

APPENDIX A-2: STANDARD COMPLIANCE EVALUATION REPORT (SCER) INSTRUCTIONS

OVERALL SCER STRUCTURE

This SCER is used to document the results of a compliance evaluation, including the findings of the desk audit review of the contractor's Affirmative Action Programs (AAP).

How much of the SCER is completed during each particular desk audit or on-site review, or both, will depend on the type of evaluation being performed, the extent of investigation required and the data submitted by the contractor.

The SCER provides space for the compliance officer (CO) to enter narratives describing any problems identified, action(s) taken to resolve the problems, any finding(s) of violation, the evidence examined and the basis for the finding(s), and recommended corrective action.

The specific parts of the SCER are: Contractor Information, Case Summary and Recommendations: Part A: Preparation, Part B: Desk Audit, Part C: On-site Investigation, Part D: Corporate Management Compliance Evaluation (CMCE) Narrative.

INSTRUCTIONS

At the top of each page described below, there may be a "continued" box. Check it to indicate when additional pages have been inserted for the section.

CONTRACTOR INFORMATION

Item 1 – Establishment Name/Functional Unit/ Post-secondary Institution, Address and Case Management System (CMS) Control #: Enter the name and address of the establishment or functional unit being reviewed. Also enter the CMS Control number assigned to this review.

Item 2 – Parent Name and Address: If the establishment or functional unit being reviewed is part of a larger firm, enter the name and address of the parent firm.

Item 3 – Complaints Investigated During Review: Enter the complaint number of each complaint you plan to investigate as part of the compliance evaluation, if any. At the end of the evaluation, check those complaints that have been resolved. If, during the course of a compliance evaluation, a complaint arises and is investigated, that information will be noted here.

Item 4 – Contract Coverage: Indicate whether contract information is in CMS and if it covers the entire evaluation period. If the contract information is not in CMS or if you are conducting an on-site review and find more contracts, fill in the boxes with the following items: awarding agency, name of prime contractor if evaluation is being conducted of a subcontractor, the contract or purchase order number, dollar amount of the contract, and contract begin and end dates (or indicate if contract is indefinite). There are spaces for at least three contracts. More may be referenced on a separate page in the case file, if necessary.

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Item 5 – Company Contacts and Outside Representation: List the name, title, phone number and e-mail address of the corporate and establishment Chief Executive Officer (CEO) (or other highest ranking executive), and the corporate and establishment contact persons for Equal Employment Opportunity and Affirmative Action (EEO and AA) matters. Also list the name, e-mail address and phone number of the outside representative (e.g., attorney), if applicable.

Item 6 – Background Information: To the degree known, this item will include, but not be limited to, type of industry (e.g., construction materials) and specific facility function (e.g., manufacturing A-frames).

Item 7 – Compliance Evaluation Information: This item contains basic information pertinent to the start of a compliance evaluation. First, indicate if the evaluation is a Functional Affirmative Action Program (FAAP) review, Focused Review or CMCE. Then, fill in the charts with the requested information regarding important dates, whether the contractor is unionized and the North American Industrial Classification System (NAICS) code. After that, enter the geographic area in which the establishment or functional unit is located or, if it is not in a Metropolitan Statistical Area (MSA), enter the name of the appropriate labor area in which it is located. Then, enter the percent of the labor force within the named geographic area that is female and the percent that is minority (in the aggregate and by each minority group listed).

Charts are also provided for the CO to enter the contractor’s workforce data, total and percentage, by race/ethnicity, veteran status and disability status. The charts allow for a rough sketch of the workforce composition for COs at the beginning of the compliance evaluation. They are not intended to replace the other analyses conducted during the compliance evaluation. To populate the charts, use data from AAP sources, such as the Executive Order 11246 organizational profile, VETS-4212 database and Section 503 utilization analysis. The data source(s) you choose should be noted on the SCER.

