

Intro

These are the edits on the EO 11,246 regulations mentioned in Roger Clegg, "Unfinished Business: The Bush Administration and Racial Preferences," 32 Harv. J. L. & Pub. Pol'y 971, 989 (2009) (discussed in part III-B., "The Bush Administration, Executive Order 11246's Regulations, and the Law").

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TITLE 41--PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

CHAPTER 60--OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL
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PART 60-2--AFFIRMATIVE ACTION PROGRAMS--Table of Contents

Subpart A--General

Sec. 60-2.1 Scope and application.

(a) General. The requirements of this part apply to nonconstruction (supply and service) contractors. The regulations prescribe the contents of affirmative action programs, standards and procedures for evaluating the compliance of affirmative action programs implemented pursuant to this part, and related matters.

(b) Who must develop affirmative action programs. (1) Each nonconstruction contractor must develop and maintain a written affirmative action program for each of its establishments if it has 50 or more employees and:

(i) Has a contract of \$50,000 or more; or

(ii) Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or

(iii) Serves as a depository of Government funds in any amount; or

(iv) Is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount.

(2) Each contractor and subcontractor must require each nonconstruction subcontractor to develop and maintain a written affirmative action program for each of its establishments if it has 50 or more employees and:

(i) Has a subcontract of \$50,000 or more; or

(ii) Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or

(iii) Serves as a depository of Government funds in any amount; or

(iv) Is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount.

(c) When affirmative action programs must be developed. The affirmative action programs required under paragraph (b) of this section must be developed within 120 days from the commencement of a contract and must be updated annually.

(d) Who is included in affirmative action programs. Contractors subject to the affirmative action program requirements must develop and maintain a written affirmative action program for each of their establishments. Each employee in the contractor's workforce must be included in an affirmative action program. Each employee must be included in the affirmative action program of the establishment at which he or she works, except that:

(1) Employees who work at establishments other than that of the manager to whom they report, must be included in the affirmative action program of their manager.

(2) Employees who work at an establishment where the contractor

employs fewer than 50 employees, may be included under any of the following three options: In an affirmative action program which covers just that establishment; in the affirmative action program which covers the location of the personnel function which supports the establishment; or, in the affirmative action program which covers the location of the official to whom they report.

(3) Employees for whom selection decisions are made at a higher level establishment within the organization

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must be included in the affirmative action program of the establishment where the selection decision is made.

(4) If a contractor wishes to establish an affirmative action program other than by establishment, the contractor may reach agreement with OFCCP on the development and use of affirmative action programs based on functional or business units. The Deputy Assistant Secretary, or his or her designee, must approve such agreements. Agreements allowing the use of functional or business unit affirmative action programs cannot be construed to limit or restrict how the OFCCP structures its compliance evaluations.

(e) How to identify employees included in affirmative action programs other than where they are located. If pursuant to paragraphs (d)(1) through (3) of this section employees are included in an affirmative action program for an establishment other than the one in which the employees are located, the organizational profile and job group analysis of the affirmative action program in which the employees are included must be annotated to identify the actual location of such employees. If the establishment at which the employees actually are located maintains an affirmative action program, the organizational profile and job group analysis of that program must be annotated to identify the program in which the employees are included.

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Subpart A--General

Sec. 60-2.2 Agency action.

(a) Any contractor required by Sec. 60-2.1 to develop and maintain a written affirmative action program for each of its establishments that has not complied with that section is not in full compliance with Executive Order 11246, as amended. When a contractor is required to submit its affirmative action program to OFCCP (e.g., for a compliance evaluation), the affirmative action program will be deemed to have been accepted by the Government at the time OFCCP notifies the contractor of completion of the compliance evaluation or other action, unless within 45 days thereafter the Deputy Assistant Secretary has disapproved such program.

