



**U.S. Department of Labor
Employment Standards Administration
Office of Federal Contract Compliance Programs**

**Federal Contract Compliance Manual (FCCM)
CHAPTER IV - CONSTRUCTION INDUSTRY COMPLIANCE PROGRAM**

CHAPTER IV
***CONSTRUCTION INDUSTRY COMPLIANCE
PROGRAM***

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4A INTRODUCTION TO CHAPTER IV

This Chapter contains procedures for conducting compliance reviews of construction contractors and subcontractors, including those involved in federally assisted construction to determine whether they are complying with requirements prohibiting discrimination and requiring affirmative action (AA) to ensure equal employment opportunity (EEO) without regard to race, color, religion, national origin, sex, disability or covered veteran status.

4B COVERAGE

4B00 ORDER AND ACTS

Construction contractors are covered under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212); and Section 503 of the Rehabilitation Act of 1973, as amended, if they have a construction contract of the requisite amount with a Federal agency, a nonconstruction contractor, or another construction contractor, if that contract is necessary in whole or in part to the performance of the nonexempt contract or if any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

A contractor is covered under the Executive order if the contract amount exceeds \$10,000; under Section 503 if the amount is more than \$2,500; and under 38 U.S.C. 4212 if the amount is \$10,000 or more. Federally assisted construction contracts and subcontracts in excess of \$10,000 are covered under the Executive order only (see Section 301 of Executive Order 11246, as amended) and not under Section 503 or 38 U.S.C. 4212.

4B01 REGULATIONS APPLICABLE TO CONSTRUCTION CONTRACTORS

Regulations applicable to construction contractors and federally assisted construction contractors are published primarily in 41 CFR Part 60-4. Specific regulatory provisions in other parts of 41 CFR Chapter 60 are also applicable to construction contractors. (See; e.g., 41 CFR 60-4.7 and Parts 60-250 and 60-741.) Applicable definitions are found in 41 CFR 60-1.3. Finally, the veterans and disability program regulations at 41 CFR Part 60-250 and 41 CFR Part 60-741 also are applicable to Federal construction contractors.



4B02 REQUIRED CONTRACT CLAUSES

- (a) Inclusion of Clauses:
- (1) Prime Contracts: Each Federal contracting agency is required to include the Equal Opportunity (EO) clause found at 41 CFR 60-1.4(a), and AA clauses found at 41 CFR 60-250.4 and 60-741.4, in all nonexempt construction contracts.
 - (2) Federally Assisted Construction: Each administering agency is required to include the EO clause found at 41 CFR 60-1.4(b) as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction.
 - (3) Subcontracts: Each contractor and subcontractor is required to include the EO and AA clauses in its nonexempt subcontracts. (See 41 CFR 60-1.4(a) and (b) at paragraph (7), and 60-1.4(c) (EO clause); 41 CFR 60-250.4 and paragraph (m) thereof (veterans AA clause); 41 CFR 60-741.4 and paragraph (f) thereof (disability AA clause).) Nonconstruction contractors are required to include the appropriate clauses in construction subcontracts. Federally assisted construction contractors are to include only the EO clause, not the AA clauses, in subcontracts.
- (b) Omission of contract clauses from contract: The EO/AA clauses may be expressly included in the contracts or incorporated by reference (41 CFR 60-1.4(d), 60-250.22, and 60-741.22). The clauses are, however, a part of the construction contracts even if they are not physically incorporated in the contract document (41 CFR 60-4.9, 41 CFR 60-250.23, and 41 CFR 60-741.23). Where the contractor fails to include the required clauses in covered subcontracts and/or purchase orders, the CO shall cite this omission as a violation in the closure document.

4B03 CONSTRUCTION CONTRACT NOTICE AND SPECIFICATIONS

- (a) Notice: The "Notice" at 41 CFR 60-4.2(d) must be included:
- (1) In all solicitations for offers and bids on all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs, in accordance with 41 CFR 60-4.6;
 - (2) In all grants, contracts, subcontracts, loans, insurance, or guarantees involving federally assisted construction; and



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- (3) By all nonconstruction contractors covered by Executive Order 11246, as amended, which have construction agreements that are necessary in whole or in part to the performance of the covered nonconstruction contract.

Among other things, the notice sets forth the goals for minority and female participation in construction trades in the covered area, identifies that covered area, and requires that contractors provide OFCCP with specific information concerning construction subcontracts in excess of \$10,000 awarded in connection with the covered contract.

