction of the Urban Renewal Agency.

- F. The Personnel Director. The City's Personnel Director is directed by the City Manager to administer the Personnel Element of the Affirmative Action Program.

The duties of the Personnel Director in this regard, in addition to those listed in the Administrative Personnel Policy and Procedure Manual, include the following:

1. The assurance of non-discriminatory and affirmative action recruiting.
2. The assurance of non-discriminatory and affirmative action hiring.
3. Establishment of apprenticeship and other training programs.
4. The assurance of non-discriminatory and affirmative action placement and promotion.
5. The assurance of non-discriminatory and affirmative action pay, compensation, and working conditions.
6. The assurance of non-discriminatory and affirmative action demotion, lay-off, or termination.
7. All other duties as may be necessary to implement the Personnel Element of the Affirmative Action Program.

- G. The Purchasing Manager. The City's Purchasing Manager is directed by the City Manager to administer the Purchasing Element of the Affirmative Action Program.

In addition to the duties and procedures outlined in the Administration Department Procedure Manual and the Purchasing Manual, the functions of the Purchasing Manager will include:

1. The assurance of non-discriminatory and affirmative action contractual arrangements.
2. The assurance of non-discriminatory and affirmative action bidding.
3. The assurance of non-discriminatory and affirmative action bonding and other requirements.

4. The assurance of non-discriminatory and affirmative action payment on completed purchasing agreements.
5. All other duties as may be necessary to implement the Purchasing and Contractors and Suppliers elements of the Affirmative Action Program.

H. The Human Resource Development Coordinator. The Human Resource Development Coordinator is directed by the City Manager to administer the Fair Housing Element of the Affirmative Action Program.

The responsibilities of the Human Resource Development Coordinator in this regard includes:

1. The assurance of non-discriminatory and affirmative action housing and housing subdivision development.
2. The assurance of non-discriminatory and affirmative action in real estate lending transactions.
3. All other duties as may be necessary to implement the Fair Housing Element of the Affirmative Action Program.

I. The Department and Division Heads - The Department Directors and Division Heads will provide effective supervision to their employees and maintain proper working relationships. The Department Directors and Division Heads, along with the Personnel Director, the Purchasing Manager, and the Human Resource Development Coordinator are responsible for administering the elements of the Affirmative Action Program.

J. The City Commission The City Commission determines the budget for salaries and fixes the compensation of all officers and employees under its jurisdiction. In addition, the City Commission will determine the provisions of the Affirmative Action Program.

- K. The Personnel Advisory Board - The Personnel Advisory Board serves in an advisory capacity on personnel problems pertaining to the Personnel Element of the Affirmative Action Program. This will be done in accordance with the By-Laws as stated in the Administrative Personnel Policy and Procedure Manual, Section VII and its findings and actions shall be reported to the Human Resource Development Advisory Board (HRDAB).
- L. The Employees' Council - The Employees' Council is concerned with the general welfare of the employees of the City. The functions of the Employees' Council are defined by its By-Laws in the Administrative Personnel Policy and Procedure Manual, Section VIII.
- M. The Wichita Employees Retirement Board - The responsibilities of this Board shall remain as stated in the Administrative Personnel Policy and Procedure Manual.
- N. Police and Fire Retirement Board - The responsibilities of the Board shall remain as stated in the Administrative Personnel Policy and Procedure Manual.
- O. The Community Grievance Officer - The duties of the Community Grievance Officer will remain as stated in City Ordinance 32-079.
- P. The Board of Bids and Contracts - The Board of Bids and Contracts is empowered to review all bids for public improvements (streets, sewers, etc.) and bids on all purchases exceed \$1,500. The Board's recommendations are forwarded to the City Commission for final consideration.

In addition to policies of the Board of Bids and Contracts as stated in the Administration Department Procedure Manual, Section 3, Page 3, the Board will assure the City Commission in its recommendations that all bids received by contractors and suppliers on any given upcoming purchase or contract that said contractors and suppliers have included in their bid specifications the necessary forms regarding the individual vendors, contractors or subcontractors Affirmative Action Program.

The Board of Bids and Contracts will not accept bids from contractors and suppliers without the statement referred to above.

