



TRANSMITTAL

**U.S. DEPARTMENT OF LABOR  
Employment Standards Administration  
Office of Federal Contract  
Compliance Programs  
Washington, D.C. 20210**

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Number: 239

Date: August 28, 2000

ADM Notice/IntAg

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1. **SUBJECT:** Implementation of the Memorandum of Understanding (MOU) between U.S. Department of Labor (DOL), OFCCP, and General Services Administration (GSA) effective on July 6, 2000.
2. **PURPOSE:** To transmit the GSA MOU and related Questions and Answers (Qs and As) to Regional Directors and District Directors and provide them with instructions regarding the implementation of the MOU and the responsibilities of the National and Regional liaisons under the MOU with GSA.
3. **FILING INSTRUCTIONS:** File in your Administrative Practices Binder behind the "IntAg" tab. The Transmittal Sheet may be filed separately or discarded at your option.
4. **ATTACHMENT:** This MOU fosters cooperation and coordination between DOL and GSA, and provides for the exchange of information pursuant to Title 41 CFR 60-4, Construction Contractors - Affirmative Action Requirements. The attached Qs and As are for your information and use.
5. **DISTRIBUTION:** A, B

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SHIRLEY J. WILCHER  
Deputy Assistant Secretary for  
Federal Contract Compliance

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6. **INSTRUCTIONS:**

The National Office (NO) has designated the Branch Chief, Branch of Enforcement and Appeals, to serve as liaison GSA matters. Each regional Office (RO) will designate staff person to serve as liaison for GSA matters.

The NO liaison will be responsible for:

- a. developing guidelines jointly with GSA;
- b. disseminating these guidelines to the stakeholders, including contractors, unions, constituency groups, state apprenticeship councils, the general public, and within the agency, including the Regional Office (RO) liaisons.
- c. developing appropriate training; and
- d. serving as NO coordinator for the MOU implementation.

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The RO liaisons will be responsible for:

- a. participating in interagency training programs;
- b. contacting appropriate regional and local GSA personnel on an ongoing basis;
- c. participating in meetings with GSA prior to the selection of the general contractor on mega projects;
- d. giving technical assistance to the contractors during preconstruction conferences; and
- e. providing a summary of their contacts with GSA on a semi-annual basis (June 30, December 31) to the National Office, Enforcement and Appeals Branch.

7. **EXPIRATION DATE:** The MOU will remain effective until modified or terminated in accordance with the Agreement.

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Shirley J. Wilcher

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SHIRLEY J. WILCHER  
Deputy Assistant Secretary for  
Federal Contract Compliance

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DATE

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE DEPARTMENT OF LABOR AND  
THE GENERAL SERVICES ADMINISTRATION

I. PURPOSE AND SCOPE

The purpose of this Memorandum of Understanding (MOU) is to foster cooperation and coordination between the Department of Labor (DOL) and the General Services Administration (GSA). The MOU provides that the DOL and the GSA will cooperate and exchange information pursuant to Title 41 of the Code of Federal Regulations, Part 60-4, Construction Contractor - Affirmative Action Requirements.

Executive Order 11246 prohibits employment discrimination by federal contractors and subcontractors, and federally assisted construction contractors and subcontractors, and authorizes the Secretary of Labor to administer and enforce the Order. The Secretary's responsibilities under the order have been delegated to the Deputy Assistant Secretary for Federal Contract Compliance.

Through its Public Buildings Service, GSA awards construction contracts, and works with the Office of Federal Contract Compliance Programs (OFCCP) to ensure compliance with the requirements of 41 CFR Part 60-4.

The MOU clarifies the roles of each agency as it relates to the Mega Construction Project Initiative. This Initiative furthers the goals of providing equal employment opportunity and affirmative action in the construction industry, as well as creates joint public outreach activities.

II. BACKGROUND

OFCCP has administered and enforced the requirements of Executive Order 11246 in the construction industry on a contract-by-contract basis. However, in order to be more effective, in 1989, OFCCP refocused some of its resources devoted to construction reviews from a contract-by-contract approach to "site-oriented" reviews. OFCCP developed the Mega Construction Project Initiative to pursue the siteoriented approach in securing compliance with the Executive Order.

