



EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLIANCE

1. PURPOSE

The purpose of this document is to provide the policy and procedures for requesting and obtaining pre-award EEO compliance reviews.

2. POLICY

- a. **Executive Order (EO) 11246**, as amended, sets forth the Equal Opportunity clause (FAR 52.222-26) and requires all government agencies to:
 - (1) Include the clause in all nonexempt government prime contracts and subcontracts, and
 - (2) Act to ensure compliance with the clause and other regulations of the Secretary of Labor to promote the full realization of equal opportunity. No contract or modification involving new work shall be entered into, and no subcontract shall be approved by a contracting officer, with a person who has been found ineligible for reasons of noncompliance with EEO requirements.
- b. **Compliance Review:** To determine whether the contractor or subcontractor is complying with the provisions of FAR 52.222-26, contracting officers shall request a pre-award compliance review for each non-construction contract (including letter contracts and indefinite delivery type contracts, first-tier subcontract, contract modifications which add new work, or basic ordering agreements valued at \$10 million (base award plus options) or more, or when increasing the aggregate value of an existing contract to \$10 million or more.

3. RESPONSIBILITIES

- a. *The Office of Federal Contract Compliance Program (OFCCP)*, Department of Labor (DoL) is responsible for administering the EEO Program.
- b. *PCO/contract specialist* is responsible for requesting and obtaining preaward contract compliance clearances from OFCCP.

4. PROCEDURES

- a. ***Requesting the Review:*** The PCO/contract specialist shall search the [National Pre-Award Registry](#) to determine whether the prospective contractor has been found to be in compliance with the equal opportunity regulations and so state in the Business Clearance or Price Negotiation Memorandum. If the specific contractor is listed on the registry, the PCO is not required to request pre-award clearance from the OFCCP. If the contractor is not listed, contact the cognizant [Regional OFCCP](#) office via facsimile or email (verbal and/or email requests are strongly encouraged.). Provide the name, address, and telephone number of the prospective contractor and any corporate affiliate where work is to be performed. Also, provide name, address, and telephone number of each proposed first-tier subcontractor with a proposed subcontract estimated at \$10 million or more; anticipated award date; information as to whether the contractor and first-tier subcontractor have previously held any government contracts or subcontracts; place or places of contract performance and first-tier subcontracts estimated at \$10 million or more, if known; and the estimated dollar amount of the contract and each first-tier subcontract, if known.
- b. ***Timeliness:*** Requests must reach OFCCP no later than 15 days prior to proposed award date. If OFCCP does not inform the PCO within 15 days of the preaward review request, of its intention to conduct a preaward compliance evaluation, clearance shall be presumed, and the PCO is authorized to award the contract. If OFCCP does inform the PCO within 15 days of the preaward review request, of its intention to conduct a preaward compliance evaluation, OFCCP shall be allowed an additional 20 days after the date that it so informs the PCO. If OFCCP does not provide the PCO with its conclusions within that 20-day period, clearance shall be presumed, and the PCO is authorized to award the contract. Further, if any of the aforementioned time lines would delay a critical award beyond the time needed by the government to make award or beyond the time specified in the bid or proposal, or an extension thereof, the PCO shall immediately inform the OFCCP regional office of the required award date. Also, if OFCCP determines that the review cannot be completed by the imposed date, the PCO shall submit written justification for the award to the head of the contracting activity (HCA), who, after informing the OFCCP regional office, may then approve award without the preaward clearance.

- c. ***Inquiries:*** Any inquiry by a contractor regarding the status of their preaward compliance review shall be referred to the cognizant regional OFCCP office. Any complaints received by the PCO alleging a violation of the requirements of EO 11246 shall be handled in accordance with FAR 22.808 and DFARS 222.806.
- d. ***Exemptions:*** Specific cases may allow for exemptions to all or part of EO 11246. PCOs/contract specialists should become familiar with the exemptions and procedures for requesting an exemption at FAR 22.807 and DFARS 222.807(c).
- e. ***Contractor Violations:*** Should any contractor performing on a federal government contract be found in violation of EO 11246, one or more of the actions at FAR 22.809 shall be imposed.

5.APPROVALS

The PCO is responsible for reviewing and concurring with Requests for EEO Clearance. SPAWAR 02/02A shall approve critical awards that do not receive preaward clearance.

6.MISCELLANEOUS

TOOL BOX

- Regional OFCCP Offices: FAR 22.609 provide the geographic jurisdictions of regional offices of OFCCP
- Request for Pre-Award EEO Compliance Review [sample format](#)
- [ESA OFCCP National & Regional Program Personnel \(address/telephone\)](#)
Note: e-mail addresses not included

SAMPLE REQUEST LETTER

4200
Ser _____
(date)

From: Contracting Officer, Space and Naval Warfare Systems Center, San Diego
Code XXXX

To: OFCCP/ESA- Philadelphia, U.S. Department of Labor, Gateway Bldg Rm 1310,
3535 Market Street, Philadelphia PA 19104

Subj: REQUEST FOR EEO PRE-AWARD COMPLIANCE CLEARANCE FOR
SOLICITATION N66001-96-R-XXXX

1. The Space and Naval Warfare Systems Center, San Diego is anticipating an award of Solicitation N66001-96-R-XXXX. In accordance with FAR 22.805(a)(4), a preaward EEO clearance is requested for the following offeror:

- a. Contractor: *(name & address)*
- b. Point of contact: *(Name and phone number)*
- c. Anticipated date of award: *(date)*
- d. Previously held Government contracts. *(contractor)* has certified its participation in a previous contract subject to EEO compliance
- e. Place of performance: Government facility, aboard ships in the US, at foreign ports
/ or contractor facility (city/state)
- f. The total anticipated dollar amount: *(dollar value and length of contract)*

2. A written reply, forwarded to attention *(contract negotiator)*, is requested by *day/month/year*. Our FAX number is *(number)*. Questions regarding this matter should be addressed to *(name)*, Contract Negotiator at *(phone number)*.

(name)
Contracting Officer

Copy for the official contract file