OFFICE OF THE UNDER SECRETARY OF DEFENSE

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ACQUISITION AND TECHNOLOGY
DP(DAR)

February 11, 1998

In reply refer to
DAR Tracking Number: 98-00002

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT, ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING), SAF/AQC
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Class Deviation--Equal Employment Opportunity

Effective immediately, all military departments and defense agencies shall deviate from the requirements of Federal Acquisition Regulation (FAR) Subpart 22.8, Equal Employment Opportunity, and the clauses and provisions prescribed therein. Specifically, contracting officers shall implement the attached FAR Subpart 22.8, and shall use the attached clauses and provisions instead of the clauses and provisions at FAR 52.212-3 and 52.222-21 through 52.222-24 and 52.222-26 through 52.222-29.

This class deviation implements a Department of Labor final rule that was published in the Federal Register on August 19, 1997 (62 FR 44174). In part, the final rule eliminates the requirement to obtain a certification of nonsegregated facilities from prospective contractors; increases from $1 million to $10 million the threshold for, and amends the timing of, obtaining from the Office of Federal Contract Compliance Programs preaward compliance clearance of prospective contractors and subcontractors; and eliminates the requirement for postaward compliance clearance of subcontractors.

This class deviation supersedes class deviation number 97-00008, and is approved until December 31, 1998, or until the FAR is revised, whichever occurs first.

Eleanor Spector

Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir

SUBPART 22.8--EQUAL EMPLOYMENT OPPORTUNITY

22.800 Scope of subpart.

This subpart prescribes policies and procedures pertaining to nondiscrimination in employment by ~~Government~~ contractors and subcontractors.

22.801 Definitions.

[As used in this subpart—]

"Affirmative action program~~,~~" ~~as used in this subpart,~~ means a contractor's program that complies with Department of Labor regulations to ensure equal opportunity in employment to minorities and women.

["Compliance evaluation" means any one or combination of actions that the Office of Federal Contract Compliance Programs (OFCCP) may take to examine a Federal contractor's compliance with one or more of the requirements of E.O. 11246.]

~~"Construction work," as used in this subpart, means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.~~

~~"Contracting agency," as used in this subpart, means any department, agency, establishment, or instrumentality in the Executive Branch of the Government, including any wholly owned Government corporation that enters into contracts.~~

"Contractor~~,~~" ~~as used in this subpart,~~ includes the terms "prime contractor" and "subcontractor."

"~~Director~~ **[Deputy Assistant Secretary]~~,~~**" ~~as used in this subpart,~~ means the ~~Director, Office of~~ **[Deputy Assistant Secretary for]** Federal Contract Compliance Programs ~~(OFCCP)~~, United States Department of Labor **[or a designee]**.

"Equal Opportunity clause~~,~~" ~~as used in this subpart,~~ means the clause at 52.222-26, Equal Opportunity, prescribed in 22.810(e).

"E**[.]**O**[.]** 11246~~,~~" ~~as used in this subpart,~~ means Parts II and IV of Executive Order 11246, September 24, 1965 (30 FR 12319), and any Executive Order amending or superseding this Order (see 22.802). This term specifically includes the Equal

Opportunity clause at 52.222-26, and the rules, regulations, and orders issued pursuant to E[.]O[.] 11246 by the Secretary of Labor or a designee.

~~"Government contract," as used in this subpart, means any agreement or modification thereof between a Government contracting agency and any person for the furnishing of supplies or services,.or for the use of real or personal property including lease arrangements. The term does not include--~~

~~(a) Agreements in which the parties stand in the relationship of employer and employee; and~~

~~(b) Contracts for the sale of real and personal property by the Government.~~

"Prime contractor~~,~~" ~~as used in this subpart,~~ means any person who holds, or has held, a Government contract subject to E[.]O[.] 11246.

"Recruiting and training agency~~,~~" ~~as used in this subpart,~~ means any person who refers workers to any contractor ~~or subcontractor~~ or provides or supervises apprenticeship or training for employment by any contractor ~~or subcontractor~~.

