



Department of Civil Rights

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City of Madison Department of Civil Rights Statement Presented to the Special Committee on Affirmative Action

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Distinguished members of the Special Committee on Affirmative Action, invited guests, members of the press, students and residents: Thank you for the opportunity to address this Committee regarding the principles of affirmative action and the programs the City of Madison offers. I am Lucía Nuñez, Director of the Department of Civil Rights for the City of Madison.

The Special Committee on Affirmative Action has been charged with the review of state and local government affirmative action policies. Three overarching guides should lead your discussions and actions. First, federal, state and local laws and programs are interconnected and cannot stand alone therefore cannot be analyzed separately. Second, history has taught us that federal programs are only as good as the delivery systems that exist locally. We saw this with the GI Bill of Rights that was inclusive and expansive for all veterans upon their return home. But it was the uneven local implementation of the many threads of this program that created the inequalities and disparities between white and African-American veterans. And third, the economic impact of these programs is far reaching and goes beyond racial and gender classifications. Small businesses contribute in so many ways with the creation of new jobs and add to the vitality and health of our economy. According to the U.S. Department of Commerce, small businesses employ 54% of the state's non-farm private sector workforce.

The City of Madison, not only as an employer but also as a policy making entity, adheres to specific procedures stated in Executive Order 11246 to eliminate disparity in hiring and the promoting of groups, eliminate underutilization, ensure equal opportunity and identify barriers which interfere with equal employment opportunities to **all** employees. As a recipient of federal funds, the City of Madison must comply with this Executive Order and others or lose indispensable federal funds vital to public health and public safety programs.

Three sections of the Madison General Ordinances guide our specific programs in the Department of Civil Rights. The Affirmative Action, Equal Opportunities and Nondiscrimination ordinances shape and enhance our programs. The City of Madison passed the Equal Opportunities ordinance in 1963 before Congress passed the Civil Rights Act of 1964. It is evident that the interconnectedness between the federal laws and the local implementation of programs cannot be overlooked. The strength of federal programs is determined by the delivery systems we have set in place to administer them in Madison.

The Department of Civil Rights is responsible for ensuring that the rights of all people are respected and that all persons are given equal opportunities to succeed based upon their personal merits. At the base of our programs and services is the civil rights principle that seeks to maximize opportunities and fulfill the potential of all individuals. It is this fundamental concept of fairness that shapes all City of Madison programs. Three units work to achieve this mission: the Affirmative Action Division, the Equal Opportunities Division and the Disability Rights and Services Program. Each is designed to address different aspects of equal opportunities and affirmative action from education to enforcement.

The specific mission of the Affirmative Action Division requires that equal employment and promotional opportunities and equal access to public services be provided for all persons from all segments of the Madison community. Our programs run the gamut of partnerships with state and federal agencies and incorporate not just race but other factors such as income. Today, I will discuss the City of Madison programs in terms of four broad categories: wage, labor, targeted businesses, and other programs that support the mission of the Department.

The Wage Compliance Programs, which include Prevailing Wage and Living Wage, set standards and regulate wages paid to those working on city-funded projects. Prevailing Wage laws were enacted to discourage the awarding of contracts to employers who frequently underbid local or smaller sized companies with lower hourly wages in order to secure these contracts.

The relevant laws directing the Prevailing Wage program include the federal Davis-Bacon Act that requires the City, as a recipient of federal funds, to ensure that employees performing skilled labor on projects funded with federal dollars are compensated at or above the current federal prevailing wage rate. This affects work performed on Housing and Urban Development and U.S. Department of Transportation funded construction projects.

The second set of laws in Wisconsin Statutes requires payment of prevailing wages to covered employees performing work on municipal public works projects. The City of Madison is an exempt entity—administering its own ordinances, policies, and processes to ensure prevailing wage compliance. Some notable differences between the State and City laws include project size provisions, weekly payment for covered work, and weekly submittal of payroll reports.

The City of Madison Living Wage ordinance stipulates that all employees who perform work as part of a covered contract must be paid a minimum hourly wage. This covers purchase of service contracts worth \$5,000 or more and/or recipients of financial assistance of \$100,000 or more from the City of Madison. The rates for a living wage are currently set at \$10.23 through December 31, 2006 and will increase to \$10.58 effective January 1, 2007. This requirement does not apply to student learners, on-call employees, employees under 18, or employees of sheltered workshops, as defined in the Wisconsin Statutes.

These policies run parallel with affirmative action labor compliance programs to ensure that affirmative action group members have access to the fair wages paid on government contracts.

Labor Compliance Programs are guided primarily by Federal Regulations that emphasize the central premise underlying affirmative action that, absent discrimination, over time a contractor's workforce, generally, will reflect the gender, racial and ethnic profile of the labor pool from which

the contractor recruits and selects.