(b) If, in determining such contractor's responsibility for an award of a contract it comes to the contracting officer's attention, through sources within his/her agency or through the OFCCP or other Government agencies, that the contractor does not have an affirmative action program at each of its establishments, or has substantially deviated from such an approved affirmative action program, or has failed to develop or implement an affirmative action program which complies with the regulations in this chapter, the contracting officer must declare the contractor/bidder nonresponsible and so notify the contractor and the Deputy Assistant Secretary, unless the contracting officer otherwise affirmatively determines that the contractor is able to comply with the equal employment obligations. Any contractor/bidder which has been declared nonresponsible in accordance with the provisions of this section may request the Deputy Assistant Secretary to determine that the responsibility of the contractor/bidder raises substantial issues of law or fact to the extent that a hearing is required. Such request must set forth the basis upon which the contractor/bidder seeks such a determination. If the Deputy Assistant Secretary, in his/her sole discretion, determines that substantial issues of law or fact exist, an administrative or judicial proceeding may be commenced in accordance with the regulations contained in Sec. 60-1.26; or the Deputy Assistant Secretary may require the investigation or compliance evaluation be developed further or additional conciliation be conducted: Provided, That during any pre-award conferences, every effort will be made through the processes of conciliation, mediation, and persuasion to develop an acceptable affirmative action program meeting the standards and guidelines set forth in this part so that, in the performance of the contract, the contractor is able to meet its equal employment obligations in accordance with the equal opportunity clause and applicable rules, regulations, and orders: Provided further, That a contractor/bidder may not be declared nonresponsible more than twice due to past noncompliance with the equal opportunity clause at a particular establishment or facility without receiving

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prior notice and an opportunity for a hearing.

(c) (1) Immediately upon finding that a contractor has no affirmative action program, or has deviated substantially from an approved

affirmative action program, or has failed to develop or implement an affirmative action program which complies with the requirements of the regulations in this chapter, that fact shall be recorded in the investigation file. Except as provided in Sec. 60-1.26(b)(1), whenever administrative enforcement is contemplated, the notice to the contractor shall be issued giving the contractor 30 days to show cause why enforcement proceedings under section 209(a) of Executive Order 11246, as amended, should not be instituted. The notice to show cause should contain:

(i) An itemization of the sections of the Executive Order and of the regulations with which the contractor has been found in apparent violation, and a summary of the conditions, practices, facts, or circumstances which give rise to each apparent violation;

(ii) The corrective actions necessary to achieve compliance or, as may be appropriate, the concepts and principles of an acceptable remedy and/or the corrective action results anticipated;

(iii) A request for a written response to the findings, including commitments to corrective action or the presentation of opposing facts and evidence; and.

(iv) A suggested date for the conciliation conference.

(2) If the contractor fails to show good cause for its failure or fails to remedy that failure by developing and implementing an acceptable affirmative action program within 30 days, the case file shall be processed for enforcement proceedings pursuant to Sec. 60-1.26 of this chapter. If an administrative complaint is filed, the contractor shall have 20 days to request a hearing. If a request for hearing has not been received within 20 days from the filing of the administrative complaint, the matter shall proceed in accordance with part 60-30 of this chapter.

(3) During the "show cause" period of 30 days, every effort will be made through conciliation, mediation, and persuasion to resolve the deficiencies which led to the determination of nonresponsibility. If satisfactory adjustments designed to bring the contractor into compliance are not concluded, the case shall be processed for enforcement proceedings pursuant to Sec. 60-1.26 of this chapter.

(d) During the "show cause" period and formal proceedings, each contracting agency must continue to determine the contractor's responsibility in considering whether or not to award a new or additional contract.

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Subpart B--Purpose and Contents of Affirmative Action Programs

Sec. 60-2.10 General purpose and contents of affirmative action programs.

(a) Purpose. (1) An affirmative action program is a management tool designed to ensure equal employment opportunity. A central premise underlying affirmative action is that, absent discrimination, over time a contractor's workforce, generally, will reflect the gender, racial and ethnic profile of the labor pools from which the contractor recruits and selects. Affirmative action programs contain a diagnostic component which includes a number of quantitative analyses designed to evaluate the composition of the workforce of the contractor and compare it to the composition of the relevant labor pools. Affirmative action programs are also include action-oriented programs. If women and minorities are not being employed at a rate to be expected given their availability in the relevant labor pool, the contractor's affirmative action program includes specific practical steps designed to address this underutilization. Effective affirmative action programs also include internal auditing and reporting systems as a means of measuring the contractor's progress toward achieving the workforce that would be expected in the absence of discrimination.

proactive effects -- that is, "affirmative action" -- are needed to ensure that illegal discrimination does not occur.

(2) An affirmative action program also ensures equal employment opportunity by institutionalizing the contractor's commitment to equality in

Non- Finally, affirmative action programs ensure inclusive recruitment, and make it clear that applications from all qualified individuals are welcomed.

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every aspect of the employment process. Therefore, as part of its affirmative action program, a contractor monitors and examines its employment decisions and compensation systems to evaluate the impact of those systems on women and minorities.

ensure that they do not discriminate.