"Site of construction~~,~~" ~~as used in this subpart,~~ means the general physical location of any building, highway, or other change or improvement to real property that is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair; and any temporary location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to a Government contract or subcontract.

"Subcontract~~,~~" ~~as used in this subpart,~~ means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee)--

(a) For the furnishing of supplies or services or for use of real or personal property, including lease arrangements that, in whole or in part, is necessary to the performance of any one or more ~~Government~~ contracts; or

(b) Under which any portion of the contractor's obligation under any one or more ~~Government~~ contracts is performed, undertaken, or assumed.

"Subcontractor~~,~~" ~~as used in this subpart,~~ means any person who holds, or has held, a subcontract subject to E[.]O[.] 11246. The term "first-tier subcontractor" means a subcontractor holding a subcontract with a prime contractor.

"United States~~,~~" ~~as used in this subpart,~~ means the States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, **[Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and Wake Island.]** ~~and the possessions of the United States.~~

22.802 General.

(a) Executive Order 11246, as amended, sets forth the Equal Opportunity clause and requires that all ~~Government contracting~~ agencies--

(1) Include this clause in all nonexempt ~~Government prime~~ contracts and subcontracts (see 22.807); and

(2) Act to ensure compliance with the clause and the regulations of the Secretary of Labor to promote the full realization of equal employment opportunity for all persons, regardless of race, color, religion, sex, or national origin.

(b) No contract or modification involving new acquisition shall be entered into, and no subcontract shall be approved by a contracting officer, with a person who has been found ineligible by the ~~Director~~ **[Deputy Assistant Secretary]** for reasons of noncompliance with the requirements of E**[.]**O**[.]** 11246.

(c) No contracting officer or contractor shall contract for supplies or services in a manner so as to avoid applicability of the requirements of E**[.]**O**[.]** 11246.

(d) Contractor disputes related to compliance with its obligation shall be handled according to the rules, regulations, and relevant orders of the Secretary of Labor (see 41 CFR 60-1.1).

22.803 Responsibilities.

(a) The Secretary of Labor is responsible for the--

(1) Administration and enforcement of prescribed parts of E**[.]**O**[.]** 11246; and

(2) Adoption of rules and regulations and the issuance of orders necessary to achieve the purposes of E**[.]**O**[.]** 11246.

(b) The Secretary of Labor has delegated authority and assigned responsibility to the ~~Director~~ **[Deputy Assistant Secretary]** for carrying out the responsibilities assigned to the Secretary by E**[.]**O**[.]** 11246, except for the issuance of rules and regulations of a general nature.

(c) The head of each agency is responsible for ensuring that the requirements of this subpart are carried out within the agency, and for cooperating with and assisting the OFCCP in fulfilling its responsibilities.

(d) In the event the applicability of E**[.]**O**[.]** 11246 and implementing regulations is questioned, the contracting officer shall forward the matter **[to the Department of Labor (DoL)]** through agency channels for resolution.

22.804 Affirmative action programs.

22.804-1 Nonconstruction.

Except as provided in 22.807, each nonconstruction prime contractor and each subcontractor with 50 or more employees and--

(a) A contract or subcontract of $50,000 or more; or

(b) Government bills of lading that in any 12-month period, total, or can reasonably be expected to total, $50,000 or more, is required to develop a written affirmative action program for each of its establishments within 120 days from the commencement of its first such Government contract, subcontract, or Government bill of lading.

22.804-2 Construction.

(a) Construction contractors that hold a nonexempt (see 22.807) Government construction contract are required to meet--

(1) The contract terms and conditions citing affirmative action requirements applicable to covered geographical areas or projects; and

(2) Applicable requirements of 41 CFR 60-1 and 60-4.

