

## **DEPARTMENT OF LABOR**

### **Office of Federal Contract Compliance Programs**

#### **41 CFR Part 60-4**

#### **Construction Contractors, Affirmative Action Requirements**

**AGENCY:** Office of Federal Contract Compliance Programs, Labor.

**ACTION:** Effective date of reporting requirements stayed and goals for female utilization extended.

**SUMMARY:** Final regulations were published in the Federal Register of October 3, 1980 (45 FR 65976), clarifying the requirement in 41 CFR 60-4.1 that a non-exempt construction contractor's total construction workforce is covered under 41 CFR Part 60-4 even though some of the contractor's employees perform work on non-Federal or nonfederally assisted construction contracts or subcontracts, and even though such nonfederally related work may occur in geographical areas where the contractor does not currently have work on Federal or federally assisted construction projects. While those regulations took effect on November 3, 1980 (45 FR 65976), increased reporting requirements (beyond those required prior to November 3, 1980) are stayed pending clearance by the Office of Management and Budget (OMB) under the Federal Reports Act and until further Federal Register notice.

In addition, pursuant to 41 CFR Part 60-4.6, the goal for female utilization by Federal and federally assisted construction contractors, which is now 6.9%, is extended until further notice.

**EFFECTIVE DATE:** Both the stay of the reporting requirements and the extension of the goals for female utilization is effective December 30, 1980 and until further notice.

**FOR FURTHER INFORMATION CONTACT:** James Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, room C-3324, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 523-9426.

#### **SUPPLEMENTARY INFORMATION:**

##### **(1) Reporting Requirements**

On October 3, 1980, the Office of Federal Contract Compliance Programs (OFCCP) published in the Federal Register a final rule clarifying the requirement in 41 CFR Part 60-4.1 that a non-exempt construction contractor's total construction workforce is covered under 41 CFR Part 60-4 even though some of the contractor's employees perform work on non-Federal or nonfederally assisted construction contracts or

subcontracts, and even though such nonfederally related job work may occur in geographical areas where the contractor does not currently have work on Federal or federally assisted construction projects (45 FR 65976). Published on the same date was a final Notice pursuant to 41 CFR Part 60-4.6 establishing goals under Executive Order 11246, as amended, for minorities working on construction projects located in certain areas (45 FR 65979). Both the final rule and the minority goals are scheduled to become effective on November 3, 1980 (45 FR 65976, 65984)

It has come to the attention of the OFCCP that the final rule (45 FR 65976) and new minority goals (45 FR 65979) may involve the imposition of new reporting requirements which are subject to clearance by the Office of Management and Budget (OMB) pursuant to its authority under the Federal Reports Act.

Specifically, contractors will be required to submit Monthly Employment Utilization Reports (Form CC-257) showing minority utilization (a) on Federal and nonfederal construction work performed in geographic areas which have heretofore not been subject to minority utilization goals, and (b) on nonfederal construction work performed in geographic areas which have heretofore been subject to minority utilization goals but in which the contractor performs no Federal or federally assisted construction work. Under existing OFCCP practice, construction contractors have generally been submitting Forms CC-257 showing minority utilization only for construction work performed in geographic areas in which they hold Federal or federally assisted construction contracts and in which there has been a minority goal applicable.

In addition, contractors will be required to submit Forms CC-257 showing female utilization on construction work performed in geographic areas in which the contractor performs no Federal or federally assisted construction work. Since the female utilization goals took effect in May 1978, it has been OFCCP's intent that such reporting occur. However, OFCCP's experience has shown that there is confusion in this area. Therefore, for present purposes, OFCCP will treat this as a potential new reporting requirement.

Accordingly, the potential increased reporting burdens, as outlined above, are stayed pending clearance by OMB and further notice to be published in the Federal Register. However, all other requirements published on October 3, 1980 (i.e., the applicability of 41 CFR Part 60-4 to a nonexempt construction contractor's total workforce, and goals for minorities working on construction projects in certain areas) shall, as scheduled, take effect on November 3, 1980.

## **(2) Goals for Women**

OFCCP regulations at 41 CFR 60-4.6 provide, *inter alia*, as follows:

The director, from time to time, shall issue goals and timetables for minority and female utilization \* \* \* which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals \* \* \* shall be

published as notices in the Federal Register \* \* \*.

Goals for the utilization of women by Federal and federally assisted construction contractors were last published on April 7, 1978 (43 FR 14888, 14900). The April 7, 1978, publication included a 6.9% goal for the period from April 1, 1980, until March 31, 1981. Pursuant to 41 CFR 60-4.6, the 6.9% goal for female utilization is extended until further notice.

Date: December 19, 1980.

**Ray Marshall,**

*Secretary of Labor*

**Donald Elisburg,**

*Assistant Secretary, Employment Standards Administration*

**Weldon J. Rougeau,**

*Director, Office of Federal Contract Compliance Programs*