

SEATTLE OFFICE FOR CIVIL RIGHTS
SOCR Rules, Chapter 50
Implementing the Fair Contracting Practices Ordinance 119601

50-100 GENERAL PROVISIONS

50-101. Applicability of Rules.

These rules (Chapter 50) govern the procedures of the Seattle Office for Civil Rights (SOCR) in administering the Fair Contracting Practices Ordinance No. 119601. These rules are to be applied to all contracts governed by the Fair Contracting Practices Ordinance No. 119601. This chapter contains rules of general application. Where rules covering specific situations contained in other chapters of these rules are inconsistent with the general rules, the specific rules control.

Once a complaint of discrimination is filed with the SOCR, these rules govern the procedure from the charging party's initial inquiry until the complaint is withdrawn or the Director or his or her designee dismisses the complaint, administratively closes the case, issues a finding or refers the matter to the City Attorney for prosecution. These rules and any and all amendments to these rules shall apply to complaints pending before SOCR upon adoption. Investigatory actions accomplished before any rules or amendment are adopted need not be redone to comply with the rules or with the amendment.

50-102 Purpose.

The purpose of the Fair Contracting Practices Ordinance the Fair Contracting Practices Ordinance No. 119601, as now or hereafter amended, and these rules are to eliminate discrimination in all contracting activities undertaken between business entities located in or doing business in the City of Seattle, and to ensure that equal access to a nondiscriminatory contracting environment is provided to all parties interested in contracting and doing business within the City of Seattle. This ordinance is intended to protect all Seattle residents from the harm of discrimination in contracting by providing the City with the tools needed to ensure that discrimination in contracting is prevented before it occurs, and successfully resolved in those cases where it is proven to have occurred. However, in the absence of an allegation of discrimination, SOCR will not investigate contract breach or contract interpretation issues.

50-103 Scope

The provisions of the Fair Contracting Practices Ordinance No. 119601, as now or hereafter amended, and these rules apply to all contracting efforts to be performed partially or wholly in the City of Seattle and contracting efforts undertaken by the City or any other business entity doing business in the City. The provisions of this chapter shall be liberally construed in order to accomplish the policies and purposes set forth herein, and shall apply to all contracting efforts undertaken after the effective date of this ordinance.

Such contracts include, but are not limited to, contracts for construction, consulting, services, purchasing contracts, leases, and concession contracts, and contracts for which all or a part of the funds have been provided or

administered by business entities or the City through funding agreements with federal, state or local agencies.

50-104 Relation to Ordinances.

These rules complement the provisions of the Fair Employment Practices Ordinance, as amended, and the Open Housing Ordinance, as amended.

50-105 Relationship With Other Laws Or Regulations.

- A. **Contracts with State or Federal Funding:** On all contracts in which other public agency funding is used, the requirements of the Fair Contracting Practices Ordinance No. 119601, and these rules shall apply in addition to the requirements imposed by other public agencies. On all contracts in which federal funding is used, in the event of a conflict between the provisions of the Fair Contracting Practices Ordinance No. 119601 or any of the rules implementing it, and the requirements of any other applicable federal statute or regulation, the provisions of the federal statute or regulation shall control.

- B. **Title VI:** The Fair Contracting Practices Ordinance No. 119601 does not preclude the charging party from filing a complaint under the auspices of Title VI of the 1964 Civil Rights Act, as amended by the 1987 Civil Rights Restoration Act. These federal laws prohibit discrimination in all contracting efforts by those municipal or private agencies receiving federal funds.

50-106 Concurrent Remedies.

General rules of law prevent recovering more than once for the same items of injury and may bind a litigant to the first case that is determined, whatever its outcome. However a complainant is free to seek remedies from any authorized agency or to file a lawsuit in court.

50-107 Severability.

If any clause, sentence, paragraph, or part of these rules, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter, or its application to other persons or circumstances.

50-108 Choice Of Forum Clauses.

Notwithstanding a "choice of forum" clause, any contracting practices prohibited by this chapter that may give rise to a discrimination claim under this chapter shall be subject to the City's jurisdiction in reviewing, investigating and resolving such complaint.

50-109 Definitions.