(b) Each ~~contracting~~ agency shall maintain a listing of covered geographical areas that are subject to affirmative action requirements that specify goals for minorities and women in covered construction trades. Information concerning, and additions to, this listing will be provided to the principally affected contracting officers in accordance with agency procedures. Any contracting officer contemplating a construction project in excess of $10,000 within a geographic area not known to be covered by specific affirmative action goals shall request instructions on the most current information from the OFCCP regional office, or as otherwise specified in agency regulations, before issuing the solicitation.

(c) Contracting officers shall give written notice to the OFCCP regional office within 10 working days of award of a construction contract subject to these affirmative action requirements. The notification shall include the name, address, and telephone number of the contractor; employer identification number; dollar amount of the contract; estimated starting and completion dates of the contract; the contract number; and the geographical area in which the contract is to be performed. When requested by the OFCCP regional office, the contracting officer shall arrange a conference among contractor, contracting activity, and compliance personnel to discuss the contractor's compliance responsibilities.

22.805 Procedures.

(a) *Preaward clearances for contracts and subcontracts of $1[0] million or more (excluding construction).* (1) Except as provided in **[paragraph]**~~22.805~~(a)(7) **[of this section]**~~below~~, if the estimated amount of the contract~~,~~ **[or]** subcontract~~, or basic ordering~~

~~agreement~~ is ~~expected to aggregate $1 million or more or to increase the aggregate value of an existing contract to~~ $1**[0]** million or more, the contracting officer shall request the appropriate OFCCP regional office to determine whether a contractor is awardable before--

(i) Award of any contract, including any indefinite delivery contract or letter contract;

(ii) Modification of an existing contract for new effort that would constitute a contract award; or

(iii) The issuance of any basic ordering agreement.

(2) Preaward clearance for each proposed contract and for each proposed first-tier subcontract of $1**[0]** million or more shall be requested by the contracting officer directly from the OFCCP regional office(s). Verbal requests shall be confirmed in writing **[or by facsimile transmission]**.

(3) When the contract work is to be performed outside the United States with employees recruited within the United States, the contracting officer shall send the request for a preaward review to the OFCCP regional office serving the area where the proposed contractor's corporate home or branch office is located in the United States, or the corporate location where personnel recruiting is handled, if different from the contractor's corporate home or branch office. If the proposed contractor has no corporate office or location within the United States, the preaward review request action should be based on the location of the recruiting and training agency in the United States.

(4) The contracting officer shall include the following information in the preaward review request:

(i) Name, address, and telephone number of the prospective contractor and of any corporate affiliate at which work is to be performed.

(ii) Name, address, and telephone number of each proposed first-tier subcontractor with a proposed subcontract estimated at $1**[0]** million or more.

(iii) Anticipated date of award.

(iv) Information as to whether the contractor and first-tier subcontractors have previously held any Government contracts or subcontracts.

(v) Place or places of contract performance and first-tier subcontracts estimated at $1**[0]** million or more, if known.

(vi) The estimated dollar amount of the contract and each first-tier subcontract, if known.

(5) The contracting officer shall allow as much time as feasible before award for the conduct of necessary reviews by OFCCP. As soon as the apparently successful contractor can be determined, the contracting officer shall process a preaward review request in accordance with agency procedures, assuring, if possible, that the preaward review request is submitted to the OFCCP regional office 30 ~~calendar~~ days before the proposed award date.

(6) ~~In the event the Director has not made a final preaward clearance determination within 30 calendar days from submission of the clearance request, the contracting officer shall withhold award of the contract for an additional 15 calendar days,~~

~~or until clearance is received, whichever occurs first. If the additional 15 calendar days expire, and the Director has not either found the contractor to be in compliance or made a final written determination declaring the contractor ineligible for reasons of noncompliance, the award may be made to the contractor in question. The contracting officer shall notify the OFCCP regional office of the award.~~ **[Within 15 days of the notice, OFCCP will inform the awarding agency of its intention to conduct a preaward compliance evaluation. If OFCCP does not inform the awarding agency within that period of its intention to conduct a preaward compliance evaluation, clearance shall be presumed and the awarding agency is authorized to proceed with the award. If OFCCP informs the awarding agency of its intention to conduct a preaward compliance evaluation, OFCCP shall be allowed an additional 20 days after the date that it so informs the awarding agency to provide its conclusions. If OFCCP does not provide the awarding agency with its conclusions within that period clearance shall be presumed and the awarding agency is authorized to proceed with the award.]**