CASE SUMMARY AND RECOMMENDATIONS

After the evaluation has been completed, provide a brief summary of the findings to include: all unresolved violations and the recommendations for corrective action. For findings of violation, include for each violation: the time period of the violation; applicable law and regulation; evidence obtained, reviewed and the analyses conducted; and recommended corrective action(s) and the documents that will be prepared (e.g., Notice of Violation(s), and Conciliation Agreement (CA)). If there is no finding of a violation and a closure letter is to be issued, provide a brief description of the basis for this recommended action.

On-site Box: The CO will indicate whether an on-site occurred and, if so, the reason for the on-site.

Early Resolution Procedures Box: The CO will check “yes” if the contractor engaged in early resolution procedures.

Signature Blocks: The CO must sign and date the report in the space provided. Upon approval of the report, the Assistant District Director and District Director must also sign and date it.

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PART A: PREPARATION: Past Problems, Known Complaints or Enforcement Proceedings, and Collaboration with Other Agencies

1. **Past Problems:** Determine whether this establishment, or functional or business unit, has been subject to past compliance evaluations or OFCCP complaint investigations. If there have been no prior evaluations or complaint investigations, check the box at the top of the page and skip to item 2 (Known Complaints or Enforcement Proceedings). If a CA was issued in previous evaluations or investigations, attach a copy. In addition, complete this Part with the following information:
 - a. **Past Problems** – Give the date of any past compliance evaluation or complaint investigation and list any major problems identified (e.g., recordkeeping, etc.).
 - b. **Recurrence** – At whatever point in the evaluation you have evidence that a past problem has recurred, describe the problem and evidence of recurrence. If you find that it did not recur, note “no” in this space.
2. **Known Complaints/Enforcement Proceedings:** Review responses received from other agencies on any complaints filed or ongoing enforcement proceedings against this establishment. If there are no such pending complaints or ongoing enforcement proceedings, state this and no further entries are needed in this part. If there are such complaints or proceedings, complete this Part as follows:
 - a. **List Known Complaints or Enforcement Proceedings** – For each complaint or enforcement proceeding, indicate with what agency it was filed, its basis (including whether it is an individual or class complaint), issue, current status and the part of the workforce or establishment department it appears to concern (e.g., clerical, professional, entry-level blue-collar, etc.).
 - b. **Related Problem Not Investigated in Known Complaint or Enforcement Proceeding** – As you review the responses from the agencies, be alert for any indications of potential systemic discrimination or individual disparate treatment problems (e.g., discrimination based on sexual orientation or gender identity) that should be investigated. Note those here.
3. **Collaboration or Referrals to other Agencies (e.g., EEOC, WHD or OSHA):** If collaboration occurred during the investigation, list agency and basis for collaboration, and describe the issue and collaboration. If a referral was made to another agency, list agency, basis for referral the issue and the part of the workforce or establishment department it appears to concern.

PART B: DESK AUDIT

I. INITIAL REVIEW OF AAPS AND SUPPORT DATA SUBMISSIONS

Complete this section once you have received and reviewed the contractor’s initial

AAP and support data submissions, following instructions in the Federal Contract Compliance Manual. Complete this section as follows:

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Included: Review the Executive Order, Section 503 and VEVRAA AAP(s), as applicable, and the itemized listing data for each, to ensure that all required elements are present (complete). Beside each item, enter a “Y” for “yes” if it is included, or an “N” for “no” if it is missing.

Acceptable: Beside each listed element, enter a “Y” or “N” to indicate whether the AAP components and support data are acceptable. This determination of acceptability is limited to the evaluation that COs can conduct during the desk audit. If any item is not acceptable, list it in Part B. II of the SCER and describe the specific problem and actions taken. For compensation data, ensure that the data includes all employees, including, but not limited to, full-time, part-time, contract, per diem or day labor, and temporary employees, as of the date of (1) the organizational display or workforce analysis (i.e., the organizational profile) and (2) as of the date of the prior year’s organizational display or workforce analysis.

II. SUMMARY OF AAP ACCEPTABILITY

The CO must provide a detailed explanation of each AAP and support data problem. Each problem area must be described separately. If the problem is not resolved at the desk audit and on-site verification of compliance is necessary, the on-site box must be checked. The AAP and Supporting Data Problems description should include:

Problem: Provide a brief description of the identified problem and whether the problem concerns the Executive Order 11246, Section 503, VEVRAA AAPs, or support data.