Whenever terms defined below are used in the Fair Contracting Practice Ordinance No. 119601, and these rules, the following definitions will apply:

- A. "Business enterprise" means any licensed business organization located in or doing business in the City of Seattle.

- B. "Charging party" means the person aggrieved by an alleged unfair contracting practice or the person making a complaint on another person's behalf, or the Director when the Director files a complaint.
- C. "City department" means any agency, office, board or commission of the City, or any Department employee acting on its behalf, but shall not mean a public corporation chartered under Ordinance 103387, or its successor ordinances, or any contractor, consultant, concessionaire or lessee.
- D. "Commercially significant contract" means any contract for the provision of services (including but not limited to construction services, consulting services or bonding or other financial services) or the sale of goods.
- E. "Contract" means any agreement to perform a service or provide goods that entails a legally binding obligation, where such contract is executed within, or intended to be wholly or partly performed within, the City of Seattle.
- F. "Contracting agency" means any person who for compensation engages in recruiting, procuring, referral or placement of contracts with a contractor.
- G. "Contracting efforts" means any aspect of the entire contracting process undertaken, including those processes taken before the actual contract is executed. Thus all aspects of the offer, acceptance, consideration and performance phases of a contract are covered by this ordinance and these rules.
- H. "Contractor" means any business enterprise including but not limited to any company, partnership, corporation or other legal entity, excluding real property lessors and lessees, contracting to do business within the City including but not limited to public work contractors, consultant contractors, providers of professional services, service agencies, vendors, and suppliers selling or furnishing materials, equipment, goods or services, but not including governmental agencies other than The City of Seattle.
- I. "Department" means the Seattle Office for Civil Rights (SOCR).
- J. "Director" means the Director of the Office for Civil Rights or her/his designee.
- K. "Discrimination", "discriminate", and/or "discriminatory act" means any act (other than an action taken in accordance with a lawful affirmative action program) or failure to act whether by itself or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals by reason of race, color, age, sex, gender identity, marital status, sexual orientation, political ideology, creed, religion, ancestry, national origin; or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification.
- L. "Gender Identity" means a individual's identity, expression or physical characteristics, whether or not traditionally associated with one's biological sex or one's sex at birth, including transsexual, transvestite, and

transgendered, and including a individual's attitudes, preferences, beliefs and practices pertaining thereto.

- M. "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabiting.
- N. "Party" shall include the person making a complaint alleging an unfair contracting practice and the person alleged to have committed an unfair contracting practice and the Office for Civil Rights.
- O. "Person" includes one (1) or more individuals licensed to do business or operating/representing a business entity located in or doing business in the City of Seattle, partnerships, associations, organizations, trade or professional associations, corporations, public corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee, whether one (1) or more natural persons, and further includes any department, office, agency or instrumentality of the City.
- P. "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with job performance.
- Q. "Respondent" means any person who has been alleged or found to have committed an unfair contracting practice prohibited by this ordinance.
- R. "Sexual orientation" means actual or perceived male or female heterosexuality, bisexuality, homosexuality, and includes an individual's attitudes, preferences, beliefs and practices pertaining thereto.
- S. "Trade Association" means an association of business organizations engaged in similar fields of business which is formed for mutual protection, the interchange of ideas, information and statistics or the maintenance of standards within their industry.

50-110 ADMINISTRATION AND ENFORCEMENT.

SOCR shall receive, investigate, and issue findings with respect to complaints alleging unfair practices as defined by this ordinance, conciliate and settle the same by agreement, and monitor and enforce any agreements or orders resulting therefrom or from a subsequent hearing thereon under and pursuant to the terms of this ordinance; and shall have such powers and duties in the performance of these functions as are defined in this ordinance and otherwise necessary and proper in the performance of the same and provided for by law. SOCR shall further assist other City agencies and departments upon request in effectuating and promoting the purposes of this ordinance.

50-200 UNFAIR CONTRACTING PRACTICES.