(3) An affirmative action program is, thus, more than a paperwork exercise. An affirmative action program includes those policies, practices, and procedures that the contractor implements to ensure that all qualified applicants and employees are receiving an equal opportunity for recruitment, selection, advancement, and every other term and privilege associated with employment. Affirmative action, ideally, is a part of the way the contractor regularly conducts its business. OFCCP has found that when an affirmative action program is approached from this perspective, as a powerful management tool, there is a positive correlation between the presence of affirmative action and the absence of discrimination.

(b) Contents of affirmative action programs. (1) An affirmative action program must include the following quantitative analyses:

- (i) Organizational profile--Sec. 60-2.11;
(ii) Job group analysis--Sec. 60-2.12;
(iii) Placement of incumbents in job groups--Sec. 60-2.13;
(iv) Determining availability--Sec. 60-2.14;
(v) Comparing incumbency to availability--Sec. 60-2.15; and
(vi) Placement goals--Sec. 60-2.16.

(2) In addition, an affirmative action program must include the following components specified in the Sec. 60-2.17 of this part:

Ensuring nondiscrimination.

- (i) Designation of responsibility for implementation;
 - (ii) Identification of problem areas;
 - (iii) Action-oriented programs; and
 - (iv) Periodic internal audits.
- (c) Documentation. Contractors must maintain and make available to OFCCP documentation of their compliance with Secs. 60-2.11 through 60-2.17.

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Sec. 60-2.11 Organizational profile.

(a) Purpose. An organizational profile is a depiction of the staffing pattern within an establishment. It is one method contractors use to determine whether barriers to equal employment opportunity exist in their organizations. The profile provides an overview of the workforce at the establishment that may assist in identifying organizational units where ~~women or minorities are underrepresented or concentrated~~. The contractor must use either the organizational display or the workforce analysis as its organizational profile.

illegal
 discrimination
 maybe occurring

(b) Organizational display. (1) An organizational display is a detailed graphical or tabular chart, text, spreadsheet or similar presentation of the contractor's organizational structure. The organizational display must identify each organizational unit in the establishment, and show the relationship of each organizational unit to the other organizational units in the establishment.

(2) An organizational unit is any component that is part of the contractor's corporate structure. In a more traditional organization, an organizational unit might be a department, division, section, branch, group or similar component. In a less traditional organization, an organizational unit might be a project team, job family, or similar component. The term includes an umbrella unit (such as a department) that contains a number of subordinate units, and it separately includes each of the subordinate units (such as sections or branches).

(3) For each organizational unit, the organizational display must indicate the following:

- (i) The name of the unit;
- (ii) The job title, gender, race, and ethnicity of the unit supervisor (if the unit has a supervisor);
- (iii) The total number of male and female incumbents; and
- (iv) the total number of male and female incumbents in each of the following groups: Blacks, Hispanics, Asians/Pacific Islanders, and American Indians/Alaskan Natives.

(c) Workforce analysis. (1) A workforce analysis is a listing of each job title as appears in applicable collective bargaining agreements or payroll records ranked from the lowest paid to the highest paid within each department or

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other similar organizational unit including departmental or unit supervision.

(2) If there are separate work units or lines of progression within a department, a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line.

(3) Where there are no formal progression lines or usual promotional sequences, job titles should be listed by department, job families, or disciplines, in order of wage rates or salary ranges.

(4) For each job title, the total number of incumbents, the total

number of male and female incumbents, and the total number of male and female incumbents in each of the following groups must be given: Blacks, Hispanics, Asians/Pacific Islanders, and American Indians/Alaskan Natives. The wage rate or salary range for each job title must be given. All job titles, including all managerial job titles, must be listed.

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Sec. 60-2.12 Job group analysis.

(a) Purpose: A job group analysis is a method of combining job titles within the contractor's establishment. This is the first step in the contractor's ~~comparison of the representation of minorities and women in its workforce with the estimated availability of minorities and women qualified to be employed.~~

(b) In the job group analysis, jobs at the establishment with similar content, wage rates, and opportunities, must be combined to form job groups. Similarity of content refers to the duties and responsibilities of the job titles which make up the job group. Similarity of opportunities refers to training, transfers, promotions, pay, mobility, and other career enhancement opportunities offered by the jobs within the job group.

(c) The job group analysis must include a list of the job titles that comprise each job group. If, pursuant to Secs. 60-2.1(d) and (e) the job group analysis contains jobs that are located at another establishment, the job group analysis must be annotated to identify the actual location of those jobs. If the establishment at which the jobs actually are located maintains an affirmative action program, the job group analysis of that program must be annotated to identify the program in which the jobs are included.