Action Taken: The steps that were taken to resolve the problem, or the steps that will be taken (Plan to Resolve) if the action is to take place during or after an on-site review.

Findings: Indicate whether problems were identified based on an off-site analysis or whether an on-site review was conducted. Note any finding(s) and briefly describe the basis for the finding(s).

Resolution: If the problem is resolved, explain how it was resolved. If the problem is not resolved, the issue must be included in the Case Summary and Recommendations section of the SCER.

III. EEO-1 WORKFORCE AND TREND ANALYSIS

The purpose of this preparation is to identify whether there is a difference in the totals between the most recent EEO-1 report and AAP workforce totals to determine if more information and clarification is needed before proceeding to more complex analyses. If there is a difference, COs should look at personnel activity data to see if activities such as hires and terminations explain the difference. If not, clarification is needed from the contractor to ensure the entire workforce is included in the AAP and to ensure that all personnel activity has been reported.

The EEO Trend Analysis is to examine employment trends and patterns in the contractor’s workforce. Specifically, the trend analysis identifies underrepresentations and concentrations of employees by EEO-1 category. Provide a narrative of the results of the trend analysis.

IV. EVALUATION OF GOOD FAITH EFFORTS – EXECUTIVE ORDER 11246

Identify goal areas where Executive Order 11246 goals were established but not met and indicate if an on-site investigation is needed. For each goal area that was not met, include the following:

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Goal Area: Identify job group; indicate whether goals were for minorities, females or both; identify whether the goals were for the prior year (PY), the current year (CY) or both; and identify the expected goal and actual goal.

Explanation and Commitments: If there is a difference between the expected and actual goals, provide the contractor's explanation for the difference and pertinent AAP commitments.

Additional Information: Note any information that will be requested. If an on-site is needed to obtain the information or to address the problem, check the on-site box.

Findings: Indicate whether problems were identified based on an off-site analysis or whether an on-site review was conducted. Note any finding(s) and briefly describe the basis for the finding(s).

Resolution: If the problem is resolved, explain how it was resolved. If the problem is not resolved and remedial action must be taken, include a description of the recommended action in the Case Summary and Recommendations section of the SCER.

V. SECTION 503 UTILIZATION ANALYSIS AND OUTREACH ASSESSMENT

For the utilization analysis, identify whether the contractor established the seven percent utilization goal for each job group or, if fewer than 100 employees, for the entire workforce. Describe what steps were taken to determine whether impediments to equal opportunity exist, any problem areas identified, and the action-oriented programs designed to correct any problem areas. If further investigation is needed on site, indicate by checking the box. Also, provide an explanation of any findings, indicating whether the problem was resolved and what remedial action (s) was taken. For contractors more than six months into the current AAP year, indicate any progress it has made toward meeting the seven percent goal.

For the outreach assessment, review the AAP to determine if the contractor evaluated the effectiveness of each outreach and positive recruitment effort it undertook. Also, determine if the contractor drew a conclusion as to whether the totality of the efforts were effective in identifying and recruiting qualified individuals with disabilities. If so, indicate whether the contractor's conclusion was reasonable. If the conclusion was not reasonable, explain why not. Finally, list any additional information that you need to request from the contractor.

VI. VEVRAA OUTREACH ASSESSMENT

For the outreach assessment, review the AAP to determine if the contractor evaluated the effectiveness of each outreach and positive recruitment effort it undertook. Also, determine if the contractor drew a conclusion as to whether the totality of the efforts was effective in identifying and recruiting qualified veterans. If so, indicate whether the contractor's conclusion was reasonable. If the conclusion was not reasonable, explain why not. Finally, list any additional information that you need to request from the contractor.

VII. EMPLOYMENT ACTIVITY DATA ANALYSES

In this section, the compliance officer describes any potential systemic or individual discrimination found during the desk audit. Using the employment activity data submitted by the contractor,

discuss any indicators or relevant evidence uncovered at desk audit during the hiring analysis, termination analysis, promotion analysis and compensation analysis, and efforts to resolve the indicators before proceeding to an on-site investigation. Indicate whether an on-site investigation is needed to resolve any identified issues.