50-201

UNFAIR CONTRACTING PRACTICES ARE PROHIBITED. IT IS AN UNFAIR CONTRACTING PRACTICE FOR ANY:

- A. Business enterprise or City department to discriminate against any person with respect to the award or referral of a contract or with respect to the conditions, terms, price, or performance standards, other provisions of a contract;
- B. Contracting agency, or trade association or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, or other business or occupational training program;
- C. Contractor, contracting agency bonding agency trade association or labor organization to print, circulate, or cause to be printed, published, or circulated, any statement, advertisement, or publication relating to contracting or membership, or to use any form of application therefor, which indicates any discrimination unless based upon a bona fide occupational qualification;
- D. Contracting agency or trade association to discriminate against any person with respect to any referral of a contract opportunity or assignment of a particular contract;
- E. Contractor, contract agency, trade association or labor organization to retaliate against any person because that person has opposed an act of discrimination or because that person has made a complaint, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of this ordinance;

50-705

COMPLAINTS.

50-301 Who May File

An individual complaint alleging an unfair contracting practice in connection with a commercially significant contract may be filed by or on behalf of any person who claims to be aggrieved by an unfair contracting practice. A complaint alleging that a group is being subjected to an unfair contracting practice in connection with a commercially significant contract may be filed by any member of the group, the Director, a state or federal agency concerned with discrimination in contracting whenever such an agency has reason to believe that an unfair contracting practice has been or is being committed, or any trade association which has reason to believe that an unfair contracting practice has been or is being committed against any of its members.

50-302 Complaint Format

A complaint alleging an unfair contracting practice shall be in writing on a form or in a format determined by SOCR, and signed under oath or affirmation by or on behalf of a charging party before the Director, one of SOCR's employees, or any other person authorized to administer oaths, and shall describe the unfair contracting practice complained of and should include a statement of the dates,

places and circumstances and the persons responsible for such acts and practices.

50-303 Complaint Authentication

Whenever complaints are made by or on behalf of a person claiming to be aggrieved, the person making the complaint must provide the Director with the name, address and telephone number of the individual on whose behalf the complaint is made. Thereafter, the Director shall verify the authorization of such complaint by the person on whose behalf the complaint is made and upon the request of such person may keep his or her identity confidential to the extent allowed by law.

50-304 Minimum Requirements of Complaint

A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the informational requirements necessary for processing.

50-305 Director May File Complaint

A complaint alleging an unfair contracting practice or pattern of unfair practices may also be filed by the Director whenever the Director has reason to believe that any person has been engaged or is engaging in an unfair contracting practice.

50-306 Complaint Filing Deadline

Complaints filed under this ordinance must be filed with SOCR within one hundred eighty (180) days after the occurrence of the alleged unfair contracting practice.

50-307 Amending Filed Complaints

The charging party or SOCR may amend a complaint to cure technical defects or omissions; or to clarify and amplify allegations made therein; or to add allegations related to or arising out of the subject matter set forth, or attempted to be set forth, in the original complaint. For jurisdictional purposes, such amendments shall relate back to the date the original complaint was first filed. The charging party may also amend a complaint to include allegations of additional unrelated discriminatory acts and/or retaliation which arose after filing of the original complaint.

The amendment must be filed within one hundred eighty (180) days after the occurrence of the additional discriminatory act and/or retaliation and prior to SOCR's issuance of findings of fact and a determination with respect to the original complaint. Such amendments may be made at any time during the investigation of the original complaint so long as SOCR will have adequate time to investigate such additional allegations and the parties will have adequate time to present SOCR with evidence concerning such allegations before the issuance of findings of fact and a determination.

50-308 Preliminary Evaluation Of Complaint

When the allegations of a complaint, if true, would not establish the basis for a reasonable cause determination, a determination of no reasonable cause may be made without further investigation.

50-309 Notice

The Director shall cause to be served or mailed by certified mail, return receipt requested, a copy of the complaint on the respondent within twenty (20) days after the filing of the complaint and shall promptly make an investigation thereof.

50-705 INVESTIGATIONS.

50-401 Intent of Investigation

The investigation shall be directed to ascertain the facts concerning the unfair practice alleged in the complaint, and shall be conducted in an objective and impartial manner.

50-402 Authority of Director During the Investigation

The Director shall consider any statement of position or evidence with respect to the allegations of the complaint submitted by the charging party or the respondent. The Director may sign and issue subpoenas requiring the attendance and testimony of witnesses, the production of evidence (including but not limited to books, records, correspondence or documents in the possession or under the control of the person subpoenaed) , and access to evidence for the purpose of examination and copying, and conduct discovery procedures which may include interrogatories and oral depositions.