- Q. The Wichita Fair Housing Board - The Wichita Fair Housing Board is created by the City of Wichita Ordinance No. 31-722. The Board's responsibilities and duties as listed therein are incorporated in this document.
- R. The Wichita Sedgwick County Metropolitan Area Planning Department (WSC MAPD) - The responsibility of the WSC MAPD is to advise the Wichita-Sedgwick County Metropolitan Area Planning Commission (WSC MAPC) in all matters leading to a comprehensive development plan. Concerning community development plans, the WSC MAPD will prepare alternative courses of action on the development of housing subdivisions. [On preparation of the alternatives, the WSC MAPD will provide the WSC MAPC assurance that each contractor and supplier has an affirmative action program with regard to purchasing and personnel policies and that the developer(s) of the subdivision have an Affirmative Action Program with respect to fair housing policies before final action is taken by the WSC MAPC.]

S. The Human Resource Development Advisory Board (HRDAB).

This Board will serve in an advisory capacity on problems relating to the Affirmative Action Program. The responsibilities of the Board are defined in the City Code (2. 12. 250 to 2. 12. 320) and shall be incorporated herein.

T. The Affirmative Action Program Officer - The City Manager shall appoint an Affirmative Action Program Officer. He will coordinate the entire Affirmative Action Program and report all findings to the Human Resource Development Advisory Board. The Affirmative Action Program Officer shall be responsible for assembling and maintaining statistical data for use in labor market analysis by the City and its contractors and vendors. He will receive assistance from the following staff members or their representatives:

1. Director of Law
2. Personnel Director
3. Purchasing Manager
4. Human Resource Development Coordinator
5. Director of Public Works
6. Urban Renewal Agency Executive Director

In addition, the Affirmative Action Program Officer will provide all necessary administrative support to include investigation and review actions which may be required by Federal agencies.

5. Procedure for Discrimination Complaints.

The following procedure is hereby established to handle complaints of discrimination by applicants for employment and by contractors or suppliers:

- A. The grievance shall first be taken to the division head responsible for hiring or contracting.
- B. Should the grievance not be resolved by the division head the applicant for employment or contractor or supplier should take the grievance up the "chain of command" to the department director. The applicant or contractor or supplier shall initiate his grievance to the department director ten (10) days from the date of notice of the action by the division head.
- C. If Step "B" above produces no satisfactory solution, the applicant or supplier shall within ten (10) days of the completion of Step "B" put his grievance in the form of a signed letter to the Personnel Director or Purchasing Manager setting forth specific reasons for his action in the case. This letter must be submitted within ten (10) days after the grievance is brought to the department head. This letter must set forth the pertinent facts relating to the cause of the complaint being filed.

The Personnel Director or Purchasing Manager shall, within ten (10)

days of receipt of the letter from the applicant or contractor or suppliers, contact the applicant or contractor or suppliers and other personnel concerned and attempt to arbitrate a settlement. The written results of the efforts of the Personnel Director or Purchasing Manager will be given the applicant or contractor or suppliers within twenty (20) days of the receipt of the original letter of the applicant or contractor or supplier.

- D. If the applicant or contractor or supplier is not satisfied with the Personnel Director's or Purchasing Manager's efforts, he may appeal his grievance to the Human Resource Development Advisory Board. The applicant or contractor or supplier must notify in writing the Personnel Director or Purchasing Manager that he is thereby appealing to the Human Resource Development Advisory Board. The required letter must be filed within ten (10) days after the applicant or contractor or supplier has received the written results of the settlement attempted by the Personnel Director or Purchasing Manager (Step C).
- E. The Chairman of the Board shall set a date for a hearing on the appeal. This hearing must be conducted within thirty (30) days after the request has been filed with the Personnel Director or Purchasing Manager. The complainant shall be notified by registered mail of the date of the hearing at least five (5) days prior to the day of the hearing. Both the statements of the applicant or contractor or supplier and the department director will be given

to the Board by the Personnel Director or Purchasing Manager and will be considered by the Board at the time of the hearing.

F. Human Resource Development Advisory Board Hearing.

The hearing shall be informal and conducted with a view to the presentation of all the material facts. It shall be a open hearing.

The complainant shall be permitted to engage the services of an attorney at the complainant's own expense.

Within ten (10) days after the hearing, the Board shall file a written report on its findings and conclusions to the appointing authority. The appointing authority shall then render his decision in writing, and this decision shall be final.