VIII. OTHER PROBLEMS FOR ON-SITE INVESTIGATION

Indicate any other problems that require additional information and/or an on-site review, such as pay secrecy policies found at desk audit, problems in minority and female representation, as applicable within departments/units, possible lines of progression (within department or across department lines), supervisory positions vs. those supervised, etc. Provide an explanation of any findings, indicating how the problem was resolved and what remedial action(s) was taken. For each identified problem include the following:

Problem Area: Provide a brief description of the identified problem.

Additional Information: Note any information requested. If an on-site was needed to obtain the information or to address the problem, check the on-site box.

Findings: Indicate whether problems were identified based on an off-site analysis or whether an on-site review was conducted. Note any finding(s) and briefly describe the basis for the finding(s).

Resolution: Provide an explanation of any findings, indicating how the problem was resolved and what remedial action(s) was taken. Indicators of discrimination are reported in Part B VII.

PART C: ON-SITE INVESTIGATION

I. IMPLEMENTATION: EQUAL OPPORTUNITY CLAUSE AND OTHER REQUIREMENTS UNDER EXECUTIVE ORDER 11246, SECTION 503, VEVRAA AND EXECUTIVE ORDER 13496

During the on-site review, evaluate whether the listed requirements under EO

11246, Section 503 and VEVRAA, and Executive Order 13496 have been met. For each of these elements, indicate whether the action was taken by the contractor and how this was evidenced (e.g., identify or summarize the CO's observation, review of the documentation and interview statements that are responsive) and whether any problems exist. If problems exist, indicate how the problems were resolved. If any requirements are not met despite attempts to resolve the problem, include the violation requiring corrective action in the Case Summary and Recommendations section.

II. IMPLEMENTATION OF REGULATIONS PROHIBITING DISCRIMINATION ON THE BASIS OF SEX

During the on-site review, verify the contractor's implementation of the regulations prohibiting discrimination on the basis of sex. For each of the specified elements, indicate what action was taken by the contractor and how this was evidenced (e.g., identify or summarize the documentation and interview statements that are responsive), and whether any problems exist. If

problems exist, indicate how the problems were resolved. If there is a potential finding of discrimination, the information must be included in Part C IV of the SCER.

III. IMPLEMENTATION AND GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

During the on-site review, verify the contractor's implementation of the guidelines on discrimination based on religion and national origin. For each of the specified elements, indicate what action was taken by the contractor and how this was evidenced (e.g., identify or summarize the documentation and interview statements that are responsive), and whether any problems exist. If problems exist, indicate how the problems were resolved. If there is a potential finding of discrimination, the information must be included in Part C IV of the SCER.

IV. INVESTIGATING POTENTIAL DISCRIMINATION IDENTIFIED DURING DESK AUDIT

Record all identified potential areas of discrimination that have been resolved or that require corrective action in order to be resolved. Include a description of the potential discrimination identified, actions taken to resolve the problem (if any) and whether the problem was resolved. If the problem was not resolved and will require corrective action, the problem must be included in the Case Summary and Recommendations section of the SCER.

V. PROBLEMS IDENTIFIED DURING THE ON-SITE INVESTIGATION

Record investigative findings for any problems discovered during the on-site investigation that were not previously identified during the desk audit (e.g., anecdotal evidence describing discrimination or harassment against employees based on disability, protected veterans' status, sexual orientation or gender identity, or suggesting that the contractor prohibits employees from discussing their pay). Include a discussion of the nature of the problem, relevant evidence collected and reviewed, actions (if any) taken to resolve the problem, and whether and how the problem was resolved.

PART D: CMCE NARRATIVE

When conducting a CMCE, this part must be completed in addition to completing all other parts of the SCER. Supplement the Case Summary and Recommendations section with findings specific to a CMCE. For additional information regarding CMCEs, see Chapter 4 of the Federal Contract Compliance Manual.