(d) Except as provided in Sec. 60-2.1(d), all jobs located at an establishment must be reported in the job group analysis of that establishment.

(e) Smaller employers: If a contractor has a total workforce of fewer than 150 employees, the contractor may prepare a job group analysis that utilizes EEO-1 categories as job groups. EEO-1 categories refers to the nine occupational groups used in the Standard Form 100, the Employer Information EEO-1 Survey: Officials and managers, professionals, technicians, sales, office and clerical, craft workers (skilled), operatives (semiskilled), laborers (unskilled), and service workers.

analysis of whether
illegal discrimination
may be occurring.

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Sec. 60-2.13 Placement of incumbents in job groups.

The contractor must separately state the percentage of ~~minorities~~
and the percentage of ~~women~~ it employs in each job group established
pursuant to Sec. 60-2.12.

men and
women

racial and
national-origin
groups

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Sec. 60-2.14 Determining availability.

(a) Purpose: Availability is an estimate of the number of qualified ~~minorities or women~~ available for employment in a given job group, expressed as a percentage of all qualified persons available for employment in the job group. The purpose of the availability determination is to establish a benchmark against which the demographic composition of the contractor's incumbent workforce can be compared in order to determine whether ~~barriers to equal employment opportunity~~ may exist within particular job groups.

(b) The contractor must separately determine the availability of ~~minorities and women~~ for each job group.

(c) In determining availability, the contractor must consider at least the following factors:

(1) The percentage of ~~minorities or women~~ with requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the

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geographical area from which the contractor usually seeks or reasonably could seek workers to fill the positions in question.

(2) The percentage of ~~minorities or women~~ among those promotable, transferable, and trainable within the contractor's organization. Trainable refers to those employees within the contractor's organization who could, with appropriate training which the contractor is reasonably able to provide, become promotable or transferable during the AAP year.

(d) The contractor must use the most current and discrete statistical information available to derive availability figures. Examples of such information include census data, data from local job service offices, and data from colleges or other training institutions.

(e) The contractor may not draw its reasonable recruitment area ~~in such a way as to have the effect of excluding minorities or women~~. For each job group, the reasonable recruitment area must be identified, with a brief explanation of the rationale for selection of that recruitment area.

(f) The contractor may not define the pool of promotable, transferable, and trainable employees ~~in such a way as to have the effect of excluding minorities or women~~. For each job group, the pool of promotable, transferable, and trainable employees must be identified with a brief explanation of the rationale for the selection of that pool.

(g) Where a job group is composed of job titles with different availability rates, a composite availability figure for the job group must be calculated. The contractor must separately determine the availability for each job title within the job group and must determine the proportion of job group incumbents employed in each job title. The contractor must weight the availability for each job title by the proportion of job group incumbents employed in that job group. The sum of the weighted availability estimates for all job titles in the job group must be the composite availability for the job group.

individuals by race, national origin, and sex

illegally discriminatory

individuals in each group

or individuals because of race, national origin, or sex

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Sec. 60-2.15 Comparing incumbency to availability.

(a) The contractor must compare the percentage of ~~minorities and women~~ in each job group determined pursuant to Sec. 60-2.13 with the availability for those job groups determined pursuant to Sec. 60-2.14.

(b) When the percentage of ~~minorities or women~~ employed in a particular job group is less than would reasonably be expected given their availability percentage in that particular job group, the contractor must ~~establish a placement goal~~ in accordance with Sec. 60-2.16.

(c)

determine whether that gap is because of illegal discrimination

significantly

individuals by race, national origin, and sex

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Sec. 60-2.16 Placement goals.

Ensuring nondiscrimination

(a) Purpose. Placement goals serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Placement goals also are used to measure progress toward achieving equal employment opportunity.

New (a), (b), (c), and (d) on next page

(b) A contractor's determination under Sec. 60-2.15 that a placement goal is required constitutes neither a finding nor an admission of discrimination.

(c) Where, pursuant to Sec. 60-2.15, a contractor is required to establish a placement goal for a particular job group, the contractor must establish a percentage annual placement goal at least equal to the availability figure derived for women or minorities, as appropriate, for that job group.

(d) The placement goal setting process described above contemplates that contractors will, where required, establish a single goal for all minorities. In the event of a substantial disparity in the utilization of a particular minority group or in the utilization of men or women of a particular minority group, a contractor may be required to establish separate goals for these groups.