If the case is of such a nature that more than one hearing is required, the Board shall order additional hearings, such additional hearings shall be open to the public.

G. Attitude of the Board Toward Appeals.

The Board is advisory, and not a policy-making body. The Board is not a judicial agency, and shall not challenge the legality of the appointing authority's rules and policies. The Board must reach its decisions within the frame-work of the policies existing at the time the case to be decided arose.

When requested, the Board may wish to advise the appointing authorities on questions of policy.

H. The burden of proof rests on the appealing applicant or contractor or supplier. He must show that the action complained of by him constitutes discrimination and unfair treatment.

SECTION III *Implementation of the
Affirmative Action Program*

I. The City of Wichita shall provide technical assistance to vendors, contractors; subcontractors in establishing their Affirmative Action Program. This technical assistance shall include:

- A. Instruction as to content of such program.
- B. Affirmative Action steps to be taken by vendors, contractors, and subcontractors in implementing the Affirmative Action Program.
- C. Statistical data necessary for submitting bids to the City of Wichita.
- D. Statistical data necessary for vendors, contractors and subcontractors doing regular periodic business with the City of Wichita.

2. The City of Wichita shall provide to the appropriate Federal agency all data to be used for the purpose of the data and responsibilities of the various City offices, agencies and boards listed in the document. The information in these reports will be held in confidence.

3. Statistical Data

- 1. ~~_____~~
- 2. ~~_____~~

3. Statistical data on the composition of the City of Wichita employment market compared with the employment composition of the City staff.
4. Statistical data on progress toward stated goal.
5. Copies of Job Opportunity list.
6. Specific review(s) of present job qualifications that were revised to change or otherwise update minimum job requirements.
7. Comments and critique of follow through supervision of the Personnel Element of the Affirmative Action Program.

B. The Fair Housing Element

1. Copies of the Wichita-Sedgwick County Metropolitan Area Planning Department instructions to housing developers to submit an Affirmative Action Program with all requests for subdivision development.
2. Copies of instructions to local real estate agencies (including building, sale and rental agencies or companies) and local real estate lending and banking agencies or companies.
3. Number of Fair Housing complaints received, processed and cleared and the action taken on each.
4. Other reports as required by the Wichita Fair Housing Board.

C. The Purchasing Element

1. The number of contractor and supplier Affirmative Action Programs submitted and filed in the Purchasing Division (These programs will be filed in the alphabetical vendor file).
2. The number of contractor and supplier Affirmative Action Programs rejected by the Purchasing Manager because of inadequacies.
3. Statistical data on the number of minority contractors and suppliers in the City of Wichita compared with the number of minority contractors and suppliers doing business with the City of Wichita.
4. Copies of legal advertisements placed in official City newspaper concerning Affirmative Action bidding requirements.
5. Copies of invitation-to-bid letters sent to all qualified contractors and suppliers.
6. Details of assistance to contractors and suppliers in helping them qualify and in obtaining necessary bonds.
7. Comments and critique of follow through supervision of the Purchasing and Contractor and Supplier Element of the Affirmative Action Program.

- D. All report forms required above will be approved by the Budget and Management Division and the Affirmative Action Program Officer.

3. The City of Wichita and each contractor and supplier will complete all other required compliance reports that may be prescribed by the Federal government.

A D D I T I O N A L
C O M M E N T S
o n

Draft: Affirmative Action Program
Procedure and Policy Manual

January 30, 1973
by W. E. Knox

In previous correspondence relative to this subject dated January 11, 1973, statements were made concerning the use of terms. At that time a detailed background of development of the term, "affirmative action program", was not made. Since that time there have been many questions raised which, when answered, may clarify the issue. The background of the term is provided in more detail.

History of Affirmative Action Program.

In Executive Order No. 11246, dated September 24, 1965, the language employed is "The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment, advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause."

The Secretary of Labor was designated to be responsible for the administration of Part II and Part III of the Executive Order. The Department of Labor in its administration specified affirmative actions to ensure equal opportunity which later became the cornerstone of equal opportunity programs. In 1967 the Department of Housing and Urban Development formulated HUD Form 907. The basic language of HUD Form 907 is "prime contractor or subcontractor who signs a contract on a Federal or Federally assisted contract assumes the obligation to take whatever affirmative actions are necessary to assure equal employment opportunity. To do this, the contractor must have a program of affirmative action. The principles of affirmative

action were outlined which again dealt primarily with implementation of non-discrimination.