- (b) Specifications: All Federal and federally assisted construction contracts and subcontracts necessary in whole or in part to the performance of nonconstruction contracts and subcontracts covered under the Order must include the "Specifications" published at 41 CFR 60-4.3(a). These specifications detail the specific AA steps a construction contractor must take to be in compliance with the Executive order.
- (c) Incorporation: Pursuant to 41 CFR 60-4.9, the notice contained in 41 CFR 60-4.2 and the specifications at 41 CFR 60-4.3 are deemed incorporated in all covered contracts and subcontracts by operation of the Order regardless whether physically incorporated in the solicitation or contract and regardless whether the contract is written.

4B04 SPECIAL PROGRAMS APPLICABLE TO CONSTRUCTION CONTRACTORS

In conducting reviews, the CO must identify the contract(s) on which the contractor's obligations are based. As a general rule, contracts awarded since May 8, 1978, are subject to the contract specifications at 41 CFR 60-4.3(a). However, compliance evaluations may be governed by the terms of a particular Hometown or Heavy Highway Plan. In such instances, the CO must identify the type of plan and its specific provisions to be able to determine whether the contractor is in compliance with its obligations. (See 41 CFR 60-4.5 and Section 4E02 below.)

4B05 SUPPORT FROM OTHER AGENCIES

Various Federal, state, and local Government contracting offices may be able to pro-vide notice of contract awards and help ensure that EO/AA clauses are included in construction contracts. Federal agencies may also have information not available from the contractor. For example, if a contractor has not filed CC-257s, Wage and Hour may be able to provide the number of employees of the contractor by reviewing payroll re-cords certified under the Davis-Bacon Act. Linkage with Job Partnership Training Act organizations, Employment and Training Administration funded agencies, as well as employment



referral and/or training organizations identified by the Bureau of Apprenticeship and Training and the Women's Bureau may also be appropriate. (See Chapter 3 for a discussion of linkage.)

4C GENERAL PRINCIPLES APPLICABLE TO THE CONSTRUCTION INDUSTRY

4C00 GENERAL DUTY NOT TO DISCRIMINATE AND TO TAKE AFFIRMATIVE ACTION

The EO/AA clauses at 41 CFR 60-1.4(a) and (b), 41 CFR 60-250.4, and 41 CFR 60-741.4 prohibit discrimination based on race, color, religion, sex, national origin, disability, or covered veteran status. They also require contractors to take affirmative action.

4C01 GOALS

Contractors must demonstrate good-faith efforts to meet their AA goals for the employment of minorities and women in the construction industry. Goals are determined by the Deputy Assistant Secretary (DAS), OFCCP, and are issued pursuant to 41 CFR 60-4.6 by geographic area. They are expressed as a percentage of the hours worked by the contractor's aggregate workforce in each trade on all construction work performed in the geographic area, regardless whether the work is Federal, federally assisted, or non-Federal. Where a contractor performs construction work in a geographic area located outside the geographic area in which it has a covered contract, it shall apply the goals established for the geographic area where the work is actually performed. Goals in the second area also are applicable to both federally involved and nonfederally involved construction work. (See the example in (b) below.)

- (a) Goals for Women: The current goal for the utilization of women is 6.9% of work hours and applies to all of a contractor's construction sites regardless of where the Federal or federally assisted contract is being performed. This goal was originally published in the Federal Register of April 7, 1978, 43 FR 14899, 14900, as Appendix A. Pursuant to a Notice published in the Federal Register of December 30, 1980, 45 FR 85750, 85751, the 6.9% goal was extended indefinitely.
- (b) Minority Group Goals: Current goals for the utilization of minorities were published in the Federal Register of October 3, 1980, 45 FR 65979, 65984, as Appendix B-80. Minority goals are formulated in terms of work hours performed in a specific Standard Metropolitan Statistical Area (SMSA) or Economic Area (EA). For example, ABC Company has a Federal contract for construction work in SMSA X. The goals for SMSA X apply to all of ABC's construction work in SMSA X, both the federally involved and the nonfederally involved construction work. In



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addition, if ABC Company performs construction work in SMSA Y, it would apply the SMSA Y goals to all its construction work in SMSA Y, whether or not it had a Federal or federally assisted contract in SMSA Y. Although SMSAs were realigned into Metropolitan Statistical Areas (MSAs) as a result of the 1980 census, construction goals continue to be based on SMSAs.

