

MEMORANDUM

TO: NECA
FROM: Gary L. Lieber
Karen Tyner
DATE: April 15, 2014
RE: Office of Federal Contractors' Compliance Programs (OFFCP/DOL) Requirements for NECA Contractors that Are Federal Government Contractors

The following summarizes the obligations of Federal contractors with respect to applicable laws and Executive Orders:

1. Under Executive Order, Rehabilitation Act and VEVRAA, Federal contractors must notify each union that the company is a federal contractor and request the cooperation of the union as to meeting affirmative action obligations (i.e., no discrimination, and help the Company achieve goals as to the hiring of females/minorities/disabled persons/veterans hereinafter "protected classes").

2. Construction contractors must adhere to number one above even if there is an exclusive hiring hall operated by the union. According to the OFCCP regulations, "neither the provisions of a collective bargaining agreement, nor the failure by a union (with whom the contractor has a collective bargaining agreement) to refer either minorities or women [and disabled and veterans as well] shall excuse the contractor's obligations" under the Executive Order to recruit members of protected classes. Thus, notifying the union of the contractor's Affirmative Action ("AA") obligation is the first step.

3. The next step is for the union to engage in outreach efforts to recruit women, minorities, disabled persons and veterans into its ranks. A union should maintain documentation which illustrates its efforts. Contractors must request and then obtain such documentation from the union. During an OFCCP audit, the Contractor must show the OFCCP (1) its letter to the union notifying it of its AA status; and (2) the copies of the documentation which shows that the union engaged in outreach efforts for women, minorities, disabled persons and veterans. Since the contractors are jointly responsible for the outreach, it is essential that they monitor and ensure that the union's affirmative actions are undertaken.

4. If there is not an exclusive hiring hall, both the Contractor and the union should engage in outreach efforts for women, minorities, disabled persons and veterans. Documentation must be maintained for three years. OFCCP has a directory on its website which contains recruitment organizations that may be tapped for this purpose.

5. The Contractor should refer protected classes to the union hiring hall when appropriate and maintain documentation as to such referrals. If the person referred to the union is qualified, the union should refer the person out consistent with its non-discriminatory referral rules.

Chuck Kelley
April 15, 2014

6. Where the union is impeding the Contractor's efforts, the contractor should work with its Chapter, which in turn should work with the Regional Office to secure the Local Union's cooperation.

7. From the apprenticeship perspective, since the apprenticeship program is a recruitment source for NECA, the Contractor must also notify the apprenticeship program that the company is a Federal contractor and that the Contractor seeks the cooperation of the apprenticeship program to achieve its AA obligations (i.e., just like the union). The apprenticeship program must then engage in outreach efforts to recruit minorities, women, disabled persons, and veterans into the apprenticeship program.

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