On December 4, 1971, Title 41 was issued by the Department of Labor which became more specific relative to the development and the criteria for establishing affirmative action programs. In this Title, language was used relative to utilization and under-utilization of minorities and women as relates to equal opportunity objectives. This Title spoke of making an analysis of the work force to determine the levels of utilization. In the determination, if minorities and women are being under-utilized, contractors would then attempt to adjust or find ways to bring their utilization into compliance with the population distribution as it relates to minorities and women.

On December 30, 1971, Title 24 was released by the Department of HUD which set forth procedures to be followed in affirmative action program requirements. This followed the line of Title 41 with the exception that there should be minimum standards established. The Department of HUD did not set any minimum standards, and the resulting confusion left contractors at a loss as to what goals they should direct their attention. The City's first experience with affirmative action requirements was in Evergreen Park. No definite guidelines had been developed. The affirmative action program of contractors for Evergreen Park was finally approved, and we spent the next six months dealing with protestors who felt that the Department of HUD and the City of Wichita had been dilatory in not requiring the contractor to meet Federal specifications.

While this activity was being conducted by the Department of Labor and the Department of HUD, the Equal Opportunity Employment Commission, who has a responsibility under Title VII of the Civil Rights Act of 1964, was also active. The Equal Opportunity Employment Commission did not rely upon administrative regulations. Their mandate was one of using affirmative action as the last step in civil rights law enforcement process of relief.

The Courts based their interpretations and decisions on the Civil Rights Acts of 1866 and 1870, Title VII of the Civil Rights Act of 1964, and many state statutes and municipal ordinances. The Courts further began to interpret the intent of Congress and began establishing a constitutional basis. The Courts established as legitimate relief that when there is

proven discrimination or an exclusion of a class or group constituting prima facie evidence of discrimination, affirmative action programs were a remedy. Preferential hiring quotas by race and sex could legitimately be sustained.

"...That section cannot be construed as a ban on affirmative relief against continuation of effects on past discrimination resulting from present practices (neutral on their face) which have the practical effect of continuing past injustices. Any other interpretation (of Section 703 (i)) would allow complete nullification of the stated purpose of the Civil Rights Act of 1964."

"Adequate protection of Negro rights under Title VII may necessitate, as in the instant case, some adjustment of the rights of white employees. The Court must be free to deal equitably with conflicting interests of white employees in order to shape remedies that will most effectively protect and redress the rights of Negro victims of discrimination."

It is this legal basis upon which it is now found that affirmative action programs are on the soundest ground. As we look at the evolution of the use of affirmative action programs, they were designed to ensure equal opportunity or to remedy past acts of discrimination.

The City has affirmatively taken steps to ensure equal opportunity. The question is one of whether or not these steps taken have resulted in the utilization of minorities and women to the satisfaction of the Board of City Commissioners. The answer apparently is no. The second question is to what extent is minority utilization desired and/or feasible? In any event, whether affirmative action programs are designed to ensure equal opportunity or as relief for proven discrimination, an analysis of the utilization of minorities and women is a first MUST step. Unless this is part of the program, there is no meaning. The policy determination to be made is to what extent does the City wish to go, to ensure equal opportunity.

The purpose of this discussion is to point out the rationale of labeling the program Equal Opportunity other than Affirmative Action.

C O M M E N T S

on

DRAFT: Affirmative Action Program
Policy and Procedure Manual

January 11, 1973
by W. E. Knox

In reviewing the manual certain terms are used. In order to provide a positive framework in which to objectively analyze the manual, it is necessary to start with a common understanding of terms. The terms to which I refer are: NON-DISCRIMINATION, EQUAL OPPORTUNITY, and AFFIRMATIVE ACTION.

NON-DISCRIMINATION: This is a policy statement. It means that the selection process, whether it be for employment or housing, is not affected by race, religion, sex, national origin, or ancestry.

EQUAL OPPORTUNITY: This is basically a declaration and an invitation. This means that employers, companies, etc., have declared or posted that they will not discriminate on the basis of race, religion, sex, national origin, or ancestry and will actively recruit minorities. It further agrees to notify all their employees of such a policy. It establishes an equal opportunity officer to whom any person feeling aggrieved can report. It means that job descriptions are evaluated on the basis of whether or not the requirements are actually job related. It means insuring that recruiting information gets to minority sources, and minorities are advised that they are welcome to apply and will be considered. This is a step beyond non-discrimination.

