

Amendment 9341

AN ORDINANCE RELATIVE TO FAIR CORI PRACTICES BY CITY VENDORS

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

Chapter Two of the Revised Ordinances of 2008 is hereby amended by inserting after section thirty-six thereof a new section, thirty-seven, as follows:

§ 37. Fair CORI Practices

(a) *Purpose.* This Fair CORI Practices Ordinance is intended to encourage the full participation of motivated and qualified persons with criminal histories in our workforce, reduce recidivism, protect vulnerable populations and assure public safety. The Fair CORI Practice Ordinance accomplishes these ends by establishing practices that:

- (1) Diminish the use of a criminal record as an automatic bar to employment;
- (2) Deter the use of an application form that inappropriately excludes and discriminates against qualified job applicants;
- (3) Promote the accurate use and interpretation of a criminal record; and
- (4) Provide a qualified applicant with an opportunity to discuss any inaccuracies and explain the relevance and content of a criminal record.

The following sections are intended to apply to all persons and businesses supplying goods and/or services to the city of Worcester and are also intended to ensure that they deploy fair policies and practices in screening, hiring, and retaining persons with criminal histories.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

Applicant - means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 C.M.R. 2.03.

CHSB – means the Criminal History Systems Board as defined in M.G.L. c. 6 and 803 C.M.R. 2.00.

Contract Officer – means the city official other than the city manager who is responsible for the award and administration of any contract for goods and or services from a Vendor.

Otherwise Qualified – means any Applicant that meets all other criteria for a position or consideration for a position.

Vendor – means any vendor, contractor, or supplier of goods and/or services to the city of Worcester.

(c) *CORI-Related Standards Applicable to Vendors.*

(1) The city will do business only with Vendors that have adopted and employ written CORI related policies, practices, and standards that are consistent with city standards set forth in section (d) of this section.

(2) The city employs CORI-related policies, practices and standards that are fair to all persons involved and seeks to do business with Vendors that have substantially similar policies and practices. The Contract Officer shall review all Vendors' CORI policies and practices for consistency with standards of the city as expressed in this ordinance.

(3) The Contract Officer 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 among the performance criteria in evaluating a contract.

(4) The Contract Officer shall consider any Vendor's deviation from the CORI standards as grounds for rejection, rescission, revocation, or any other termination of the contract.

(d) *CORI-Related Standards of the City.* The CORI-related policies, practices, and standards of the city administration include, but are not limited, to the following:

(1) The city has a policy of affording a rehabilitated individual with a criminal record with a fair opportunity to be employed and reintegrate successfully into the workforce, while protecting vulnerable populations and the public safety. Consistent with this policy, a criminal record will not automatically disqualify an Applicant from employment, unless explicitly mandated by law.

(2) The city will not conduct a CORI check or make any inquiry into an Applicant's possible criminal history, or include any such inquiry on any initial employment application form, until after an Applicant's credentials have been reviewed, it has determined that the Applicant is otherwise qualified for a position and a conditional offer of employment has been made. The city does not conduct a CORI check on an Applicant that is not otherwise qualified for a relevant position.

(3) The city will not check an Otherwise Qualified Applicant's CORI unless a CORI check is mandated by law or it determines that the position in question is of such sensitivity that a CORI check is warranted.

(4) The city requires that any personnel responsible for reviewing CORI be trained on reading and interpreting a CORI report. Such personnel shall be required to attend CORI training and be knowledgeable about educational materials made available by the CHSB.

(5) The city will conduct a CORI check only as authorized by the CHSB. The city will not rely on an improperly issued CORI and will return the record to the CHSB for issuance of the appropriate report, if any, whenever it might receive a report containing matters not requested or otherwise authorized for release to the city.

(6) The city will consider the result of a properly issued CORI report only in those instances where the content of the record is substantially relevant to the duties and qualifications of a position in question.

(7) The city follows the practices set forth below when it is inclined to deny an Applicant a position because of the results of a CORI:

- (a) Ensure that the record received pertains to the individual for whom a request was made by comparing the Applicant's identifying information, such as that on a driver's license or government issued identification, or CORI request form, to the information on the CORI report;
- (b) Provide the Applicant with a copy of the CORI;
- (c) Notify him or her of the part or parts which appear to make him or her ineligible;
- (d) Afford the Applicant with an opportunity for a private meeting to explain the accuracy and/or relevance of anything on the CORI report;
- (e) Review the relevancy and accuracy of the CORI report by considering these factors:

- (i) Nature, seriousness and circumstance of any past criminal conviction or pending charge;
- (ii) Age of the candidate at the time of the offense;
- (iii) Date of the offense;
- (iv) Relevance of the offense to the duties and qualifications of the position in question;
- (v) Sentence imposed and length of any period of incarceration;
- (vi) Any reasonable available information concerning compliance with conditions of parole or probation, including orders of no contact with victim and witnesses;
- (vii) The individual's conduct and experience in the time since the offense, including, but not limited to, education or professional certification obtained since the time of the offense;
- (viii) Any other evidence of rehabilitation.

(f) If after review the city makes an adverse decision, it will promptly notify the Applicant in writing stating the reasons thereof.

(g) If the city determines that a CORI report received does not pertain to the individual for whom a request was made, it will notify the Applicant of the CHSB's regulations and process for correcting an inaccurate record, and will not rely on such a record in rendering an adverse decision. The city may contact the CHSB and request that it conduct a detailed search consistent with CHSB's policy.

(8) The city will provide a copy of its CORI standards to any Applicant or person who makes a request.

(9) The city, consistent with CHSB policy, will not disseminate or share CORI information except with those authorized personnel granted access to CORI.

(e) *Waiver.* Under extraordinary circumstances the city manager may grant a waiver of section (c) on a contract-by-contract basis and shall report all such waivers to the city council on a quarterly basis. Such report shall include an identification of each contract for which a waiver was granted, the name of the Vendor(s) involved, identification of the specific CORI standard involved in each waiver and a statement by the city manager of the reasons justifying the waiver.

(f) *Complaint Procedure.*

(1) Any Applicant aggrieved by an adverse decision made by a Vendor, may file a complaint with the city manager who shall investigate any such complaint and take any appropriate action.

(2) The city manager, where appropriate, may refer complainants to the CHSB, and may notify the Contract Officer of such referral.

(3) The city manager may, upon request by a concerned person, or on his or her own initiative, conduct periodic reviews to determine Vendor compliance with this ordinance.

(4) Any Contract Officer, Vendor, Applicant, or other interested party may contact the city manager to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of the Fair CORI Standards.

(5) The city manager shall make a report on all such complaints, investigations and reviews to the city council on a quarterly basis.

(g) *Data Collection.*

(1) The city manager shall record and log, including maintaining demographic data, all CORI-related complaints received.

(2) Any member of the general public may request review or copies of any record maintained by the city manager relating to this ordinance, provided that identifying information about complainants and any other information not considered a public record are kept confidential.

(h) *Applicability.* To the extent permitted by law, if any provision of these sections impose 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.

(i) *Rulemaking Authority.* The city manager shall have the authority to make rules necessary to implement and enforce this ordinance.

(j) *Implementation.* The provisions of this ordinance shall apply to all bids and requests for proposals issued after September 1, 2009.

In City Council June 23, 2009

Passed to be ordained by a yeas and nays vote of Eleven Yeas and No Nays

A Copy. Attest:

David J. Rushford, Clerk
David J. Rushford
City Clerk