(7) If the procedures specified in **[paragraphs]** (a)(5) and (a)(6) **[of this section]**~~above~~ would delay award of an urgent and critical contract beyond the time necessary to make award or beyond the time specified in the offer or extension thereof, the contracting officer shall immediately inform the OFCCP regional office of the expiration date of the offer or the required date of award and request clearance be provided before that date. If the OFCCP regional office advises that a preaward review cannot be completed by the required date, the contracting officer shall submit written justification for the award to the head of the contracting activity, who, after informing the OFCCP regional office, may then approve the award without the preaward clearance. If an award is made under this authority, the contracting officer shall immediately request a postaward review from the OFCCP regional office.

(8) If, under the provisions of **[paragraph]** (a)(7) **[of this section]**~~above~~, a postaward review determines the contractor to be nonawardable, the ~~Director~~ **[Deputy Assistant Secretary]**, may authorize the use of the enforcement procedures at 22.809 against the noncomplying contractor.

(b) Furnishing posters. The contracting officer shall furnish to the contractor appropriate quantities of the poster entitled "Equal **[Employment]** Opportunity Is The Law." These shall be obtained in accordance with agency procedures.

22.806 Inquiries.

(a) An inquiry from a contractor regarding status of its compliance with E**[.]**O**[.]** 11246, or rights of appeal to any of the actions in 22.809 shall be referred to the OFCCP regional office.

(b) Labor union inquiries regarding the revision of a collective bargaining agreement in order to comply with E**[.]**O**[.]** 11246, shall be referred to the ~~Director~~ **[Deputy Assistant**

Secretary].

22.807 Exemptions.

(a) Under the following exemptions, all or part of the requirements of E**[.]**O**[.]** 11246 may be excluded from a contract subject to E**[.]**O**[.]** 11246:

(1) *National security.* The agency head may determine that a contract is essential to the national security and that the award of the contract without complying with one or more of the requirements of this subpart is necessary to the national security. Upon making such a determination, the agency shall notify the ~~Director~~ **[Deputy Assistant Secretary]** in writing within 30 days.

(2) *Specific contracts.* The ~~Director~~ **[Deputy Assistant Secretary]** may exempt a**[n]** ~~contracting~~ agency from requiring the inclusion of one or more of the requirements of E**[.]**O**[.]** 11246 in any contract if the ~~Director~~ **[Deputy Assistant Secretary]** deems that special circumstances in the national interest so require. Groups or categories of contracts of the same type may also be exempted if the ~~Director~~ **[Deputy Assistant Secretary]** finds it impracticable to act upon each request individually or if group exemptions will contribute to convenience in the administration of E**[.]**O**[.]** 11246.

(b) The following exemptions apply even though a contract or subcontract contains the Equal Opportunity clause:

(1) *Transactions of $10,000 or less.* The Equal Opportunity clause is required to be included in prime contracts and subcontracts by 22.802(a). Individual prime contracts or subcontracts of $10,000 or less are exempt from application of the Equal Opportunity clause, unless the aggregate value of all prime contracts or subcontracts awarded to a contractor ~~or subcontractor~~ in any 12-month period exceeds, or can reasonably be expected to exceed, $10,000. (Note: Government bills of lading, regardless of amount, are not exempt.)

(2) *Work outside the United States.* Contracts are exempt from the requirements of E**[.]**O**[.]** 11246 for work performed outside the United States by employees who were not recruited within the United States.