Affirmative action plans of course

(e) In establishing placement goals, the following principles also apply:

or

(1) Placement goals may not be rigid and inflexible quotas, which must be met, nor are they to be considered as either a ceiling or a floor for the employment of particular groups. Quotas are expressly forbidden, as are goals and timetables, and preferences or unequal treatment of any kind.

include

(2) In all employment decisions, the contractor must make selections in a nondiscriminatory manner. Placement goals do not provide the contractor with a justification to extend a preference to any individual, select an individual, or adversely affect an individual's employment status, on the basis of that person's race, color, religion, sex, or national origin.

numerical

(3) Placement goals do not create set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.

Affirmative action plans

(4) Placement goals may not be used to supersede merit selection principles. Affirmative action programs prescribed by the regulations in this part do not require a contractor to hire a person who lacks qualifications to perform the job successfully, or hire a less qualified person in preference to a more qualified one.

(f) A contractor extending a publicly announced preference for American Indians as is authorized in 41 CFR 60-1.5(a)(6) may reflect in its placement goals the permissive employment preference for American Indians living on or near an Indian reservation.

(a) Basic principles. An affirmative action plan must reflect three commitments: a commitment to nondiscrimination, a commitment to inclusive recruitment, and a commitment to addressing evidence of discrimination and correcting discriminatory practices when they are found.

(b) The affirmative action plan must ensure that the principle of nondiscrimination is communicated throughout the company, that management and employees know that discrimination is against the law and contractor's policy and will subject violators to disciplinary action, and that those who witness discrimination or believe they have suffered it should bring it to the contractor's attention and have effective and protected ways of doing so.

(c) The affirmative action plan should include specific measures for ensuring inclusive recruitment and making it clear that applications from all qualified individuals are welcomed (e.g., participating in a wide variety of job fairs; advertising in a wide variety of print, broadcast, and other media; and including a stated commitment to nondiscrimination in all recruitment messages).

(d) Pursuant to Sec. 60-215, if there is significant disparity between the percentage of available individuals by race, national origin, or sex and their percentage as incumbents, the contractor must analyze its existing practices and procedures to ensure that the disparity is not a result of any illegal discrimination. If illegal discrimination is found, the contractor must immediately correct it and ensure that it does not recur. A disparity constitutes ^{neither} a finding nor ^{an} admission of discrimination.

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Sec. 60-2.17 Additional required elements of affirmative action programs.

In addition to the elements required by Sec. 60-2.10 through Sec. 60-2.16, an acceptable affirmative action program must include the following:

(a) Designation of responsibility. The contractor must provide for the implementation of equal employment opportunity and the affirmative action program by assigning responsibility and accountability to an official of the organization. Depending upon the size of the contractor, this may be the official's sole responsibility. He or she must have the authority, resources, support of and access to top management to ensure the effective implementation of the affirmative action program.

(b) Identification of problem areas. The contractor must perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exist. At a minimum the contractor must evaluate:

(1) The workforce by organizational unit and job group to determine whether there are ~~problems of minority or female utilization~~ (i.e., employment in the unit or group), or of ~~minority or female distribution~~ (i.e., placement in the different jobs within the unit or group);

(2) Personnel activity (applicant flow, hires, terminations, promotions, and other personnel actions) to determine whether there are ~~selection disparities~~;

(3) Compensation system(s) to determine whether there are ~~gender, race, or ethnicity based disparities~~;

(4) Selection, recruitment, referral, and other personnel procedures to determine whether they result in ~~disparities in the employment or there advancement of minorities or women~~; and

(5) Any other areas that might impact the success of the affirmative action program.

(c) Action-oriented programs. The contractor must develop and execute action-oriented programs designed to correct any problem areas identified pursuant to Sec. 60-2.17(b) and to attain established ~~goals~~ and objectives. In order for these action-oriented programs to be effective, the contractor must ensure that they consist of more than following the same procedures which have previously produced inadequate ~~results~~. Furthermore, a contractor must demonstrate that it has made good faith efforts to remove identified barriers, expand employment opportunities, and ~~produce measurable results~~.

(d) Internal audit and reporting system. The contractor must develop and implement an auditing system that periodically measures the effectiveness of its total affirmative action program. The actions listed below are key to a successful affirmative action program:

(1) Monitor records of all personnel activity, including referrals, placements, transfers, promotions, terminations, and compensation, at all levels to ensure the nondiscriminatory policy is carried out;

(2) Require internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained;

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is evidence of discrimination because of race, national origin, or sex

requirements

best

eliminate discrimination

- (3) Review report results with all levels of management; and
- (4) Advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

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Sec. 60-2.18 Equal Opportunity Survey.