AFFIRMATIVE ACTION: This is a remedy. In cases where there is proven discrimination involving an individual or a group or a class or the exclusion of a group or a class constituting prima facia evidence of discrimination, steps are taken to provide relief. The steps that are taken or the program that is tailored or designed to provide relief is called an "Affirmative Action Program." The plan includes the goals and the timetable for providing this relief.

As we look to the manual, the first point to be considered, (In Section II, Statement of Policy), after we have

deleted the word "creed" and substituted "religion", is the statement--"over a period of time, individual citizens will participate in Wichita's employment and housing in the same ratio as the adult population of the City of Wichita." By the utilization of terminology--"same ratio as the adult population"--it inadvertently sets quotas. A quota is any system by whatever means instituted which sets a fixed numerical percentage objective which is NOT designed as a remedy for proven discriminatory practices. It should be pointed out that quotas are illegal.

The second point deals with "housing". Affirmative action in housing differs materially from affirmative action in employment; and, as a matter of fact, is not called affirmative action at all. Housing is tied into the equal opportunity concept. This is based on the fact that people should have an opportunity to live where they wish based on their ability to pay ALONE. In order to provide the opportunity for minorities to have freedom of choice based upon their ability to pay alone, there has been developed what is referred to as an affirmative marketing plan. This plan is designed to insure equal opportunity in housing.

Affirmative action programs by definition are remedial. In order to establish such a plan, the first step is an analysis of the labor force. (This analysis has been compiled by the Kansas Job Opportunity Center.) The second step is an analysis of your own work force (City of Wichita), where there are deficiencies in the utilization of minorities compared to the minorities in the work force in the area. This may indicate the need for an affirmative action program. In other words, if a department is composed of all white males and females and the minority population work force stands at 8 per cent, a program designed to include at least 8 per cent minorities into that department by a specified time would constitute an affirmative action program. Once such a plan has been designed and approved, with the timetable established, then it becomes a matter of monitoring to determine whether or not the plan is being implemented. The elaborate administrative setup in the manual, therefore, becomes quite unnecessary. The affirmative action officer, as proposed, is in reality a misnomer. The correct title should be Equal Opportunity and Contract Compliance Officer. Affirmative action is a part of an equal opportunity program.

Whereas a board may well have general overall responsibility for an equal opportunity program, that responsibility is simply one of advice. Since we understand the purpose of an affirmative action program, the fact that it shall be monitored to determine whether or not it is being implemented according to agreement, there is no situation where an appeal mechanism is necessary. In the event that an employee or group of individuals feel that there is discrimination the proper thing to do is to file a complaint. A complaint would not be filed with an appeal board. There is a function, however, such a board could fulfill and that is to serve as the impartial arbitrator between those who lodge a complaint concerning the substance of an affirmative action program and those who feel that the program is practical and realistic. This is the area of negotiation that most time is currently spent between the Federal EO Officer, the contractor, and this office.

Where the manual breaks down functions according to elements, it would appear that a great deal of overlapping would occur. The City, through its divisions and departments, in those that are found to be deficient, would develop their own affirmative action programs to correct said deficiencies. Contractors and vendors doing business with the City would develop their own affirmative action programs to correct whatever deficiencies which may exist. The character of the work force would set limitations in this area as well as the monetary value of the contract.

A necessary ingredient is to determine what entity should approve such programs. We know that in the case of Federal agencies, their EO Officers make the determination. An approval entity would have to be created for the City of Wichita. The second ingredient has to do with those who fail to comply and what penalty is to be assessed for non-compliance. In the case of city contractors, an entity could recommend to the City Commission appropriate action. This action could be cancellation of contracts, etc. In the case of a department or a division head who failed to comply, it is felt that disciplinary action would be handled through the City Manager.

The question has been raised about training. As we examine again the purpose of an affirmative action program, there are times when training may be the only approach in attempting to develop an affirmative action program. In other words, training an employee for "sub-entry" or "upgrading" may be a viable part of an affirmative action program.