(3) *Contracts with State or local governments.* The requirements of E**[.]**O**[.]** 11246 in any contract with a State or local government (or any agency, instrumentality, or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government that does not participate in work on or under the contract.

(4) *Work on or near Indian reservations.* It shall not be a violation of E**[.]**O**[.]** 11246 for a contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. This applies to that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such preference shall not excuse a contractor from complying with E**[.]**O**[.]** 11246, rules and

regulations of the Secretary of Labor, and applicable clauses in the contract.

(5) *Facilities not connected with contracts.* The ~~Director~~ **[Deputy Assistant Secretary]** may exempt from the requirements of E**[.]**O**[.]** 11246 any of a contractor's facilities that the ~~Director~~ **[Deputy Assistant Secretary]** finds to be in all respects separate and distinct from activities of the contractor related to performing the contract; provided, that the ~~Director~~ **[Deputy Assistant Secretary]** also finds that the exemption will not interfere with, or impede the effectiveness of, E**[.]**O**[.]** 11246.

(6) *Indefinite quantity contracts.* With respect to indefinite quantity contracts and subcontracts, the Equal Opportunity clause applies unless the contracting officer has reason to believe that the amount to be ordered in any year under the contract will not exceed $10,000. The applicability of the Equal Opportunity clause shall be determined by the contracting officer at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the Equal Opportunity clause shall be applied to the contract whenever the amount of a single order exceeds $10,000. Once the Equal Opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration regardless of the amounts ordered, or reasonably expected to be ordered, in any year.

(c) To request an exemption under subparagraphs (a)(1), (a)(2), or (b)(5), the contracting officer shall submit, under agency procedure, a detailed justification for omitting all, or part of, the requirements of E**[.]**O**[.]** 11246. Requests for exemptions under subparagraphs (a)(2) or (b)(5) above shall be submitted to the ~~Director~~ **[Deputy Assistant Secretary]** for approval.

(d) The ~~Director~~ **[Deputy Assistant Secretary]** may withdraw the exemption for a specific contract, or group of contracts, if the ~~Director~~ **[Deputy Assistant Secretary]** deems that such action is necessary and appropriate to achieve the purposes of E**[.]**O**[.]** 11246. Such withdrawal shall not apply--

(1) To contracts awarded before the withdrawal; or

(2) To any sealed bid contract (including restricted sealed bidding), unless the withdrawal is made more than 10 ~~calendar~~ days before the bid opening date.

22.808 Complaints.

Complaints received by the contracting officer alleging violation of the requirements of E**[.]**O**[.]** 11246 shall be referred immediately to the OFCCP regional office. The complainant shall be advised in writing of the referral. The contractor that is the subject of a complaint shall not be advised in any manner or for any reason of the complainant's name, the nature of the complaint, or the fact that the complaint was received.

22.809 Enforcement.

Upon the written direction of the ~~Director~~ **[Deputy Assistant Secretary]**, one or more of

the following actions, as well as administrative sanctions and penalties, may be exercised against contractors found to be in violation of E**[.]**O**[.]** 11246, the regulations of the Secretary of Labor, or the applicable contract clauses:

(a) Publication of the names of the contractor or their unions.

(b) Cancellation, termination, or suspension of the contractor's contracts or portion thereof.

(c) Debarment from future Government contracts, or extensions or modifications of existing contracts, until the contractor has established and carried out personnel and employment policies in compliance with E**[.]**O**[.]** 11246 and the regulations of the Secretary of Labor.

(d) Referral by the ~~Director~~ **[Deputy Assistant Secretary]** of any matter arising under E**[.]**O**[.]** 11246 to the Department of Justice or to the Equal Employment Opportunity Commission (EEOC) for the institution of appropriate civil or criminal proceedings.

22.810 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the following ~~provisions~~ in solicitations when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity:

(1) 52.222-21, ~~Certification of Nons~~**[Prohibition of S]**egregated Facilities~~, if the amount of the contract is expected to exceed $10,000.~~

(2) 52.222-22, Previous Contracts and Compliance Reports.

