



MEGA CONSTRUCTION PROJECTS PROGRAM REFERENCE SHEET U.S. DEPARTMENT OF LABOR OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

This document provides background on the Mega Construction Project Program of the U.S. Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP).

BACKGROUND ON OFCCP

OFCCP is charged with protecting America's workers by enforcing equal employment opportunity and affirmative action obligations of employers that do business with the federal government. OFCCP enforces Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. Together these legal authorities make it unlawful for federal contractors and subcontractors¹ to discriminate in employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Contractors and subcontractors are prohibited from discriminating against applicants or employees because they inquire about, discuss, or disclose their compensation or that of others, subject to certain limitations, and may not retaliate against applicants or employees for engaging in protected activities. These legal authorities also require that federal contractors provide equal employment opportunity through proactive action to recruit underrepresented workers and to remove barriers to opportunity.

OFCCP enforces anti-discrimination requirements for federal contractors and promotes compliance with affirmative action commitments through scheduled compliance evaluations and in response to complaints. OFCCP's authority makes it especially well-suited to address systemic barriers to employment opportunity. Through compliance evaluations, the agency identifies discrimination in hiring, compensation, and other employment practices, which often go unaddressed through a complaint process since workers typically do not know the reason for their non-selection or how their pay compares to that of their colleagues.

OFCCP's authority extends to supply and service contractors and construction contractors. OFCCP's construction jurisdiction includes direct federally funded construction contracts and federally assisted construction contracts. These are defined in [OFCCP's Construction Contractors Technical Assistance Guide](#), as follows:

- A **direct federal construction contract** is any agreement or modification entered into directly with the federal government through one of its agencies. An example of a direct

¹ Hereinafter, the term "contractor" is used to refer collectively to Federal contractors and subcontractors that fall under OFCCP's authority, unless otherwise expressly stated.

federally funded project is if the General Services Administration, a federal agency, funds a contract for a federal building, such as a U.S. District courthouse.

- A **federally assisted construction contract** is any agreement or modification that is paid for in whole or in part with funds obtained from the federal government but where the government is not a party to the construction contract. Federally assisted contracts could be funded through, for example, a federal grant, contract, loan, insurance, or guarantee. Examples of federally assisted construction projects include but are not limited to, interstate highways, public transportation, bridges, railways, airports, ports of entry, power plants, buildings, and dams.

The Mega Construction Project Program

OFCCP's Mega Construction Project (Megaproject) Program fosters equal opportunity in the construction trades workforce of federal contractors and subcontractors on large federal construction projects. Projects eligible for designation as Megaprojects are valued at \$35 million or more in funding, some part of which must be federal funding, and are expected to last for at least one year. Through the program, OFCCP focuses its resources on construction projects that have the greatest potential to make a positive economic difference in a community. OFCCP engagement can provide immediate impact on contractor and subcontractor recruitment and hiring practices in the construction trades and can help build robust applicant pools that include talented workers from underrepresented backgrounds.

When OFCCP designates a construction project as a Megaproject, OFCCP offers contractors and subcontractors extensive compliance assistance, conducts compliance evaluations, and fosters collaboration across the public and private sectors. From the earliest stages of a designated Megaproject, OFCCP engages a wide range of stakeholders in the community to remove hiring barriers and promote consideration of a diverse pool of qualified workers for jobs in the trades.

Because of this intensive, "front-end" approach, the Mega Construction Project Program has been an effective strategy for achieving greater contractor compliance with equal opportunity requirements and for increasing the representation of qualified workers from underrepresented groups in the construction trades.

Megaprojects provide a structure in which OFCCP:

- Conducts outreach and engages with prime contractors to regularly convene a broad range of stakeholders in Equal Employment Opportunity ("EEO") Committees. An EEO Committee is comprised of, but not limited to, the following stakeholders: the project funding agency, prime contractor, subcontractors, unions, apprenticeship and pre-apprenticeship programs, American Job Centers, worker centers, community colleges, Tribal Employment Rights Offices, Women's Apprenticeship and Non-Traditional Occupation grantees, and federal, state, and local government agencies. The EEO Committee identifies available employment opportunities and works to recruit and remove barriers to employment for applicants from underrepresented communities.

