



# 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



# OVERVIEW OF CONTRACT STANDARD PROVISIONS

# 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:
  - Dollar amount
  - Date of award
  - 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

## Office of Minority and Women Inclusion

Contract Standard Reviews

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