(b) The contracting officer shall insert the provision at 52.222-23, Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity **[for Construction]**, in solicitations for construction when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the amount of the contract is expected to be in excess of $10,000.

(c) The contracting officer shall insert the provision at 52.222-24, Preaward On-Site Equal Opportunity Compliance **[Evaluation]**~~Review~~, in solicitations, other than those for construction, when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the amount of the contract is expected to be for $1**[0]** million or more.

(d) The contracting officer shall insert the provision at 52.222-25, Affirmative Action Compliance, in solicitations, other than those for construction, when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity.

(e) The contracting officer shall insert the clause at 52.222-26, Equal Opportunity, in

solicitations and contracts (see 22.802) unless **[the contract is exempt from all of]**~~all the terms of the clause are exempt~~ from the requirements of E**[.]**O**[.]** 11246 (see 22.807(a)). If **[the contract is exempt from]** one or more, but not all, of the ~~terms of the clause are exempt from the~~ requirements of E**[.]**O**[.]** 11246, the contracting officer shall use the basic clause with its Alternate I.

(f) The contracting officer shall insert the clause at 52.222-27, Affirmative Action Compliance Requirements for Construction, in solicitations and contracts for construction that will include the clause at 52.222-26, Equal Opportunity, and the amount of the contract is expected to be in excess of $10,000.

(g) ~~The contracting officer shall insert the clause at 52.222-28, Equal Opportunity Preaward Clearance of Subcontracts, in solicitations and contracts, except for construction, when the amount of the contract is expected to be for $1 million or more and includes the clause prescribed in paragraphs (a), (b), or (c) of 44.204.~~

~~(h)~~ The contracting officer shall insert the clause at 52.222-29, Notification of Visa Denial, in contracts that will include the clause at 52.222-26, Equal Opportunity, if the contractor is required to perform in or on behalf of a foreign country.

* * * * *

52.212-3 Offeror Representations and Certifications--Commercial Items.

As prescribed in 12.301(b)(2), insert the following provision:

Offeror Representations and Certifications--Commercial Items (Jan 1997) [(Deviation)]

(a) * * *
(b) * * *
(c) * * *
(d) *Certifications and representations required to implement provisions of Executive Order 11246*--(1) ~~Certification of non-segregated facilities. (Applies only if the contract amount is expected to exceed $10,000) By submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees, any facilities that are segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise and that it does not and will not permit its employees to perform their services at any location where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.~~

~~(2)~~ *Previous contracts and compliance.* The offeror represents that--

(i) It ☐ has, ☐ has not, participated in a previous contract or subcontract

subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order 10925, or the clause contained in Section 201 of Executive Order 11114; and

(ii) It ☐ has, ☐ has not, filed all required compliance reports.

([2]~~3~~) *Affirmative Action Compliance.* The offeror represents that--

(i) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) * * *

(f) * * *

(g) * * *

(h) * * *

52.222-21 ~~**Certification of Nons**~~ **[Prohibition of S]egregated** ~~**Facilities**~~.

As prescribed in 22.810(a)(1), insert the following ~~provision~~ **[clause]** ~~in solicitations when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the contract amount is expected to exceed $10,000~~:

~~CERTIFICATION OF NON~~ **[PROHIBITION OF]** SEGREGATED FACILITIES (APR 1984) **[(Deviation)]**

(a) "Segregated facilities," as used in this ~~provision~~ **[clause]**, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, **[sex]** or national origin because of ~~habit, local custom, or otherwise~~ **[written or oral policies, or employee custom]**. **[The term does not include separate or single-user rest rooms and necessary dressing or sleeping areas, which shall be provided to assure privacy between the sexes.]**

(b) ~~By the submission of this offer, the offeror certifies~~ **[The Contractor agrees]** that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The **[Contractor]**~~offeror~~ agrees that a breach of this ~~certification~~ **[clause]** is a violation of the Equal Opportunity clause in ~~the~~**[this]** contract.