- Provides ongoing compliance assistance at the pre-bid and post-bid stage to prime contractors and subcontractors on their nondiscrimination and affirmative action obligations.
- Evaluates contractors' efforts to recruit and utilize talent from underrepresented backgrounds and to promote contractor compliance with anti-discrimination and affirmative action requirements.
- Promotes awareness of eligibility for Indian preferences where projects are located on or near Indian reservations and foster outreach to workers in these communities.

OFCCP Designation of a Megaproject

In its Mega Construction Project Program, OFCCP works to identify eligible direct or federally assisted construction projects when they are funded, or as soon as possible thereafter, long before any construction begins. As mentioned above, projects eligible for designation as Megaprojects are valued at \$35 million or more, some part of which must be federal funding, and are expected to last for at least one year. From the pool of eligible projects, OFCCP will designate Megaprojects through a neutral methodology based on specific criteria.

Examples of Megaproject Outcomes

Braga Bridge Megaproject in Massachusetts (federally assisted construction project)

Federal Agency: U.S. Department of Transportation (DOT)

\$200 million; completed in 2016

Key Outcomes:

- The project utilized minority and female workers at rates that exceeded OFCCP's aspirational goals.
- Early in 2009, OFCCP began outreach to unions, the Massachusetts Department of Transportation (MassDOT) and other local stakeholders to obtain their commitment to work together to ensure underrepresented workers from the local community are considered when federally funded construction job opportunities arise.
- After the announcement of the project and prior to the selection of a prime contractor, OFCCP met with MassDOT to discuss the project and opportunities to work together.
- OFCCP conducted numerous meetings with stakeholders, including a roundtable with sub- contractors and unions, to explain their responsibilities and address their concerns.
- OFCCP ensured that contractors and subcontractors shared key information about job opportunities and training programs with stakeholders to help source qualified workers.

OFCCP created an EEO Committee of federal, state, and local government agencies, job training programs, unions, and subcontractors. The Committee identified employment opportunities, perceived barriers to employment, and problems with recruiting underrepresented workers. The Committee planned outreach and recruitment activities to attract applicants from underrepresented communities. OFCCP regularly reviewed reports on hours worked by race, gender, and ethnicity with the EEO Committee.

- After obtaining the construction contract, the prime contractor sent letters to the signatory unions explaining the hiring goals and that the unions were charged with assisting the sub- contractors in good faith efforts to reach these goals.

John Campbell federal courthouse in Alabama (direct federal construction project)

Federal Agency: General Services Administration (GSA)

\$100 million project; completed in 2020

Key Outcomes:

- Early in the pre-bid process, prior to the selection of a prime contractor for the project and prior to construction beginning, OFCCP held an EEO Committee meeting for information sharing and networking. The meeting highlighted ongoing efforts to connect stakeholders with construction contractors. The prime contractor provided a four-year completion plan and addressed questions to improve Native American, minority and female representation on the project. The completion plan listed jobs and work requirements needed.
- OFCCP held EEO committee meetings, which fostered long-lasting relationships amongst the contractors, community-based organizations, EEO committee representatives, federal agencies, and state agencies.
- The Megaproject had a major economic and employment impact on the community, including the creation of more than 140 jobs in trade occupations. The hiring included 57 Black workers, three Native American workers, and 12 female workers.
- OFCCP held numerous compliance assistance and outreach and education events with sub- contractors, a tribal organization, career center managers, women in construction organizations, other federal agencies, and community-based organizations.
- OFCCP's Indian and Native American Employment Rights Program worked closely with stakeholders to host an outreach event with representatives from two Native American organizations. Subsequently, at the invitation of the Native American Stakeholders, OFCCP staff and Tribal representatives held a meeting where they discussed employment outreach programs, the availability of construction applicants for upcoming projects, and other upcoming hiring opportunities.