

**Date:** October 19, 2020

**APPROVING AND AUTHORIZING EXECUTION OF A CONTRACT  
(COOPERATIVE AGREEMENT) WITH THE IOWA CIVIL RIGHTS COMMISSION**

WHEREAS, the Iowa Civil Rights Commission desires to enter into a cooperative agreement with the City of Des Moines Civil and Human Rights Commission beginning July 1, 2020 and ending June 30, 2021; and

WHEREAS, the agreement is designed to ensure an efficient, effective, and coordinated state-local civil rights enforcement program and partnership; and

WHEREAS, the proposed agreement provides for partial reimbursement for Des Moines Civil and Human Rights Commission work paid by the State through the Iowa Civil Rights Commission; and

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA

That the Cooperative Agreement, a copy of which is now on file in the office of the City Clerk, between the City of Des Moines Civil and Human Rights Commission and the Iowa Civil Rights Commission be approved and that the Mayor is authorized and directed to execute the Agreement for and on behalf of the City of Des Moines, Iowa for its Civil and Human Rights Commission, and the Civil and Human Rights Commission may take all further action to carry out its terms or amendments thereto.

(Council Communication No. 20- 468)

MOVED BY \_\_\_\_\_ TO ADOPT.

APPROVED AS TO FORM:



Assistant City Attorneyc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

**CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**COOPERATIVE AGREEMENT**  
**Between Des Moines Civil and Human Rights Commission**  
**&**  
**IOWA CIVIL RIGHTS COMMISSION**

1. **Definitions:** As used in this Cooperative Agreement the following terms are defined as follows:
  - a) "ICRC" means the Iowa Civil Rights Commission.
  - b) "Local agency" means Des Moines Civil and Human Rights Commission and must comply with the requirements of Iowa Code §216.19
  - c) "Fiscal Year 2021" runs from July 1, 2020 to June 30, 2021.
2. **Authority:** In order to effectuate the purposes of the "Iowa Civil Rights Act," (ICRA) the ICRC now enters into a Cooperative Agreement with the Des Moines Civil and Human Rights Commission. Iowa Code §216.19.
3. **Purpose:** Our purpose is to assist local agencies in resolving discrimination complaints and to reduce case backlogs without compromising quality or the integrity of the system. We have designed criteria to ensure an efficient, effective, and coordinated effort between the ICRC and local agencies.
4. **Scope:** Under this Cooperative Agreement, ICRC contracts with the Des Moines Civil and Human Rights Commission for the satisfactory intake and resolution of complaints whose allegations fall within the prohibitions of Iowa Code §§216.6, 216.6A, 216.7, 216.8, 216.8A, 216.9, 216.10 and 216.11. This Cooperative Agreement does not cover complaints that do not fall within these sections of the Iowa Code.
3. **Period:** This Cooperative Agreement will run during Fiscal Year 2021. There is no commitment on the part of ICRC to contract with the Des Moines Civil and Human Rights Commission for the resolution of complaints after June 30, 2021.
4. **Total Amount:** The total amount ICRC can be required to spend, as aggregate compensation to all contracting local commissions for work performed under cooperative agreements for Fiscal Year 2021 is \$33,000.00 maximum. If insufficient funds exist for payment of all cases tendered for payment by the contracting Local Commissions, payment shall be allocated on a first-come first-served basis, according to the date of submission of the intakes or resolutions to the ICRC.
5. **Payment Date:** ICRC agrees to provide payment on a quarterly basis based upon satisfaction of the conditions established in this agreement. Payment will be provided for work performed and accepted under this Agreement by the ICRC, and in the case of cases cross-filed with the EEOC or HUD, when credit has been approved by that agency. Payment will be provided only for cases that are determined by the ICRC to be jurisdictional under the ICRA, if the complaints are timely received by the ICRC, and in the case of cases cross-filed with the EEOC or HUD, credit has been approved by that agency. In the case of payment for intake services, ICRC accepts the work if/when ICRC opens the case file corresponding to the intake.

Payment is conditioned upon execution of this contract which must be accomplished and returned to the ICRC no later than September 1, 2020. Agreements presented after that date will be rejected by the ICRC absent prior written approval for late submission by the Director of the ICRC.