50-403 Fact Finding Conference

The Director may require a fact finding conference or participation in another process with the respondent and any of respondent's agents and witnesses and charging party during the investigation in order to define the issues, determine which elements are undisputed, resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate settlement. Parties so desiring may bring their legal counsel or other designated representative.

50-404 Pre-Determination Settlements

- A. If, before a determination regarding reasonable cause is made, the charging party and respondent agree upon a settlement and the Director or his or her designee believes the remedy afforded the charging party is appropriate, the Department will draft a Pre-Determination (PDS) agreement.
- B. The charging party and the respondent will sign the PDS agreement. The agreement will be incorporated in an Order of the Director which will state that the parties shall comply with the terms of the PDS agreement.
- C. The Director will require proof of compliance with the terms of the PDS agreement. When such proof is provided the Director, he or she will administratively close the case and so notify the parties.
- D. The Department may investigate any alleged breach of the agreement; if litigation is initiated to enforce the agreement, the City shall be awarded its reasonable attorney's fees and costs incurred in bringing the action.

50-405 Findings of Fact and Determination of Reasonable Cause or no Reasonable Cause.

The results of the investigation shall be reduced to written findings of fact and a determination shall be made by the Director that there is or is not reasonable cause for believing that an unfair practice has been or is being committed, which determination shall also be in writing and issued with the written findings of fact. Where a City department is a respondent the Director shall issue such findings and determination only after having submitted proposed findings and determinations to the respondent and charging party for review and comment. With respect to the findings and determination, "issued" shall be defined as signed and dated by the Director.

50-406 The Findings of Fact and Determination Shall be Furnished Promptly to the Respondent and Charging Party.

Once the results of the investigation has been reduced to written findings of fact and a determination made by the Director, the findings of fact and determination shall be furnished promptly to the respondent and charging party.

50-407 Amending Findings of Fact

Once issued to the parties, the Director's findings of fact, determination and order may not be amended or withdrawn except upon the agreement of the parties, provided, that the Director may correct clerical mistakes or errors arising from oversight or omission upon a motion from a party or upon the Director's own motion.

50-705 Breach of Contractual Provisions

If in the course of an investigation, it becomes apparent that a contractual provision was breached, but that the breach was caused by economic or other non-discriminatory pressures, the complainant will be advised that SOCR will not pursue the matter further and will terminate its investigation. **NOTE:** If the evidence illustrates that discrimination is the cause of the breach of the contractual provision, then the breach will be considered in determining the appropriate damages.

50-500 TERMINATION OF CASES WITHOUT FINDINGS OF FACT

50-501 Withdrawal of Charge

A charging party may request that his or her charge be withdrawn at any time before determination regarding reasonable cause is made by the Director by giving the Department written notice of his or her request.

50-502 Director to Inquire into Withdrawal Request

Upon receipt of the appropriate withdrawal notice, the Director or his or her designee may make inquiries to ascertain whether the charging party gave the notice voluntarily and with an understanding of the consequences. Unless the Director or designee determines that the withdrawal request is coerced or uninformed, SOCR may terminate its action on the charge and notify the charging party and respondent that the charge has been withdrawn.

50-503 Charging Party May Not Re-File Withdrawn Complaint

A charging party who withdraws a charge may not file another charge which alleges the same facts and violation as the withdrawn charge.