Mega Construction Projects call for the early involvement of OFCCP with contracting agencies and prime contractors in planning, coordinating and monitoring the affirmative action efforts on major construction sites. For purposes of this MOU, a Mega Construction Project is defined as a major construction project subject to 41 CFR Part 60-4 with a contract value of \$50 million or more, that is expected to have a major employment and economic impact on a community, and scheduled to last more than one year.

### III. PARTIES to the MOU

The "agencies" referred to in this memorandum are the Office of Federal Contract Compliance Programs (OFCCP) within the Department of Labor (DOL), and the General Services Administration (GSA).

The "appropriate officials" for the DOL/OFFCP are-

The Deputy Assistant Secretary or Deputy Director, OFCCP  
Any OFCCP Division Director  
Any OFCCP Regional Director  
Any OFCCP District Director

The "appropriate officials" for the GSA are -

Commissioner, Public-Buildings Service  
Assistant Commissioner, Office of Business Performance  
Chief Architect, Public Buildings Service  
Assistant Regional Administrators, Public Buildings Service

### IV. PROVISIONS

The GSA agrees, with respect to Mega Construction Projects, to:

- (1) Notify OFCCP, on a yearly basis, of construction projects with a contract value of \$50 million or more that have been approved for funding.
- (2) Provide OFCCP, yearly and by regions, a list of construction projects that meet the OFCCP and GSA definition of Mega Construction Projects set forth above in Section II.
- (3) Notify and invite OFCCP to participate in Mega Construction Project outreach meetings.

- (4) Notify and invite OFCCP to participate in Mega Construction Project pre-bid and pre-proposal conferences.
- (5) Advise agency contracting officers to include a provision in solicitations and pre-solicitation notices regarding the requirements for equal employment opportunity and affirmative action in Mega Construction Projects.
- (6) Notify and invite OFCCP to participate in Mega Construction Project post-award meetings of the general and/or prime contractor.
- (7) On at least four Mega Construction Projects annually, work with OFCCP to secure from the general and/or prime contractor voluntary commitments to:
  - (a) Establish a project Oversight Committee comprised of representatives from the general and/or prime contractor, and the subcontractors performing work on the project;
  - (b) Invite representatives from OFCCP, GSA, the Wage and Hour Administration, Apprenticeship Training, Employer, and Labor Services (formerly the Bureau of Apprenticeship Training), and the Women's Bureau to attend the meetings of the project Oversight Committee and provide technical assistance concerning the requirements of the laws enforced by each agency.
  - (c) Invite representatives from the unions and the various constituency groups that serve as minority and female recruitment sources to attend the meetings of the Oversight Committee and provide referrals for available employment.
- (8) Provide OFCCP access to contract specifications to ensure that the construction contractor goals for minorities and women by craft and geographic areas are correctly specified.

OFCCP agrees, with respect to Mega Construction Projects, to:

- (1) Participate in preliminary meetings with GSA prior to the selection of the general contractor on Mega Construction Projects in order to ensure that bidders are aware of their EEO obligations if they are awarded a government contract.
- (2) Provide technical assistance during pre-construction conferences to contractors.

Both agencies agree to:

- (1) Develop joint guidelines on the Mega Construction' Project Initiative and to disseminate those guidelines and other relevant materials to contractors, unions, State Apprenticeship Councils, constituency groups and the general public.
- (2) Participate in interagency training. programs, staff meetings and conferences as appropriate.
- (3) Provide relevant information on changes to regulations and procedures, as appropriate.
- (4) Appoint agency contacts to maintain liaison concerning items of mutual interest, including matters set forth in the MOU.
- (5) Notify their respective Regional Offices, Field offices and other appropriate parties of the content of this MOU upon approval.
- (6) Review their implementation of this MOU annually.
- (7) Use information obtained under the provisions of the MOU only in the performance of their statutory or administrative functions.

V. Formal exchange of documents shall follow these procedures.

- (1) An appropriate official for one agency may request permission to inspect and copy any documents pertaining to any contractor within the jurisdiction of the other agency. The documents referred to in this paragraph include but are not limited to, the following:
  - a. affirmative action programs or specifications
  - b. investigative files
  - c. conciliation agreements
  - d. compliance review reports
  - e. listing of enforcement actions (debarments, suspensions, termination, etc.)
  - f. community data
  - g. copies of judicial or administrative decisions
- (2) Whenever an agency receives a request under paragraph (1) and the agency possesses the documents that are the subject of the request, the agency shall make the documents available, to the extent permitted by law, to be inspected and copied.
- (3) An agency receiving a request under paragraph (1) shall respond to the official who made the request, or to another person whom the requesting official may designate, within fifteen days after the request is received; except that the documents not immediately available may be provided within forty-five days after the request is received.