**6. Payment Schedule\*\*\*:**

**(a) Intakes:** See attached Schedule A for breakdown of reimbursement rates based on the timing of receipt of the complaint for housing and non-housing referrals to the ICRC. For purposes of the contract, intake is defined as receipt by the ICRC of a completed, signed, jurisdictional complaint in any area covered by the ICRA, including housing, that are forwarded to the ICRC for processing and investigation, with accompanying release, contact information and jurisdictional review documentation. If the ICRC complaint form is used, it will not be necessary to submit the jurisdictional review documentation. All information noted on the jurisdictional review documentation must be provided to the ICRC with the intake documentation. No payment will be made for non-housing intakes that are more than 60 days old or housing intakes that are more than 30 days old on the date received by the ICRC.

**(b) Resolutions:** See Schedule A (attached) for definitions and rate of payment based on time received. For purposes of the contract, resolution includes case closures resulting in Satisfactory Adjustments, Administrative Closures for reasons *other than* failure to cooperate or unable to locate, No Probable Cause Orders, Probable Cause Orders or closures after Public Hearings. In the case of administrative closures for failure to cooperate or failure to locate complainant, no reimbursement will be provided. Further, this clause does not apply to resolutions submitted by the local agency to the EEOC or HUD for contract credit or payment by the federal agencies, in which case, the ICRC will provide no payment. Settlement agreements for cross-filed EEOC cases **cannot include** a no-rehire clause or global release and **must indicate** in the agreement itself that the agreement was signed voluntarily. These are EEOC requirements that will not be waived by the EEOC and cannot be waived by the ICRC. Any agreements with language that includes the impermissible language or that is missing the required EEOC voluntary settlement language will be rejected by the ICRC (and EEOC) and no payment will be made until the settlement agreements are revised accordingly. Resolution date shall be the date of receipt of the case closure by the ICRC. In the case of resolutions on complaints cross-filed with the EEOC, if the EEOC refuses credit for the resolution, the ICRC's payment obligations under this agreement shall be extinguished. HUD prohibits ICRC from seeking credit for housing complaints cross-filed with HUD, and any such complaints should be referred to the ICRC for investigation after intake.

**(c) Jurisdictional:** Any and all complaints submitted for credit and payment must be jurisdictional, including meeting the 300 day limit when the complaint is **received by the ICRC**, and must be a claim under the Iowa Civil Rights Act.

7. **Maintenance of Effort:** Iowa Code §216.19(2) provides that a city with a population of 29,000 or greater shall to maintain an independent local civil/human rights agency, shall structure and adequately fund the local human/civil rights agency in order to effect cooperative undertakings with ICRC and to aid in effectuating the purposes of the “Iowa Civil Rights Act,” and when staff is provided, the local agency or commission shall have control over such staff. The ICRC reserves the right to deny payment for closures which appear to have been adversely affected by a failure to comply with this code section or any other reasonable indication of lack of independence or neutrality by the local agency in its investigation of the complaint, and such may serve as grounds justifying termination of this agreement.

8. **Information Sharing:** Pursuant to I.A.C r. 161—11.10, the filing of a complaint or confidential information pertaining to a complaint covered by this agreement may be shared between the parties to this agreement as part of the routine use of such records, to administer the program for which the information is collected.

9. **Confidentiality:** Pursuant to I.A.C r. 161—1.6(4)(e)(4) and Iowa Code Section 215.15(5), the Des Moines Civil and Human Rights Commission agrees not to disclose the filing of a complaint or confidential information pertaining to a complaint covered by this agreement until the complaint has been officially set for public hearing. Once a complaint has been officially set for public hearing, the Des Moines Civil and Human Rights Commission agrees not to disclose confidential information pertaining to the complaint that is not publically available, except as allowed by ICRC’s rules.

10. **Reports:** The local agency agrees to submit quarterly reports on the electronic templates provided by the ICRC to ICRC listing each intake and resolution submitted for contract credit or payment under this Agreement. Quarterly Reports are due, as applicable, on **October 5, 2020** (for July 1 – September 30, 2020 activity); **January 5, 2021** (October 1 – December 31, 2020 activity); **April 5, 2021** (for January 1 - March 31, 2021 activity), and **July 15, 2021** (for April 1 - June 30, 2021 activity). Payments under this contract will be made after the Quarterly Reports are completed and submitted to the ICRC. Failure to provide Quarterly reports within 30 days of due date will result in forfeiture of funds for the quarter for which the quarterly report is not timely filed. As a condition of final payment, the local commission must submit, and ICRC must have received, all cases no later than July 15, 2021. Cases submitted after July 15, 2021, will not be paid.