50-504 Administrative Closure of a Charge Without Findings of Fact

- 50 The Director may administratively close a charge without making findings of fact and a determination whether there is reasonable cause to believe an unfair practice has occurred when he or she determines administrative closure is appropriate, including, but not limited to, cases where:
- (1) the Director or his or her designee determines that all portions of the charge were not timely filed or that SOCR does not otherwise have jurisdiction;
 - (2) the charging party fails to provide necessary information requested by the Director or his or her designee, fails or refuses to appear or to be available for interviews or conferences as necessary, or otherwise refuses to cooperate with the Director or his or her designee to the extent he or she is unable to resolve the charge, and the charging party has had thirty (30) days notice of the Director's intent to administratively close the charge for failure of the charging party to cooperate;
 - (3) the charging party cannot be located by the Director or by his or her designee, he or she has made reasonable efforts to locate the charging party, and has sent notice to the charging party at his or her last known address of the Director's intent to dismiss the charge, and at least thirty (30) days have elapsed since the notice of the Director's intent to dismiss the charge was sent; or
 - (4) the charging party has refused to accept a respondent's written settlement offer which is specific in its terms and which the Director determines would provide the charging party all relief to which he or she would be entitled pursuant to the Fair Contracting Practices Ordinance No. 119601 if a determination of reasonable cause were made in his or her case and the charging party has been given thirty (30) days notice of the Director's intent to administratively close the charge for refusal of the charging party to accept the offer.
 - (5) a discrimination action has been filed and is being actively litigated in a court which seeks relief on the same facts as are alleged in the charge;
 - (6) a Pre-Determination Settlement agreement has been reached and SOCR has received proof of compliance with the terms of the agreement
- 51 The charging party will be notified by the Director or his or her designee that a charge has been administratively closed.
- 52 An administrative closure of a case terminates the action of the Director and SOCR on the charge. A charging party may not file another charge that alleges the same facts and violation as the charge in a case which has been administratively closed. The charging party and respondent will be given notice by SOCR that a case has been administratively closed.

50-600 FINDINGS AND DETERMINATIONS

50-601 Determination Of No Reasonable Cause.

If a no reasonable cause determination is made, the charging party shall have the right to file a written request with the Director asking for reconsideration of the finding. This written request must be submitted to the Director within 30 days of the issuance of the Director's findings. The Director shall respond in writing within a reasonable time by granting or denying the request.

50-602 Determination of Reasonable Cause in Cases Involving All Respondents Except City Departments - Conciliation and Settlement.

- A. In all cases except a case in which a City department is the respondent, if a determination is made that reasonable cause exists to believe that an unfair practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference, conciliation, and persuasion.
- B. Conditions of settlement may include (but are not limited to) the elimination of the unfair contracting practice, hiring, reinstatement, lost profits, attorney's fees, admittance or restoration to membership in a trade association, admittance to participation in a training, or such other action which will effectuate the purposes of this ordinance, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed Ten Thousand Dollars (\$10,000.00).
- C. Any settlement agreement shall be reduced to writing and signed by the charging party, the respondent and the Director. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties.
- D. Failure to Reach An Agreement: In case of failure to reach an agreement and/or conciliation and upon a written finding to that effect furnished to the charging party and respondent, except a case in which a City department is a respondent, the Director shall promptly cause to be delivered the entire investigation file, including the complaint and any and all findings made, to the City Attorney for further proceedings and hearing under this ordinance pursuant to SOCR Rules 50-701.

50-603 Determination Of Reasonable Cause Of Cases Involving City Departments As Respondents – Conciliation Or Referral To Hearing Examiner.

In all cases in which a City department is a respondent:

- A. A determination of reasonable cause by the Director shall be deemed a finding that an unfair contracting practice has been committed by respondent and is dispositive of this issue for all future proceedings under this ordinance.

- B. Within sixty (60) days of the issuance of a determination of reasonable cause, the Director shall confer with the parties and determine an appropriate remedy, which may include (but is not limited to) hiring, reinstatement, lost profits, attorney's fees, admittance or restoration to membership in a trade association, admittance to participation in a training, or such other action as will effectuate the purposes of this ordinance, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed Ten Thousand Dollars (\$10,000.00). Such remedy shall be reduced to writing in an order of the Director.
- C. The charging party must sign a release in the form and manner requested by SOCR, releasing the City from further liability for acts giving rise to the complaint in order to obtain the benefits of the remedy provided under this section and before payment can be made. Without such release, the Director's order with respect to the charging party's individual relief shall have no force and effect. In such event the Director shall notify the parties involved in writing.
- D. In all cases where the remedy determined by the Director includes a monetary payment which exceeds the sum of Ten Thousand Dollars (\$10,000.00), the complaint or claim, the Director's determination, order, the charging party's signed release and such further documentation as may be required shall be presented to the City Council for passage by separate ordinance. If the City Council fails or refuses to appropriate the amount ordered by the Director within ninety (90) days, the Director shall certify the case to the Hearing Examiner for a hearing to determine the appropriate monetary relief in the case which determination shall be final and binding upon the City.
- E. Where the Director's order includes a monetary payment of Ten Thousand Dollars (\$10,000.00) or less, such payment shall be made under the authority and in the form and manner otherwise provided for by law for payment of such claims

50-700 FORWARDING COMPLAINTS TO CITY ATTORNEY FOR PROSECUTION BEFORE THE HEARING EXAMINER.