It is stated that there will be additional forms provided for contractors to utilize for their affirmative action plan or program. If we would again examine the basic ingredients of such a program, it is readily apparent in light of the purpose of the program that forms, except for the basic statistics on the work force, would vary greatly depending upon what remedies are being attempted to be in compliance.

Affirmative action programs for affirmative action's sake for minorities and women is a basic violation of a constitutional right. The Law Department can provide the legal support for this statement. Affirmative action programs have either been administratively drafted or court prepared and used as a remedy for proven discriminatory practices and/or exclusion of a group or a class which constitutes prima facie evidence of a discriminatory practice.

As in many well-intentioned acts and programs that are initiated, in too many cases far more damage is done to those people the program is intended to aid than the "good" that is the proponent's intention.

Since the City is sincere in its concern to provide equal opportunity to minorities and women in the population, the place to begin is to establish a strong position with an equal opportunity office. This would provide for an equal opportunity officer with the responsibility, in conjunction with the personnel director, of analyzing city divisions and departments to determine in what areas there are deficiencies in utilization of minorities and women compared to the total labor market. Once this analysis has been completed, said findings should be presented to the Board of City Commissioners with a positive recommendation that an affirmative action program be prepared to correct the deficiencies.

A policy of equal opportunity in employment translated into the followup remedial actions contained in the affirmative action concept would be a giant step forward toward creating the attitude in this community that the City is committed to equal rights for all its citizens.

There is no attempt to be critical of the procedure of referring matters of this type to boards and commissions for their comments; however, one must recognize that the equal opportunity area is one of the most difficult areas to understand from the point of what is based on law as reflected by court rulings and what is "social" responsibility.

Most of the boards do not possess the technical competence in this area. Groups with special competence to deal with these problems are: Area and Regional Federal Equal Opportunity Office; Kansas Commission on Civil Rights; and the Regional Office of Equal Employment Opportunity Commission. Local groups with interest would include but not be limited to Wichita Urban League and Project Equality.

Draft

January 29, 1973

PART I -- STATEMENT OF POLICY

It is the policy of the City of Wichita to provide equal opportunity in all areas in which the City has jurisdiction for all qualified persons, to prohibit discrimination in employment and housing because of race, religion, color, sex, or national origin; and to promote the full realization of equal opportunity through a positive, continuing program. Such programs shall include but not be limited to affirmative action, and contract compliance. All pertinent Presidential Executive Orders, Federal statutes and regulations, state statutes, and city ordinances are by reference incorporated herein.

PART II -- IMPLEMENTATION OF POLICY (Employment)

A. There is hereby created an Equal Opportunity Board and the position of Equal Opportunity Officer. The Board shall:

- (1) Analysis the composition of the work force of all City departments by divisions. The purpose of the analysis is to determine the current utilization of minorities and women.
- (2) On the basis of the analysis, guided by the counsel of the Department of Law, make remedial recommendations to the City Manager and City Commission with the aid of department and division heads.

P. L

- (3) Review the utilization of minorities and women for all city contracts exceeding \$_____. The purpose of the review is to determine whether or not remedial steps are necessary. In cases that remedial steps are indicated, in counsel with the Department of Law, make such recommendations to the City Manager and City Commission with the aid of the contractor.
- (4) Serve as the impartial arbitrator in disputes over the substance of any remedial action.
- (5) Review complaints on the employment aspect of the Equal Opportunity Program. In establishing procedure for complaints, the Board shall be guided by the Department of Law.
- (6) Shall cooperate with and seek the cooperation of Federal, state, and local agencies carrying out projects within their respective jurisdictions.

PART III -- IMPLEMENTATION OF POLICY (Housing)

The Fair Housing Board ~~created by Ordinance #-----~~ is hereby ~~amended to provide the following duties:~~ in addition to its current duties shall:

- (1) Review development plans and where applicable review affirmative marketing plans.
- (2) Analysis the current housing pattern as it applies to minority geographic and economic location.
- (3) Cooperate with lending institutions to ascertain any

particular pattern of problems that serve as a barrier to equal opportunity in housing.

- (4) Serve as the A-95 Review Board for all housing projects.
- (5) Such other activities that will make a positive effort at Equal Opportunity in Housing including, but not limited to, having educational programs and neighborhood stabilization.