(a) Survey requirement. Each year, OFCCP will designate a substantial portion of all nonconstruction contractor establishments to prepare and file an Equal Opportunity Survey. OFCCP will notify those establishments required to prepare and file the Equal Opportunity Survey. The Survey will provide OFCCP compliance data early in the compliance evaluation process, thus allowing the agency to more effectively identify contractor establishments for further evaluation. The Survey will also provide contractors with a useful tool for self-evaluation.

(b) Survey format. The Equal Opportunity Survey must be prepared in accordance with the format specified by the Deputy Assistant Secretary. The Equal Opportunity Survey will include information that will allow for an accurate assessment of contractor personnel activities, pay practices, and affirmative action performance. At a minimum, this will include such data elements as applicants, hires, promotions, terminations, compensation, and tenure by race and gender. As use of the EO Survey develops and evolves, the Department may at some time determine that one or more of the data elements currently included in the EO Survey should be altered or deleted. In the event consideration is given to changing a data element requirement, the following circumstances must exist:

(1) The Secretary must clearly demonstrate through statistical analyses of EO Survey submissions that the data element in question is no longer of value; and

(2) The Secretary must follow Notice and Comment procedures.

(c) How, when, and where to file. Contractors are encouraged to submit the Equal Opportunity Survey via the Internet. The Equal Opportunity Survey may also be submitted via facsimile to the telephone number indicated in the Survey instructions. Paper versions of the Equal Opportunity Survey must be mailed to the address indicated in the Survey instructions. The filing deadline will be specified by the Deputy Assistant Secretary.

(d) Confidentiality. OFCCP will treat information contained in the Equal Opportunity Survey as confidential to the maximum extent the information is exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552. It is the practice of OFCCP not to release data where the contractor is still in business, and the contractor indicates, and through the Department of Labor review process it is determined, that the data are confidential and sensitive and that the release of data would subject the contractor to commercial harm.

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Sec. 60-2.30 Corporate management compliance evaluations.

(a) Purpose. Corporate Management Compliance Evaluations are designed to ascertain whether individuals are encountering artificial barriers to advancement into mid-level and senior corporate management, i.e., glass ceiling. During Corporate Management Compliance Evaluations, special attention is given to those components of the employment process that affect advancement into mid-and senior-level positions.

(b) If, during the course of a Corporate Management Compliance Evaluation, it comes to the attention of OFCCP that problems exist at establishments outside the corporate headquarters, OFCCP may expand the compliance evaluation beyond the headquarters establishment. At its discretion, OFCCP may direct its attention to and request relevant data for any and all areas within the corporation to ensure compliance with Executive Order 11246.

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Sec. 60-2.31 Program summary.

The affirmative action program must be summarized and updated annually. The program summary must be prepared in a format which will be prescribed by the Deputy Assistant Secretary and published in the Federal

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Register as a notice before becoming effective. Contractors and subcontractors must submit the program summary to OFCCP each year on the anniversary date of the affirmative action program.

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Sec. 60-2.32 Affirmative action records.

The contractor must make available to the Office of Federal Contract Compliance Programs, upon request, records maintained pursuant to Sec. 60-1.12 of this chapter and written or otherwise documented portions of AAPs maintained pursuant to Sec. 60-2.10 for such purposes as may be appropriate to the fulfillment of the agency's responsibilities under Executive Order 11246.

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Sec. 60-2.33 Preemption.

To the extent that any state or local laws, regulations or ordinances, including those that grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, they will be regarded as preempted under the Executive Order.

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Sec. 60-2.34 Supersedure.

All orders, instructions, regulations, and memorandums of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent with this Part 60-2.

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Sec. 60-2.35 Compliance status.

No contractor's compliance status will be judged alone by whether it reaches ~~its goals~~. The composition of the contractor's workforce (i.e., the employment of minorities or women at a percentage rate below, or above, the goal level) does not, by itself, serve as a basis to impose any of the sanctions authorized by Executive Order 11246 and the regulations in this chapter. Each contractor's compliance with its affirmative action obligations will be determined by reviewing the nature and extent of the contractor's good faith affirmative action activities as required under Sec. 60-2.17, and the appropriateness of those activities to identified equal employment opportunity problems. Each contractor's compliance with its nondiscrimination obligations will be determined by analysis of statistical data and other non-statistical information which would indicate whether employees and applicants are being treated without regard to their race, color, religion, sex, or national origin.

has a particular numerical mix.

by race, national origin, or sex

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PART 60-4--CONSTRUCTION CONTRACTORS--AFFIRMATIVE ACTION REQUIREMENTS--Table of Content

Sec. 60-4.1 Scope and application.