50-701 Submission of Complaint to the City Attorney

Following submission of the investigation file from the Director in cases involving all respondents under SOCR Rules 50-602, the City Attorney shall prepare a complaint against such respondent relating to the complaint and facts discovered during the investigation thereof and prosecute the same in the name and on behalf of SOCR and the City at a hearing before the Hearing Examiner and appear for and represent the interests of SOCR and the City at all subsequent proceedings; provided, if the City Attorney determines that there is no legal basis for a complaint to be filed or for proceedings to continue, a statement of the reasons therefor shall be filed with SOCR, charging party and the respondent.

50-702 Service of Complaint

The complaint shall be served on respondent in the usual manner provided by law for service of complaints and filed with the Seattle Hearing Examiner. A copy of such complaint shall be furnished to the charging party.

50-703 Deadline to respond to Complaint

Within twenty (20) days of the service of such complaint upon it, the respondent shall file its answer with the Hearing Examiner and serve a copy of the same on the City Attorney.

50-704 Date of Hearing and Notice

Upon the filing of the complaint, the Hearing Examiner shall promptly establish a date for the hearing and give notice thereof to the City Attorney and respondent, and shall commence a public hearing on the complaint, no earlier than ninety (90) days nor later than one hundred twenty (120) days from the filing of the complaint, unless otherwise ordered by the Hearing Examiner.

50-705 Amendment of Filed Complaint

Amending a complaint after it has been filed with the Hearing Examiner requires the permission of the Hearing Examiner. Permission shall only be granted when justice will be served and all parties are allowed time to prepare their case with respect to additional or expanded complaints, which they did not and could not have reasonably foreseen would be in issue at the hearing.

50-706 Conduct of Hearing

The hearing shall be conducted by a Hearing Examiner from the Office of Hearing Examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner. Such hearings shall be conducted in accordance with written rules and procedures consistent with this ordinance and the Administrative Code of the City (Ordinance 102228).

50-707 Decision and Order by the Hearing Examiner

- A. Within thirty (30) days after conclusion of the hearing, the Hearing Examiner presiding at the hearing shall prepare a written decision and order. The final decision shall be filed as a public record with the City Clerk, and copies thereof mailed to each party of record and to SOCR.
- B. Such decision shall contain a brief summary of the evidence considered, findings of fact, conclusions of law upon which the decision is based, and an order detailing the relief deemed appropriate, together with a brief statement of the reasons therefor.
- C. In the event the Hearing Examiner determines that a respondent has committed an unfair contracting practice under this ordinance, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ordinance, and secure compliance therewith, including but not limited to hiring, reinstatement, lost profits, attorney's fees, admittance or restoration to membership in a trade association, admittance to participation in a training, or such other action which will effectuate the purposes of this ordinance, including action which could be ordered by a court, except that damages for humiliation

and mental suffering shall not exceed Ten Thousand Dollars (\$10,000.00). Lost profits shall not accrue from a date more than two (2) years prior to the initial filing of the complaint. The Hearing Examiner may also disqualify the respondent from participating in contracts with the City for a period of up to five (5) years.

- D. Respondent shall comply with the provisions of any order affording relief and shall furnish proof of compliance to the Department as specified in the order. In the event respondent refuses or fails to comply with the order, the Director shall notify the City Attorney of the same and the City Attorney shall invoke the aid of the appropriate court to secure enforcement or compliance with the order.

50-800 MISCELLANEOUS PROVISIONS.