(c) The **[Contractor shall include this clause in every subcontract that contains the clause of this contract entitled "Equal Opportunity."]**~~offeror further agrees that~~

~~(except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will—~~

~~(1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;~~

~~(2) Retain the certifications in the files; and~~

~~(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):~~

~~NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES~~

~~A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).~~

~~Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.~~

(End of ~~provision~~ **[clause]**)

52.222-22 Previous Contracts and Compliance Reports.

As prescribed in 22.810(a)(2), insert the following provision~~in solicitations when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity~~:

PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (APR 1984) **[(Deviation)]**

The offeror represents that--

(a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject~~either~~ to the Equal Opportunity clause of this solicitation~~, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;~~

(b) It ☐ has, ☐ has not~~,~~ filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

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

As prescribed in 22.810(b), insert the following provision~~in solicitations for construction when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the amount is expected to be in excess of $10,000~~:

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY **[FOR CONSTRUCTION]** (APR 1984) **[(Deviation)]**

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority Participation for Each Trade	Goals for Female Participation for Each Trade
_____	_____
[Contracting Officer shall insert goals]	*[Contracting Officer shall insert goals]*

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled *Affirmative Action Compliance Requirements for Construction*, and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor

to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the ~~Director, Office of~~ **[Deputy Assistant Secretary for]** Federal Contract Compliance Programs, within 10 working days following award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the--

(1) Name, address, and telephone number of the subcontractor;
(2) Employer's identification number of the subcontractor;
(3) Estimated dollar amount of the subcontract;
(4) Estimated starting and completion dates of the subcontract; and
(5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is _____ *[Contracting Officer shall insert description of the geographical areas where the contract is to be performed, giving the state, county, and city].*

(End of provision)

52.222-24 Preaward On-Site Equal Opportunity Compliance [Evaluation]~~Review~~.

As prescribed in 22.810(c), insert the following provision ~~in solicitations, other than those for construction, when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the amount is expected to be for $1 million or more~~:

PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE
[EVALUATION]~~REVIEW~~ (APR 1984) **[(Deviation)]**

An award in the amount of $1**[0]** million or more will not be made under this solicitation unless the offeror and each of its known first-tier subcontractors (to whom it intends to award a subcontract of $1**[0]** million or more) are found, on the basis of a compliance **[evaluation]**~~review~~, to be able to comply with the provisions of the Equal Opportunity clause of this solicitation. **[If the offeror's proposal is for a contract of $10 million or more, each of the offeror and its known first-tier subcontractors to whom the offeror intends to award a subcontract of $10 million or more shall be subject to a compliance evaluation, unless within the preceding 24 months the Office of Federal Contract Compliance Clearance has conducted a compliance evaluation and found them to be in compliance with Executive Order 11246.]**

(End of provision)

52.222-25 Affirmative Action Compliance.

As prescribed in 22.810(d), insert the following provision ~~in solicitations, other than those for construction, when a contract is contemplated that will include the clause at 52.222-26, Equal Opportunity~~:

AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that--

(a) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(b) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

52.222-26 Equal Opportunity.

As prescribed in 22.810(e), insert the following clause ~~in solicitations and contracts (see 22.802) unless all of the terms of the clause are exempt from the requirements of EO 11246 (see 22.807(a))~~:

EQUAL OPPORTUNITY (APR 1984) **[(Deviation)]**

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. **[Note: It shall not be a violation of E.O. 11246 for a contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. See 22.807(b)(4).]**

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their

race, color, religion, sex, or national origin. This shall include, but not be limited to--

