



U.S. Department of Labor
 Employment Standards Administration
 Office of Federal Contract Compliance Programs

Federal Contracting and Procurement Officers: *EEO and FAR*

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Agenda

- Overview of OFCCP
- Contracting/Procurement Officers' Responsibilities
- Pre-Award Clearance Process
- Frequently Asked Questions
- Compliance Assistance

OFCCP'S Mission

Ensure federal contractors comply with the laws and regulations located at 41 Code of Federal Regulations (CFR) Chapter 60 requiring nondiscrimination and affirmative action-

- Executive Order 11246 (EO 11246)
- Section 503 of the Rehabilitation Act (Section 503)
- Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)

Poll Question 1

Question: Are you a contracting officer with a federal government agency?

EEO and ARRA

- Equal Employment Opportunity Obligations for federal contractors and subcontractors do not change under ARRA
- Contracting officers obligations to do pre-awards do not change under ARRA
- OFCCP is committed to conducting compliance evaluations of federal contractors and have made pre-award clearance evaluations a priority
- Roughly 15% of the pre-award reviews conducted in FY 2008 resulted in violations

Equal Opportunity Clauses

Clause	Threshold
Executive Order 11246	\$10,000+
Section 503	\$10,000+
VEVRAA	\$25,000/\$100,000+

Requirements apply regardless of the number of employees

EO Clause Requirements

- Equal Opportunity
- Affirmative Action
- Comply with all statutory and regulatory requirements
- Post Notices
- Include Clauses in Subcontracts and Purchase Orders
- Additional Requirements
 - 41 CFR § 60-1.4 (EO 11246)
 - 41 CFR § 60-250.5 and § 60-300.5 (VEVRAA)
 - 41 CFR § 60-741.5 (Section 503)

Federal Acquisition Regulations

- OFCCP laws are incorporated into the FAR

Part 22—Application of Labor Laws to Government Acquisitions
Subpart 22.8—Equal Employment Opportunity

41 CFR 60 - Office of Federal Contract Compliance Programs
60-1 - Obligations of Contractors and Subcontractors

Part 52—Solicitation Provisions and Contract Clauses

52.222-21 Prohibition of Segregated Facilities.

60-4 Construction Contractors--Affirmative Action Requirements

52.222-22 Previous Contracts and Compliance Reports.

60-4

52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction

60-1

52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation.

Federal Acquisition Regulations

Part 52—Solicitation Provisions and Contract Clauses

41 CFR 60 -OFCCP

52.222-25 Affirmative Action Compliance.

60-1

52.222-26 Equal Opportunity.

60-1

52.222-27 Affirmative Action Compliance Requirements for Construction.

60-4

52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

60-250 & 60-300 Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Disabled Veterans, Recently Separated Veterans, Other Protected Veterans, and Armed Forces Service Medal Veterans

52.222-36 Affirmative Action for Workers with Disabilities

60-741 Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities

52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

60-250 & 60-300

52.222-38 Compliance with Veterans' Employment Reporting Requirements

60-250 & 60-300

Impact of EEO

- Encourages a fair and diverse workplace free of discrimination and harassment
- Increase the representation of women and minorities in higher grade levels and non-traditional occupations
- Provides opportunities for *Good Jobs for Everyone*

Contracting/Procurement Officers' Responsibilities

- Include EO clauses in contract
- Inform OFCCP within 10 working days of an award of a construction contract
- Refer inquiries and complaints regarding status or violation of OFCCP laws to OFCCP regional office
- Notify OFCCP and request clearance of contractors that may be awarded supply and service contracts estimated at \$10 million or more

Construction Contract Notification

Contracting officers are required to give written notice to OFCCP within 10 working days of an award of a construction contract or subcontract in excess of \$10,000. (41 CFR 60-4.2(c))

The notification should include:

- The name, address and telephone number of the contractor or subcontractor;
- Employer identification number (EIN);
- Dollar amount of the contract;
- Estimated starting and completion dates of the contract or subcontract;
- Contract number; and
- The geographical area(s) in which the contract or subcontract is to be performed.