50-801 Violation-Penalty

It is unlawful for any person to willfully engage in an unfair practice under this ordinance or willfully resist, prevent, impede or interfere with the Director or Hearing Examiner in the performance of their duties under this ordinance, or to fail, refuse, or neglect to comply with any lawful order of the Director or Hearing Examiner. Conduct made unlawful by this section constitutes a violation subject to the provisions of Chapter 12A.01 and Chapter 12A.02 of the Seattle Criminal Code and any person convicted thereof may be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars (\$500.00).

50-802 Requirement to Comply

The City shall include the requirement to comply with this ordinance and these rules, as amended, in all contracts and agreements with recipients of grants and other funds through or from the City and with organizations which use City buildings, facilities or property or which use property for which the City is responsible for capital improvements. The contract clause requiring compliance with the Fair Contracting Practices Ordinance, Ordinance No. 119601 shall be in substantially the following form:

“Each party is required to comply with the Fair Contracting Practices Ordinance of the City of Seattle (Ordinance 119601), as amended. Conduct made unlawful by that ordinance constitutes a breach of contract. Engaging in an unfair contracting practice may also result in the imposition of a civil fine or forfeiture under the Seattle Criminal Code as well as various civil remedies.”

50-900 ENFORCEMENT BY PRIVATE PERSONS

50-901 Private Civil Action

Any person who claims to have been injured by an unfair contracting practice may commence a civil action in a court of competent jurisdiction, not later than three years after the occurrence of the alleged unfair contracting practice or ninety (90) days after the issuance of a determination of reasonable cause by the Director, whichever occurs last, to obtain appropriate relief with respect to such unfair contracting practice.

50-902 Civil Action Precluded Once Settlement or Conciliation Agreement is Obtained.

A civil action may be filed under this section whether or not an administrative complaint has been filed under these rules and without regard to the status of such complaint, but if SOCR has obtained a pre-finding or post-finding settlement or conciliation agreement with the consent of the charging party, no civil action may be filed under this section with respect to the alleged unfair contracting practice which forms the basis for such complaint except for the purpose of enforcing the terms of the agreement. To preclude such filing, the charging party must be provided with written notice that consent to a pre-finding or post-finding settlement or conciliation agreement will terminate the charging party's right to file a civil action under this section.

- A. Upon the filing of a civil action involving the same claim or arising from the same facts and circumstances, whether under the Fair Contracting Practices ordinance (No. 119601), or similar law, a complaint of an unfair contracting practice may be administratively closed by the Director.
- B. In the event that a court dismisses a private cause of action on grounds that would not preclude pursuit of a complaint under this ordinance, the charging party may request, within 90 days of the entry of the Court's order of dismissal, that SOCR reopen a previously filed complaint. Upon such request, the Director may reopen a case that was administratively closed upon the filing of a civil action. If SOCR closes a case based on a "no reasonable cause" finding, the case shall not be reopened.
- C. No complainant or aggrieved person may secure relief from more than one governmental agency, instrumentality or tribunal for the same harm or injury.
- D. Where the complainant or aggrieved person elects to pursue simultaneous claims in more than one forum, the factual and legal determinations issued by the first tribunal to rule on the claims may, under the doctrines of "res judicata" or "collateral estoppel," be binding on all or portions of the claims pending before other tribunals.
- E. No civil action may be commenced under this section with respect to an alleged unfair contracting practice which forms the basis of a complaint if a hearing on the record has been commenced by the City of Seattle Office of the Hearing Examiner. To preclude such filing, a charging party must be provided with written notice at least 30 days prior to the commencement of a hearing before the City of Seattle Office of the Hearing Examiner that the commencement of such a hearing will terminate the charging party's right to file a civil action.
- F. In a civil action under this section, if the court, or jury, finds that an unfair contracting practice has occurred, the court may grant such relief as may be awarded by the Hearing Examiner under this ordinance or is authorized by the Washington Law Against Discrimination,

Ch. 49.60 RCW, as amended. Damages awarded under this section for humiliation and mental suffering are not subject to the limitation of SOCR Rules 50-707.

- G. Upon timely application, the City Attorney may intervene in such civil action, if the City Attorney certifies that the case is of general public importance, and may obtain such relief as would be available in an action brought under SOCR Rules 50-701 . Such intervention shall not be permitted in an action in which the City is a defendant.