SEC CONTRACT REQUIREMENT TO PROMOTE WORKFORCE DIVERSITY AND INCLUSION
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Agenda

- Overview of Contract Standard – SEC 6020.00 Contractor Workforce Inclusion
- OMWI Procedures to Determine Contractor Compliance
- Actions Demonstrating Good Faith Efforts
- Q&A
SEC 6020.00 Contractor Workforce Inclusion

- Solicitations and **contracts for services** in the amount of $100,000 or more

- **Subcontracts for services** in the amount of $100,000 or more awarded under the prime contract

- **Exempted:** contracts for services for work to be performed outside the United States by employees not recruited within the United States
Origin of the Contract Standard

- Section 342(c)(2) and (3) of Dodd Frank Act provides:

  - **Written statement** that a contractor shall ensure fair inclusion of minorities and women

  - OMWI Director **determination** regarding contractor good faith efforts to ensure the inclusion of minorities and women in its workforce

  - **Appropriate action by** Agency Administrator if contractor fails to make good faith efforts
Contract Standard Requirements

Contractor agrees to:

- Equal opportunity in employment and contracting
- Fair inclusion of minorities and women in its workforce
- Insert the Contract Standard in covered subcontracts
- Provide documentation demonstrating good faith efforts, upon the request of the OMWI Director
Good Faith Efforts Defined

- Includes actions by the contractor (or subcontractor) to:
  - **Identify and remove barriers** to minority and women employment and **expand employment opportunities** for minorities and women within its workforce

**Examples:**

- Recruiting to ensure diverse applicant pools
- Job-related training
- Other activity leading to barrier removal
Documentation Re: Good Faith Efforts

Documentation requested by OMWI Director to demonstrate good faith efforts may include:

a. Workforce demographic data similar to EEO-1 Report

b. List of covered subcontract awards for services

c. Plan for ensuring the workforce inclusion of minorities and women

d. Subcontractor workforce data and workforce inclusion plan
Other Key Provisions of Contract Standard

Failure to demonstrate good faith efforts may result in:

- **Termination of the contract for default**
- **Other contractual remedies**
- **Referral to the Office of Federal Contract Compliance Programs (OFCCP)**

Compliance with Contract Standard does not equal compliance with Executive Order 11246
Determining Contractor Compliance: OMWI Good Faith Effort Reviews
Exclusions from GFE Review

- Contractor has fewer than 50 employees
- OMWI reviewed within past two years
- Contracts for services excluded from the FAR definition of “service contract”
- Contract with foreign company with no office or operations in the U.S.
OMWI Good Faith Effort Review

“Good Faith Effort (GFE) Review” – post-award review to determine compliance with Contract Standard

Document Request Letter asks contractor to submit documentation specified in the Contract Standard within 10 business days:

a. Workforce demographic data

b. List of covered subcontracts for services

c. Plan for ensuring workforce inclusion of minorities and women

d. Workforce demographic data and workforce inclusion plan for covered subcontractors with 50 or more employees
a. Workforce Data

- No specific format required for submitting the workforce demographic information
- Most recent EEO-1 Report may be submitted
- Multi-establishment contractors should submit the Consolidated EEO-1 Report, which includes all employees
b. List of Covered Subcontracts

• “Covered” subcontracts are subcontract awards for services with a dollar value of $100,000 or more under the SEC contract.

• For each covered subcontract award, provide:
  o Dollar amount
  o Date of award
  o Subcontractor’s race, ethnicity, and/or gender ownership status.
c. Contractor’s Plan for Workforce Inclusion of Minorities and Women

- No specific requirements for a plan for fair inclusion of minorities and women in a contractor’s workforce

- No requirement to produce a particular document

- May submit AAPs required under regulations implementing Executive Order 11246

- May submit plan specifically developed for promoting diversity and inclusion in workforce
AAP Actions Demonstrating Good Faith Efforts

EO 11246 AAPs typically describe actions demonstrating good faith efforts, including, but not limited to:

- Workforce data analyses to determine whether workforce utilization of minorities and women in contractor defined job groups reflects their availability in the relevant labor market
- Action oriented programs to address any identified problem areas in utilization of minorities and women
- Recruitment focused on minorities and/or women
- Participation at job fairs attracting minorities and women
- Training on eliminating bias in recruitment, hiring, personnel actions and other activities
d. Subcontractor Workforce Data and Workforce Inclusion Plan

Prime contractors are responsible for obtaining and submitting workforce data and workforce inclusion plan for each covered subcontractor that has 50 or more employees.
Diversity and Inclusion Plans

Actions described in D&I plans submitted for review:

- Added Corporate D&I function
- Developed apprentice program for underserved groups
- Established leadership development programs for women and minorities
- Supported employee business resource groups
- Adopted D&I metrics
SEC Point of Contact

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