(i) Employment;
(ii) Upgrading;
(iii) Demotion;
(iv) Transfer;
(v) Recruitment or recruitment advertising;
(vi) Layoff or termination;
(vii) Rates of pay or other forms of compensation; and
(viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisement**[s]** for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. **[The Contractor shall, within 30 days following the award, file]** Standard Form 100 (EEO-1), or any successor form, ~~is the prescribed form to be filed within 30 days following the award,~~ unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its **[premises by the contracting officer or the Office of Federal Contract Compliance Programs (OFCCP) for the purpose of conducting on-site compliance reviews and inspecting such]** books, records**[, accounts, and other materials as may be relevant to an]**~~, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of~~ investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended~~,~~**[; in]** the rules, regulations, and orders of the Secretary of Labor~~,~~**[;]** or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting **[officer]**~~agency~~ may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of clause)

Alternate I (Apr 1984). **[As prescribed in 22.810(e),]**~~If one or more, but not all, of the terms of the clause are exempt from the requirements of EO 11246 (see 22.807(a)), the contracting officer shall~~ add the following as a preamble to the clause:

Notice: The following terms of this clause are waived for this contract: _____ *[Contracting Officer shall list terms]*.

[(End of Alternate I)]

52.222-27 Affirmative Action Compliance Requirements for Construction.

As prescribed in 22.810(f), insert the following clause ~~in solicitations and contracts for construction that will include the clause at 52.222-26, Equal Opportunity, and the amount of the contract is expected to be in excess of $10,000~~:

AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS
FOR CONSTRUCTION (APR 1984) **[(Deviation)]**

(a) *Definitions*. "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

"~~Director~~ **[Deputy Assistant Secretary]**," as used in this clause, means the ~~Director, Office of~~ **[Deputy Assistant Secretary for]** Federal Contract Compliance Programs ~~(OFCCP)~~, United States Department of Labor ~~or any person to whom the Director delegates authority~~ **[or a designee]**.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of $10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure

by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the ~~Director~~ **[Deputy Assistant Secretary]** when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled

under subparagraph (g)(2) above.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all onsite supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user ~~toilets~~ **[rest rooms]** and necessary ~~changing facilities~~ **[dressing or sleeping areas]** shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16). The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16), provided the Contractor--

(1) Actively participates in the group;

(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;

(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;

(4) Makes a good-faith effort to meet its individual goals and timetables; and

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as

amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) above, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the ~~Director~~ **[Deputy Assistant Secretary]** shall take action as prescribed in 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government; and

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

(o) Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

52.222-28 [Reserved]~~Equal Opportunity Preaward Clearance of Subcontracts.~~

~~As prescribed in 22.810(g), insert the following clause:~~

~~EQUAL OPPORTUNITY PREAWARD CLEARANCE OF SUBCONTRACTS (APR 1984)~~

~~Notwithstanding the clause of this contract entitled "Subcontracts," the Contractor shall not enter into a first-tier subcontract for an estimated or actual amount of $1 million or more without obtaining in writing from the Contracting Officer a clearance that the proposed subcontractor is in compliance with equal opportunity requirements and therefore is eligible for award.~~

~~(End of clause)~~

52.222-29 Notification of Visa Denial.

As prescribed in 22.810(**[g]**~~h~~), insert the following clause ~~in contracts that will include the clause at 52.222-26, Equal Opportunity, if the Contractor is required to perform in or on behalf of a foreign country~~:

NOTIFICATION OF VISA DENIAL (APR 1984) **[(Deviation)]**

It is a violation of Executive Order 11246, as amended, for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, on the basis that the individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where the work is to be performed or for whom the work will be performed (41 CFR 60-1.10). The Contractor agrees to notify the **[U.S.]** Department of State, **[Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW, Room 7325,]** Washington, DC **[20520]**, ~~Attention: Director, Bureau of Politico-Military Affairs,~~ and the ~~Director, Office of~~ **[Deputy Assistant Secretary for]** Federal Contract Compliance Programs, when it has knowledge of any employee or potential employee being denied an entry visa to a country in which the Contractor is required to perform this contract, and it believes the denial is attributable to the race, color, religion, sex, or national origin of the employee or potential employee.

(End of clause)