




November 12, 2020

MEMORANDUM TO: ALL CONTRACTING AGENCIES OF
THE FEDERAL GOVERNMENT

FROM: CRAIG E. LEEN 
Director
Office of Federal Contract Compliance Programs

SUBJECT: Contracts for Hurricane Eta Relief Efforts

In view of the special circumstances in the national interest presented by the destruction caused by Hurricane Eta, I have decided to grant a limited exemption and waiver from some of the requirements of the laws administered by the Office of Federal Contract Compliance Programs (OFCCP). OFCCP enforces Executive Order 11246 (EO 11246), as amended, Section 503 of the Rehabilitation Act (Section 503), as amended, and Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), as amended, which require that Federal contracting agencies include in all covered supply & service and construction contracts an equal opportunity clause. OFCCP regulations authorize me to exempt or waive a Federal contracting agency from requiring the inclusion of any part of the equal opportunity clause in any specific contract when I deem that special circumstances in the national interest so require. 41 CFR 60-1.5(b)(1), 60-300.4(b)(1), and 60-741.4(b)(1).

The exemption and waiver granted herein relate to obligations under EO 11246, Section 503, and VEVRAA. Federal contracting agencies may utilize the following equal opportunity clauses in covered contracts entered into specifically to provide Hurricane Eta relief. Accordingly, the equal employment opportunity (EEO) clauses in FAR sections may be modified as follows:

As a preamble to the insertion of 52.222-26:

Notwithstanding the provisions of this section, the contractor will not be obligated to develop the affirmative action program, prepare the reports, or provide the notices usually required under the regulations implementing Executive Order 11246, as amended.

As a preamble to the insertion of 52.222.35:

Notwithstanding the provisions of this section, the contractor will not be obligated to develop the affirmative action program, prepare the reports, or provide the notices usually required under the regulations implementing Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act, as amended.

As a preamble to the insertion of 52.222-36:

Notwithstanding the provisions of this section, the contractor will not be obligated to develop the affirmative action program, prepare the reports, or provide the notices usually required under the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended.

Notwithstanding the foregoing, qualifying contractors must continue to comply with the following FAR requirements:

- Posting of the “Equal Opportunity is the Law” notice,
- Recordkeeping and record retention, and
- Employment listings with the appropriate local employment service office or American job center.

Additionally, federal contractors remain subject to OFCCP’s nondiscrimination and non-retaliation requirements at 41 CFR 60-1.4(a)(1), 41 CFR 60-300.5(a)(1), and 41 CFR 60-741.5(a)(1). The exemption and waiver do not apply to the processing of complaints of discrimination under 41 CFR 60-1.21-1.24, 41 CFR 60-300.61, and 41 CFR 60-741.61. The exemption and waiver also do not exempt a covered contractor from their obligation to comply with other federal, state and local civil rights laws.

I am granting this exemption and waiver for a period of three months, from November 12, 2020 to February 12, 2021, subject to an extension should special circumstances in the national interest so require. These exemption and waiver pertain only to the three programs administered by OFCCP and should not be interpreted as applicable to any other programs or laws administered by the Department of Labor.

If you have any questions or seek additional clarification on a specific contract, please contact Lissette Geán, OFCCP Chief of Staff at (202) 693-0101 or Gean.Lissette@dol.gov.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.