11. **Training.** ICRC and the local agency will cooperate in planning, sponsoring, and conducting necessary complaint processing training for staff and commissioners.

12. This contract recognizes the 300-day filing period for initial complaints, as set forth in Iowa Code Ch. 216, is measured by the day the complaint *is received by the ICRC*, not the day received by the local commission. Therefore, local commissions **are responsible for ensuring that cases are received by the ICRC within 300 days of the date of the last incident of discrimination.** The local agency agrees that

complaints that are not received by the ICRC within the 300 day time limit **are not jurisdictional** on their face and **no payment will be made in that case**. To be considered received by the ICRC, the complaint must be physically received by the ICRC either through mail, fax, personal delivery or by email, by 4:30 pm, Monday through Friday. The ICRC prefers email (icrc@iowa.gov) over fax, as email has historically been more reliable. Complaints received (or sent by email) after 4:30 pm will be considered filed on the next business day.

**13. Closures.** Closure submissions for case resolutions must include the following closing documents from the local commission: Copies of closures notices sent to all parties by the local commission and a copy of the local commission's findings/decision. *All closure documents including settlement agreements and withdrawals must include local and state case numbers, and when cross-filed with EEOC, federal case number.* Payment may be denied if closure papers or settlement agreements do not include case numbers, or if any case number is incorrect. ICRC may be required to obtain a full copy of the case file maintained by the local commission. The copies should be provided to ICRC at no cost and within two weeks of request.

If required by your local protocol, ordinance or practice, separate signature lines have been provided for your Mayor and Commission Chair.

\_\_\_\_\_  
Mayor


\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairperson, Des Moines Civil and Human Rights Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
Elizabeth A. Johnson, Executive Director, Iowa Civil Rights Commission

\_\_\_\_\_  
Date

**FORM APPROVED:**  
  
\_\_\_\_\_  
**Douglas P. Philip**  
**Assistant City Attorney**

**SCHEDULE A**

\*\*\*The following summarizes the payment schedule.

<b>Intake:</b> (See definition for Intake below)	Complaint sent to ICRC for processing and investigation within 7 days (housing) or 30 days (non-housing) of initial filing date with local agency.	\$500 for housing cases eligible for cross-filing with HUD; \$250 for employment cases eligible for cross-filing with EEOC; \$125 for cases not eligible for cross-filing
	Complaint sent to ICRC for processing and investigation greater than 7 days but within 30 days (housing); greater than 30 days but within 60 days (non-housing) of initial filing date with local agency.	\$250 for housing cases eligible for cross-filing with HUD; \$150 for employment cases eligible for cross-filing with EEOC; \$75 for cases not eligible for cross-filing
	Complaint sent to ICRC for processing and investigation greater than 30 days (housing) or 60 days (non-housing) of initial filing date with local agency.	\$0
<b>Resolutions for Non-housing Cases:</b> (See definition for Resolutions below)	Complaint Resolutions sent to ICRC for closure processing within 180 days of initial filing date with local agency.	\$325 for cases eligible for cross-filing with EEOC; \$100 for cases not eligible for cross-filing
	Complaint Resolutions sent to ICRC for closure processing greater than 180 days but within 600 days of initial filing date with local agency.	\$200 for cases eligible for cross-filing with EEOC; \$50 for cases not eligible for cross-filing
	Complaint Resolutions sent to ICRC for closure processing greater than 600 days of initial filing date with local agency.	\$0

For the purpose of this contract the definition for the terms of payments are as follows:

**“INTAKE”**

A completed and signed complaint that meets the jurisdictional requirements of ICRA and forwarded to the ICRC for initial processing and investigation with accompanying release, contact information and jurisdictional review documentation.

**“RESOLUTIONS”**

Case closures resulting in an administrative closure (except for failure to cooperate or locate Complainant); conciliated and settled cases; satisfactory adjustments; No Probable Cause Orders; Probable Cause Orders; and closures after Public Hearing.

**“INITIAL FILING”**

Initial filing date will be determined by local file-stamp receipt date shown on the complaint. All complaints must show a local file-stamp receipt date. Credit may be rejected for complaints without a local file-stamp receipt date.