This part applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of \$10,000. The regulations in this part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in on site construction including those construction employees who work on a non-Federal or nonfederally assisted construction site. This part also establishes procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended.

In addition, this part applies to construction work performed by construction contractors and subcontractors for Federal nonconstruction contractors and subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

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Sec. 60-4.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in Sec. 60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to Sec. 60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in Sec. 60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this Part 60-4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall give written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to Sec. 60-4.6 of this part (see 41 CFR 60-4.2(a)):

Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

~~2. The goals and timetables for minority and female participation expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:~~

Time- tables	Goals for minority participation for each trade	Goals for female participation in each trade
	Insert goals for each year.	Insert goals for each year.

plan shall ensure wide recruitment and no discrimination on the basis of race, color, religion, sex, national origin, age, disability, or citizenship status, except where authorized by law.

[[Page 147]]

This plan is

~~These goals are~~ applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the ~~goals~~ established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the ~~goals~~ for both its federally involved and nonfederally involved construction.

plan

plan

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the ~~goals~~. ~~The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects.~~

plan

~~The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.~~

plan

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

on the basis of race, national origin, sex, or other illegal bases

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65977, Oct. 3, 1980]

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Sec. 60-4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to Sec. 60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive order.

Standard Federal Equal Employment Opportunity Construction Contract
 Specifications (Executive Order 11246)

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable ~~goals for minority and female participation~~ and which is set

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forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in

affirmative action plan

a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (~~including goals and timetables~~) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward ~~a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.~~

fulfillment of

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. ~~The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area.~~ Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the ~~minority and female goals established for the geographical area where the work is being performed.~~ Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its ~~goals~~ in each craft during the period specified.

plan

Plans

plan

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to ~~refer either minorities or women~~ shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

discriminate on the basis of race, national origin or sex.

plan

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the ~~goals~~, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. ~~The Contractor, where possible, will assign two or more women to each construction project.~~ The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to ~~minority or female~~ individuals working at such sites or in such facilities.

b. Establish and maintain a current list of ~~minority and female~~ recruitment sources, provide written notification to ~~minority and female~~ recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each ~~minority and female~~ off-the-street applicant and ~~minority or female~~ referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

discriminatory

d. Provide immediate written notification to the Director when the ~~union or unions with which the Contractor has a collective bargaining agreement has~~, not referred to the Contractor a ~~minority person or woman~~ sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include ~~minorities and women~~, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor.

*all individuals
without regard
to race
national origin
or sex*

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The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all ~~minority and female~~ employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including ~~minority and female~~ news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

*a wide
variety of*

i. Direct its recruitment efforts, both oral and written, to ~~minority female and~~ community organizations, to schools with ~~minority and female~~ students and to ~~minority and female~~ recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present ~~minority and female~~ employees to recruit other ~~minority persons and women~~ and, where reasonable, provide after school, summer and vacation employment to ~~minority and female~~ youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all ~~minority and female~~ personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not ~~have a discriminatory effect~~ by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from ~~minority and female~~ construction contractors and suppliers, including circulation of solicitations to ~~minority and female~~

contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

non-discriminatory

affirmative action plan

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women

has

does not discriminate against

discriminated against

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generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of

compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980]

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Sec. 60-4.4 Affirmative action requirements.

(a) To implement the affirmative action requirements of Executive Order 11246 in the construction industry, the Office of Federal Contract Compliance Programs previously has approved affirmative action programs commonly referred to as "Hometown Plans," has promulgated affirmative action plans referred to as "Imposed Plans" and has approved "Special Bid Conditions" for high impact projects constructed in areas not covered by a Hometown or an Imposed Plan. All solicitations for construction contracts made after the effective date of the regulations in this part shall include the notice specified in Sec. 60-4.2 of this part and the specifications in Sec. 60-4.3 of this part in lieu of the Hometown and Imposed Plans including the Philadelphia Plan and Special Bid Conditions. Until the Director has issued an order pursuant to Sec. 60-4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice required by 41 CFR 60-4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved.