CITIZEN INVOLVEMENT BOARD

There is hereby created a Citizens' Involvement Board. The Board shall:

- (1) Review all programs from the standpoint of determining whether citizens who will be affected by the programs have been involved in its development or understood its impact and have been provided the opportunity for comment.
- (2) Review priority reports from the Community Goals Board to determine whether or not the community priorities are in keeping with actual activity.
- (3) Comment on all projects from the standpoint of racial impact excluding housing in the A-95 Review.
- (4) Develop methods for improving and ensuring that all citizens have an equal opportunity to participate in projects that affect them and/or their neighborhoods.

P. 4

)5_ Make all recommendations to City Manager and City Commission.

COMMUNITY GOALS BOARD

There is hereby created a Community Goals Board. The Board shall:

- (1) Review community goals established and routinely make recommendations as to priorities.
- (2) Review comments on Citizen Involvement Board in order to constantly have citizen views on programs.
- (3) Ensure that all groups have an equal opportunity to contribute to the goals of the community.
- (4) Make all recommendations to the City Manager and the City Commission through the Wichita Commission on Human Rights.

WICHITA COMMISSION ON HUMAN RIGHTS

There is hereby created a Commission on Human Rights. There is also created a Department of Human Rights and the position of Director of Human Rights. The Commission shall be composed of the Equal Opportunity Board, the Fair Housing Board, the Citizen Involvement Board, and the Community Goals Board.

HRDAB Meeting
January 18, 1973

The meeting was convened at 3:15 p.m. by Dr. Terflinger in the absence of Rev. Williams and Mr. Price.

The following HRDAB members were present:

| | |
|----------------|---------------|
| Dr. Terflinger | Mr. Shunatona |
| Mr. Barbosa | Mrs. Nulan |
| Mr. Litwin | Mrs. Corrigan |
| Ms. Setter | Msgr. Walsh |
| Mr. Weems | Mr. Wesley |
| Dr. Warren | Rev. Goff |
| Mr. Yabrof | Mr. Price |

Staff attending were:

| | |
|-----------------|---------------|
| William E. Knox | Terry Walters |
| Sylvia Caraher | |

Dr. Terflinger addressed the Board and gave a detailed explanation of the suggested reorganization which was discussed by the City Manager, Mr. Knox, and the Executive Committee on January 12, 1973. The suggested reorganization would establish four separate five-member boards that would function in specific areas, with all four boards comprising the Human Rights Commission which would make policy recommendations to the City Commission.

This was discussed and received with general approval. At this time Mr. Price arrived and requested that Dr. Terflinger continue to chair the meeting.

Then the Affirmative Action Program Policy and Procedure Manual was discussed. It was pointed out by Dr. Terflinger that the title was a misnomer. The manual should be called an Equal Opportunity Program Manual because this is actually, from a legal standpoint, what it is. Mr. Knox spoke about the manual, the use of terms, the lack of redress within the system by someone initiating a complaint, and the lack of any authority by any one person or entity to adjust deficiencies if they should exist. Dr. Terflinger pointed out that the above suggested Commission on Human Rights could be written right into this program as it has been structurally suggested for HRDAB.

Motion was made by Mrs. Corrigan that age be added along with race, creed, color, sex, national origin, and ancestry in the sections using this terminology. Seconded by Mr. Wesley. This

motion was amended by Mr. Price that the word "creed" be deleted and the word "religion" substituted in the above phraseology. Motion carried as amended unanimously.

Dr. Goff entertained a motion that the City Commission be made aware of the misnomer of the name of the program policy and that this should be renamed the Equal Opportunity rather than the Affirmative Action Program. Seconded by Ron Weems. Motion carried.

Dr. Terflinger entertained a motion, as Acting Chairman, that a component be added to the equal opportunity statement of the City of Wichita as being the judgment of the Board there is no affirmative action component included within the legal meaning as it is generally understood. Moved by Mr. Price and seconded by Mrs. Nulan. Motion carried.

Motion made that the Board reject in toto the administrative machinery set out beginning on page 31, Section 5, and recommend the establishment of an Equal Opportunity Board and a Director which would have the monitoring function of overall equal opportunity program for the City of Wichita. The Board should have some latitude in this organization when it is set up.

It was decided to reject the whole concept of the administration as written into the manual and suggest the adoption of a setup similar to the Fair Housing Board which would put more authority in final action. Seconded by Mr. Litwin. Motion carried.

The meeting was adjourned at 4:45 p.m. by unanimous consent of the members.