Developers and non-exempt City contractors are required to develop an acceptable affirmative action plan or, in the alternative, provide a completed Model Affirmative Action Plan as approved by the Madison Common Council. This is mandatory for all non-exempt City public works contractors. Other non-exempt City contractors (including vendors, suppliers, and community-based organizations) are required to provide a completed Model Affirmative Action Plan or in the alternative, conform to the format described by Federal Regulations. Non-discrimination language and the Articles of Agreement, as outlined in the City's Affirmative Action Ordinance, are required language in every contract.

Targeted Business Compliance Programs consist of conducting certification, outreach and recruitment of businesses that qualify to do business with the City on different city projects. The City of Madison administers four targeted businesses programs following different funding streams and requirements. The Federal Regulations governing each of these set the definitions and provide the methodology for the calculation of annual goals.

The Disadvantaged Business Enterprise (DBE) Program requires that a majority of the business is owned and controlled by one or more socially and economically disadvantaged individuals. Federal regulations not only define socially and economically disadvantaged individuals but also provide the methodology for calculating overall annual goals. The DBE program is required of all USDOT funding recipients, such as the City of Madison Metro Transit. The DBE certification states that an eligible business must be 51% owned by socially and economically disadvantaged individuals.

The Code of Federal Regulations mandates and directs the Minority and Women-owned Business Enterprise (M/WBE) Programs for all U.S. HUD-funded recipients, including Community Development Block Grants. The MBE and WBE certification requires that an eligible business must be 51% owned by minorities or women, respectively.

The Small Business Enterprise (SBE) Program is guided by Madison General Ordinance only and requires SBE participation for all City of Madison public works projects with an estimated value of at least \$100,000. The SBE certification states that an eligible business must have gross receipts of less than \$750,000 per year, averaged over the past three years.

The City of Madison implements first and foremost, an Affirmative Action Program that provides consultation and guidance for the development and implementation of a citywide equal opportunity and affirmative action plan for all protected classes. In addition, the program develops recruitment strategies for all vacancies working with individual departments to identify the best strategies for specific vacancies. The Department of Civil Rights is the lead department working with the Affirmative Action Commission, the Mayor's Office, and the Common Council to review the most current workforce analysis, to develop citywide goals and objectives and to evaluate and monitor progress towards stated goals and objectives. The City has a commitment to the principles of equal opportunity and adheres to all Federal guidelines required.

In addition, the Department of Civil Rights assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any city program or activity on grounds of race, color, national origin, or disability as part of the Civil Rights

Compliance Plan.

The City of Madison is proud of its Affirmative Action Students Professionals in Residence Program (commonly known as AASPIRE). This internship program is aimed at students engaged in college level studies with the goal of introducing and perhaps encouraging the participants to consider a career in the public sector.

I am especially proud to introduce to you one of our AASPIRE Graduates, Jamar Gary, who is here with us today. Through his internship with the Madison Police Department, he decided to enter the academy and is now one of our police officers. Both the Madison Police Department and the Fire Department rank high in the nation for their inclusionary practices in the recruitment and retention of officers and fire fighters for people of color and women.

The City of Madison created the Language Assistance Program to ensure equal access to and full participation in all city services, programs and activities to all persons regardless of Limited English Proficiency. In addition, we assure that the deaf and hearing-impaired communities have access to the meetings of the Commission for People with Disabilities through a sign language interpreter. Title VI of the Civil Rights Act of 1964 mandates that recipients of federal funds provide equal access.

Recently, the Department of Civil Rights hired Harper Donahue, a Civil Rights Recruiter Specialist whose goal will be to assist all city departments by enhancing recruitment strategies through education and outreach.

The concepts of fairness, equal opportunities, and maximizing the potential of all individuals run throughout all the programs the City of Madison monitors and administers locally for our state and federal partners. The City has a long and proud history of civil rights. Its leaders recognize when there are disparities and respond with successful mechanisms that address those disparities. We, as a City and as a State, cannot ignore the historical reasons and results of how key national programs created and further distorted the disparities between the races. As Mr. Gregg mentioned in his presentation at the first meeting of this Committee, whites have benefited from affirmative action programs in that they were afforded numerous educational and living benefits other groups were denied.

The implementation of federal programs failed for African-Americans and that failure can be attributed to the local entities charged with implementation. We need to assure that history is not repeated because local or state governments fail to ensure equal treatment for all.

The City of Madison needs to be competitive in a global economy and attract new businesses and industries to the area that will contribute by generating jobs and increasing revenues for the City. How to maintain that competitive edge as the State experiences a "brain drain" of young graduates leaving is the question policy makers will need to address in coming years. The economic impact of small business development and equal employment opportunities for all regardless of race, ethnicity or gender is an important aspect of this discussion.

Finally, I want to speak on behalf of a group that unfortunately cannot be here to speak, the Iraq and Afghanistan Veterans that hopefully will come home to Wisconsin to be reunited with families and

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to re-enter workplaces and communities. Unfortunately, 21,000 veterans to date will come home with some kind of physical disability. Veterans have benefited from affirmative action programs more than any other group. We cannot turn our backs on these young men and women who will need our support more than ever with retraining and educational programs.

Thank you again for the opportunity to present to this Committee and to place this statement on the record at this hearing.