#### VI. AGREEMENT

The provisions of this MOU are effective on the date of signature and may be modified by mutual consent. Either agency may unilaterally terminate this MOU by notice to the other agency. The MOU will remain effective until modified or terminated in accordance with this Agreement.




The undersigned hereby agree that this document represents the understanding between them.



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Shirley J. Wilcher  
Deputy Assistant Secretary for  
Federal Contract Compliance



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Robert A. Peck  
Commissioner, Public  
Buildings Service

July 6, 2000  
Date

July 6, 2000  
Date

**QUESTIONS AND ANSWERS REGARDING  
DEPARTMENT OF LABOR - GSA  
MEMORANDUM OF UNDERSTANDING  
MEGA CONSTRUCTION PROJECTS**

The Department of Labor (DOL) and the General Services Administration (GSA) have recently approved a Memorandum of Understanding (MOU) to enable the Office of Federal Contract Compliance Programs (OFCCP) to better enforce construction contractor(s) affirmative action requirements on major construction sites. The following questions and answers provide additional information about the MOU:

**1. What is the purpose of this Memorandum of Understanding?**

- This MOU fosters cooperation and coordination between the DOL and the GSA, and provides for the exchange of information pursuant to Title 41 of the Code of Federal Regulations, 60-4, Construction Contractor-Affirmative Action Requirements.

**2. Why is coordination necessary on this topic?**

- Every year, GSA's Public Buildings Service awards approximately \$40 billion in federal construction contracts. Each contract includes the Equal Employment Opportunity (EEO) clause which prohibits discrimination in the workplace.
- OFCCP enforces Executive Order 11246, as amended, which prohibits employment discrimination by federal contractors and subcontractors, and federally assisted construction contractors and subcontractors.
- Only 2.4 percent of all construction workers are women. While the representation of women on mega construction sites is generally higher than the national average, much more progress needs to be done. By encouraging more coordination between DOL and GSA, the federal government can more effectively ~" promote EEO and equal pay for women seeking nontraditional jobs.
- A Mega Construction Project is defined as a major construction project subject to 41 CFR part 60-4, with a multi-million dollar contract value (\$50 million and up), that is expected to have a major employment and economic impact on a community and is scheduled to last more than one year.

### **3. What does the MOU provide?**

**The MOU provides that GSA will:**

- **Provide a yearly list of construction projects that meet the mega project definition (e.g., \$50 million)**
- **Invite OFCCP to participate in mega project outreach meetings with stakeholders**
- **Invite OFCCP to participate in pre-bid and pre-proposal conferences**
- **Advise agency contracting officers to include EEO information in their pre-bid and pre-solicitation notices**
- **Invite OFCCP to participate in mega project post-award meetings with the general and/or prime contractor**
- **Secure voluntary commitments from general and/or prime contractors on at least four projects annually to establish (1) a project oversight committee to monitor affirmative action progress; (b) designate an EEO manager to monitor compliance; and (c) develop workforce project monitoring procedures**
- **Provide OFCCP access to contract specifications to ensure good faith efforts toward meeting the contractors' goals. '**
- **The MOU provides that OFCCP will:**
  - **Participate in meetings with GSA prior to the selection of the general contractor**
  - **Give technical assistance to the contractors during preconstruction conferences**

**The MOU provides that both agencies will:**

- **Jointly develop guidelines and disseminate them to the stakeholders including contractors, unions, constituency groups, state apprenticeship councils and the general public**
- **Participate in interagency training programs**

- **Appoint agency contacts and notify their regional offices about the MOU**

**4. What will this new partnership achieve?**

- **The new partnership between DOL and GSA will enhance employment opportunities for women and increase access for women seeking nontraditional jobs.**
- **The MOU will amplify DOL's mission to ensure compliance with the requirements of the nondiscrimination provisions set forth in 41 CFR 60-4.**
- **The MOU will also further the Secretary's goals of promoting quality workplaces and equal pay.**