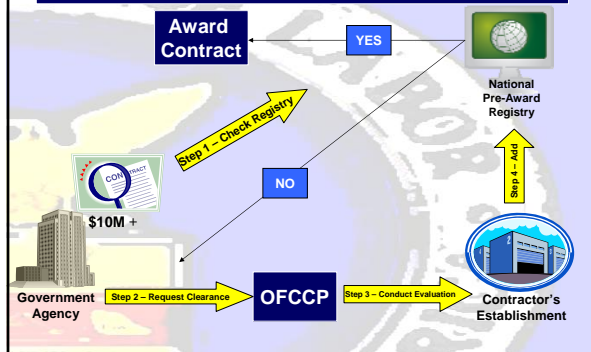
Referrals to OFCCP

Agency must require each bidder or prospective prime contractor or proposed subcontractor to State in the bid or in writing at the outset of negotiations for the contract whether it has (41 CFR 60-1.7(b)):

- Developed and has on file AAPs at each establishment pursuant to Part 60-2;
- Participated in any previous contract or subcontract subject to the EO clause;
- Filed with the JRC, DAS, or the EEOC all reports due under the applicable filing requirements.

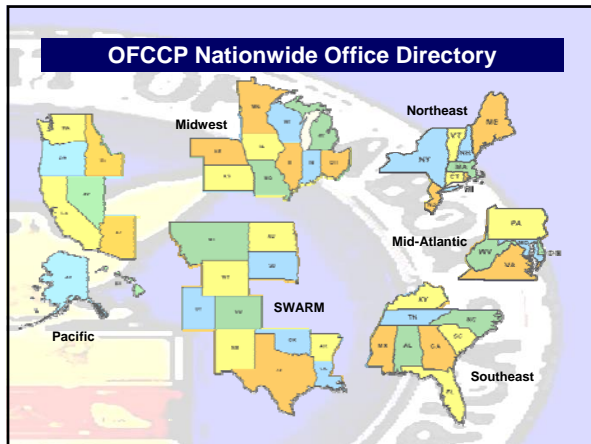
Contracting officers are required to notify OFCCP if a contractor fails to develop or implement an acceptable AAP. (41 CFR 60-2.2(b))

Pre-Award Clearance Process



How to Get Started

- Prior to awarding a supply and service contract of \$10 million dollars or more, federal agencies are required to request EEO clearance from OFCCP (41 CFR 60-1.29) Contracting/Procurement Officials should:
 - Search Excluded Parties Listing System <https://www.epls.gov/>
 - Search National Pre-Award Registry http://www.dol-esa.gov/preaward/pa_req.html
 - Pre-Award Registry provides information concerning Federal contractor establishments that have been reviewed and found to be "In Compliance" within the past two years
 - If the Contractor Establishment is located on the Registry, agency can award contract
- If the [Contractor Establishment](#) you are looking for is not found in the Registry, contact the appropriate OFCCP Pre-Award Clearance Officer in your Regional area



Where to Send Requests

- PACIFIC**
 90 7th Street
 Suite # 18-300
 San Francisco, CA 94103
 Phone: (415) 625-7800
 Fax: (415) 625-7799
 E-Mail: OFCCP-PA-PreAward@dol.gov
- MIDWEST**
 230 South Dearborn Street, Room 570
 Chicago, Illinois 60604
 Phone: (312) 596-7010
 Fax: (312) 596-7044
 E-Mail: OFCCP-MW-PreAward@dol.gov
- NORTHEAST**
 201 Varick Street
 Room 750
 New York, NY 10014
 Phone: (646) 264-3170
 Fax: (646) 264-3009
 E-Mail: OFCCP-NE-PreAward@dol.gov
- MID-ATLANTIC**
 Curtis Center, Suite 750 West
 170 S. Independence Mall West
 Philadelphia, PA 19106
 Phone: (215) 861-5765
 Fax: (215) 861-5769
 E-Mail: OFCCP-MA-PreAward@dol.gov
- SWARM**
 Federal Building, Room 840
 525 South Griffin St.
 Dallas, TX 75202
 Phone: (972) 850-2550
 Fax: (972) 850-2552
- SOUTHEAST**
 Atlanta Federal Center
 61 Forsyth Street, S. W.
 Room 7B75
 Atlanta, GA 30303
 Phone: (404) 893-4545
 Fax: (404) 893-4546
 E-Mail: OFCCP-SE-PreAward@dol.gov

