

Offered by Councillors CHUCK TURNER, STEPHEN J. MURPHY, FELIX D. ARROYO, CHARLES C. YANCEY, MAURA A. HENNIGAN, MICHAEL F. FLAHERTY, and MICHAEL P. ROSS



CITY OF BOSTON

IN THE YEAR TWO THOUSAND FIVE

AN ORDINANCE REGARDING CORI

WHEREAS, The City of Boston has focused on developing a system of screening for those with criminal backgrounds that is fair to all concerned; and

WHEREAS, The cornerstone of the system developed by the Human Resources Department is screening for the criminal background of applicants for positions which bring the prospective employee into unsupervised contact with youth or the elderly; and

WHEREAS, The City contracts for goods and services with thousands of vendors; and

WHEREAS, These vendors employ hundreds of thousands employees; and

WHEREAS, The City has a responsibility to ensure that its vendors have fair policies relating to the screening and identification of persons with criminal backgrounds. *NOW THEREFORE*,

Be it ordained by the City Council of Boston, as follows:

CBC Chapter IV is hereby amended by appending CBC 4-7 as follows:

4-7 CORI Screening by Vendors of the City of Boston

4-7.1 Purpose.

These sections are intended to ensure that the persons and businesses supplying goods and/or services to the City of Boston deploy fair policies relating to the screening and identification of persons with criminal backgrounds through the CORI system.

4-7.2 Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in CBC 4-7.

(a) *Applicant* means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 CMR 2.03.

(b) *Awarding Authority* means any department, agency, or office of the City of Boston that purchases goods and/or services from a Vendor.

(c) *CHSB* means the Criminal History Systems Board defined in M.G.L. c. 6 and 803 CMR 2.00.

(d) *City* means the City of Boston or department, agency, or office thereof.

(e) *Otherwise Qualified* means any Applicant that meets all other criteria for a position or consideration for a position.

(f) *Vendor* means any vendor, contractor, or supplier of goods and/or services to the City of Boston.

4-7.3 CORI-Related Standards of the City of Boston.

The City of Boston will do business only with Vendors that have adopted and employ CORI-related policies, practices, and standards that are consistent with City standards.

The City of Boston employs CORI-related policies and practices that are fair to all persons involved and seeks to do business with Vendors that have substantially similar policies and practices. The Awarding Authority shall review all Vendors' CORI policies for consistency with City standards. The Awarding Authority shall consider all Vendors' CORI standards as part of the criteria to be evaluated in the awarding of a contract and will consider a Vendor's execution of the CORI standards to be evaluated among the performance criteria of a contract. The Awarding Authority shall consider any Vendor's deviation from the CORI standards as grounds for rejection, rescission, revocation, or any other termination of the contract.

The CORI-related policies and practices of the City include, but are not limited to:

(a) The City does not conduct a CORI check on an Applicant unless a CORI check is required by law or the City has made a good faith determination that the relevant position is of such sensitivity that a CORI report is warranted.

(b) The City reviews the qualifications of an Applicant and determines that an Applicant is Otherwise Qualified for the relevant position before the City conducts a CORI check. The City does not conduct a CORI check for an Applicant that is not Otherwise Qualified for a relevant position.

(c) If the City has been authorized by the CHSB to receive CORI reports consisting solely of conviction and case-pending information and the CORI report received by the City contains other information (i.e. cases disposed favorably for the Applicant such as Not Guilty, Dismissal) then the City informs the Applicant and provides the Applicant with a copy of CHSB's information for the Applicant to pursue correction.

(d) When the City receives a proper CORI report of an Applicant that contains only

the CORI information that the City is authorized to receive and the City is inclined to refuse, rescind, or revoke the offer of a position to an Applicant then the City fully complies with 803 CMR 6.11 by, including, but not limited to, notifying the Applicant of the potential adverse employment action, providing the Applicant with a photocopy of the CORI report received by the City, informing the Applicant of the specific parts of the CORI report that concern the City, providing an opportunity for the Applicant to discuss the CORI report with the City including an opportunity for the Applicant to present information rebutting the accuracy and/or relevance of the CORI report, reviewing any information and documentation received from the Applicant, and documenting all steps taken to comply with 803 CMR 6.11.

(e) The City makes final employment-related decisions based on all of the information available to the City, including the seriousness of the crime(s), the relevance of the crime(s), the number of crime(s), the age of the crime(s), and the occurrences in the life of the Applicant since the crime(s). If the final decision of the City is adverse to the Applicant and results in the refusal, rescission, or revocation of a position with the City then the City promptly notifies the Applicant of the decision and the specific reason(s) therefor.

4-7.4 Waiver.

Under exigent circumstances, an Awarding Authority, by its highest ranking member, may grant a waiver of CBC 4-7.3 on a contract-by-contract basis and shall submit a written record of the waiver to the Office of Civil Rights and to the Boston City Council's Staff Director who shall provide a copy to each and every City Councillor. The written record shall include, but not be limited to, (a) a summary of the terms of the contract, (b) the details of the Vendor's failure or refusal to conform with the City's CORI-related standards, and (c) a brief analysis of the exigency causing the grant of waiver.

No waiver may be considered perfected unless the Awarding Authority fully complies with the provisions of this sub-section.

4-7.5 Data Collection and Report.

Any Awarding Authority, Vendor, Applicant, or other interested party may contact the Office of Civil Rights to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of these sections, and the Office of Civil Rights shall log every comment received with a summary of the comment and shall keep on file any written comments. Subsequent to logging any comment, the Office of Civil Rights may refer a complaint to the CHSB and shall notify the relevant Awarding Authority. The Office of Civil Rights shall prepare a written report including, but not limited to, a summary of the granted waivers, a summary of any feedback regarding CORI-related policies and/or practices, and any other information or analysis deemed noteworthy by the Director of the Office of Civil Rights. The Office of Civil Rights shall file the report with the Boston City Council via the Boston City Clerk every six (6) months from the implementation date of these sections.

4-7.6 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

4-7.7 Regulatory Authority.

The Office of Civil Rights shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections and may promulgate a form of the Affidavit.

4-7.8 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

4-7.9 Implementation.

The provisions of these sections shall be effective on July 1, 2006.