an affirmative action plan

affirmative action plan

(b) Signatories to a Hometown Plan (including heavy highway affirmative action plans) shall have 45 days from the effective date of the regulations in this part to submit under such a Plan (for the director's approval) goals and timetables for women and to include female representation on the Hometown Plan Administrative Committee.

an affirmative action plan aimed at sex discrimination

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regardless of sex

Such goals for female representation shall be at least as high as the goals established for female representation in the notice issued pursuant to 41 CFR 60-4.6. Failure of the signatories, within the 45-day period, to include female representation and to submit goals for women or a new plan, as appropriate, shall result in an automatic termination of the Office of Federal Contract Compliance Program's approval of the Hometown Plan. At any time the Office of Federal Contract Compliance Programs terminates or withdraws its approval of a Hometown Plan, or when the plan expires and another plan is not approved, the contractors signatory to the plan shall be covered automatically by the specifications set forth in Sec. 60-4.3 of this part and by the goals and timetables established for that geographical area pursuant to Sec. 60-4.6 of this part.

such a plan and such representation

affirmative action plan

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Sec. 60-4.5 Hometown plans.

(a) A contractor participating, either individually or through an association, in an approved Hometown Plan (including heavy highway affirmative action plans) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the plan: Provided, That each contractor or subcontractor participating in an approved plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60-1.4; to make a good faith effort to achieve the goals for each trade participating in the plan in which it has employees; and that the overall good performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan's goals and timetables. If a contractor is not participating in an approved Hometown Plan it shall comply with the specifications set forth in Sec. 60-4.3 of this part and with the goals and timetables for the appropriate area as listed in the notice required by 41 CFR 60-4.2 with regard to that trade. For the purposes of this part 60-4, a contractor is not participating in a Hometown Plan for a particular trade if it:

- (1) Ceases to be signatory to a Hometown Plan covering that trade;
- (2) Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade;
- (3) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan for that trade;
- (4) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan for that trade;
- (5) Is participating in a Hometown Plan for that trade which is no longer acceptable to the Office of Federal Contract Compliance Programs;
- (6) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade and the labor organization and the contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.

(b) Contractors participating in Hometown Plans must be able to demonstrate their participation and document their compliance with the provision of the Hometown Plan.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

requirements of the plan

requirements

plan

an affirmative action plan

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Sec. 60-4.6 ~~Goals and timetables.~~

Affirmative action plans.

guidelines for affirmative action plans

The Director, from time to time, shall issue ~~goals and timetables~~ for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects or construction contracts performed in specific geographical areas. The goals, which shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the ~~goals and timetables~~, shall be published as notices in the Federal Register, and shall be inserted by the contracting officers and applicants, as applicable, in

affirmative action plan,

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the Notice required by 41 CFR 60-4.2. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the ~~minority and female goals~~ established for the geographical area where the work is being performed.

affirmative action plan

[45 FR 65978, Oct. 3, 1980]

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Sec. 60-4.7 Effect on other regulations.

The regulations in this part are in addition to the regulations contained in this chapter which apply to construction contractors and subcontractors generally. See particularly, 41 CFR 60-1.4 (a), (b), (c), (d), and (e); 60-1.5; 60-1.7; 60-1.8; 60-1.26; 60-1.29; 60-1.30; 60-1.32; 60-1.41; 60-1.42; 60-1.43; and 41 CFR Part 60-3; Part 60-20; Part 60-30; Part 60-40; and Part 60-50.

[Code of Federal Regulations]
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Sec. 60-4.9 Incorporation by operation of the order.

By operation of the order, the equal opportunity clause contained in Sec. 60-1.4, the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) contained in Sec. 60-4.2, and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) contained in Sec. 60-4.3 shall be deemed to be a part of every solicitation or of every contract and subcontract, as appropriate, required by the order and the regulations in this chapter to include such clauses whether or not they are physically incorporated in such solicitation or contract and whether or not the contract is written.

[Code of Federal Regulations]
[Title 41, Volume 1]
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Sec. 60-4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive order, any contract clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the Director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in paragraphs (i) through (iv) of 41 CFR 60-2.2(c)(1). If the contractor does not show good cause within 30 days, or in the alternative, fails to enter an acceptable conciliation agreement which includes where appropriate, make up ~~goals and timetables~~, back pay, and seniority relief for affected class members, the OFCCP shall follow the procedure in 41 CFR 60-1.26(b): Provided, That where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceedings.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

commitments