Pre-Award Clearance Request

Contracting officers are required to provide the following information (41 CFR 60-1.20 (d)):

- Name, address, point of contact, and telephone number of the proposed contractor;
- Name, address, point of contact, and telephone number of each proposed subcontractor(s) with subcontract estimated at \$10 million or more;
- Anticipated date of award;
- Information regarding whether the contractor and subcontractor(s) have previously held any Government contracts and subcontracts;
- Place(s) of contract performance;
- Estimated dollar amount of contract and each subcontract, if known;
- Indicate if funding for this contract is under the [American Recovery and Reinvestment Act](#).

OFCCP Notification

- **Within 15 days of request**
 - OFCCP will inform agency of its intent to conduct an evaluation
 - If agency is not informed within this timeframe, agency can presume clearance and award contract
- **An additional 20 days**
 - If OFCCP notifies agency within 15 days of request of its intent to conduct an evaluation, OFCCP has an additional 20 days to conduct evaluation and provide agency with its conclusions.
 - If agency is not informed within this timeframe, agency can presume clearance and award contract

Poll Question 2

QUESTION: If OFCCP does not inform the contracting agency of its intent to conduct a compliance evaluation, how long until the contracting officer may presume compliance and proceed with making the award?

- a) 15
- b) 20
- c) 35
- d) 180

Frequently Asked Questions

#1. Option Year Contracts

Example: If the amount of the initial award (base year) is less than \$10M, but the award's options years could potentially meet the \$10M threshold, is pre-award clearance required?

YES. Consider the total value of the contract including any options to determine the \$10M threshold.

Frequently Asked Questions

#2. Multiple Places of Performance

Example: DOD is building airplanes in multiple establishments with the contractor ACME Corp. These establishments are in multiple states including California, Arizona, Texas and New Mexico. Where should I send the pre-award clearance request?

Pre-award clearance is required for each place of performance. In the example above, the **Pacific** (California & Arizona) and **SWARM** (Texas & New Mexico) Regions should be contacted to request clearance.

Frequently Asked Questions

#3. Undetermined Place of Performance

Example: If the contractor's ability to hire employees is dependent upon being awarded the contract in question, and therefore the place of performance is presently undetermined, which Regional Office should I send the pre-award clearance request?

If the place of performance is undetermined, the pre-award clearance request should go to the Regional Office where the contractor's **corporate headquarters** is located.

Poll Question 3

A \$10 million contract has the following modifications to the ultimate dollar-value agreed to by the parties.


- YEAR 1 - \$10,000
- YEAR 2 - \$25,000
- YEAR 3 - \$15,000
- YEAR 4 – contract terminated for convenience

QUESTION: Before the start of which year must the contracting officer obtain preaward clearance from OFCCP?

- a) 1
- b) 2
- c) 3
- d) 4

Compliance Assistance Resources

- Visit OFCCP's website
 - <http://www.dol.gov/esa/ofccp>
- Contact your local OFCCP Office
 - <http://www.dol.gov/esa/ofccp/contacts/ofnation2.htm>
- Attend an OFCCP Seminar or Workshop
 - Calendar Online
- Call or Email for Individual Assistance
 - 1-800-397-6251
 - OFCCP-Public@dol.gov



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Questions?