4C02 MONTHLY EMPLOYMENT UTILIZATION REPORT (CC-257)

The CC-257 (Figure 4-3) is used for minority and female goal reporting purposes. Contractors are required to record the total hours worked by all construction employees and the number of hours worked by minority and female employees by construction trade, on construction projects in a specific geographic area. Computer generated CC-257 reports are acceptable if approved by the OFCCP National Office in advance of submission. The CC-257 is required only for construction work performed in geographic areas where a contractor holds a Federal or federally assisted construction contract and where minority goals had been established prior to October 3, 1980; i.e., the areas set forth in the Federal Register of May 5, 1978, 43 FR 19473, 19474, as Appendix B. Construction contractors and subcontractors in these areas submit their CC-257s directly to the OFCCP Area Office with jurisdiction over the location where payroll records are kept. (See the Notice in the Federal Register dated October 3, 1980, 45 FR 65976, 65984.)

4C03 PRECONSTRUCTION CONFERENCES

The contracting agency (and/or administering agency) may use preconstruction conferences to discuss any aspect of the contractual requirements of a project, including EEO. Regional, area, or field office staff may participate in these conferences at the invitation of the contracting agency. The contracting agency is responsible for informing contractors and subcontractors of their nondiscrimination and affirmative action obligations, including minority and female goal requirements for the geographical area in which work is to be performed, and reporting and recordkeeping requirements necessary to demonstrate compliance.

4C04 NOTICE OF SUBCONTRACT AWARDS

The notice at 41 CFR 60-4.2(d) requires that, within ten (10) working days of the award of a subcontract, a contractor must notify the appropriate OFCCP area/field office of the name, address, telephone number, and employer identification number of each subcontractor, the estimated dollar amount of the subcontract, its estimated starting and completion dates, and the geographic area (SMSA or EA) in which the work is to be performed.



4D OVERVIEW OF COMPLIANCE REVIEW PROCESS

4D00 MAJOR STEPS

Major steps in the compliance review process include:

- (a) Pre-Review Preparation,
- (b) Onsite Review,
- (c) Compliance Review Report, and
- (d) Notification of Compliance Review Results.

4D01 SCOPE OF REVIEW

The major focus of the review of a construction contractor is the contractor's trade workforce within a particular geographical area. However, the contractor's entire workforce may be the subject of the review under the Executive order, Section 503, and 38 U.S.C. 4212 unless coverage is based solely on a federally assisted construction contract. As noted at Section 4B00, federally assisted construction contracts are subject only to the Executive order. In auditing the contractor's compliance with these clauses in nontrade as well as trade occupations, the CO will focus on any indications of potential discrimination and lack of AA. (See Chapters 3 and 7.)

Additionally, if the contractor has 50 or more employees and a Federal contract of \$50,000 or more, implementation of its Section 503 and 38 U.S.C. 4212 Affirmative Action Program(s) (AAP) will be included in the compliance review.

4E PRE-REVIEW PREPARATION

4E00 SCHEDULING

The CO should notify the senior official at the contractor's establishment where the review will take place (by telephone) of the scheduled review, set a date for the review to begin, indicate the need for an onsite



work area, and confirm the location and availability of books and records that contain relevant information on the contractor's aggregate workforce in the covered area.

4E01 SCHEDULING LETTER FOR CONSTRUCTION

The date and time of the review must be confirmed by letter, sent certified mail, return receipt requested, to the senior official at the contractor's establishment with a copy to the chief executive officer at the corporate address (unless the establishment and corporate office are the same) sufficiently in advance of the date of the review. The letter should note that the onsite review will include an inspection of Employment Eligibility Verification Forms (Form I-9). In addition, the notification should specify that the contractor is to make, for example, the following available for inspection and copying during the review:

- (a) Books, records, payrolls, accounts, and other relevant documents, including a list, separated by construction project, of all minority and female employees who worked during the period to be reviewed;
- (b) Documentary evidence of the implementation of each of the specific AA standards set forth in the Specifications;
- (c) Evidence of compliance with 41 CFR Parts 60-250 and 741, for covered construction contractors; and
- (d) Evidence, as applicable, demonstrating that the contractor has not violated the EO/AA clauses.

4E02 COORDINATION WITH OTHER AGENCIES

The CO should contact the appropriate district office of the Equal Employment Opportunity Commission (EEOC) and state and local fair employment agencies to notify them of the scheduled review and request any information they might have regarding complaints against the contractor. Where the administering agency is the Federal Highway Administration, Department of Transportation (FHWA/DOT), a DOL/DOT Memorandum of Understanding requires that DOT be notified of the scheduled review. Refer to Figure 4-1.

4E03 COMPLIANCE HISTORY



The CO should review appropriate office files for previous Conciliation Agreements (CA) or Letters of Commitment (LOC) negotiated with the contractor. These may provide useful information about potential or recurrent problem areas. The CO should also determine whether CC-257s have been filed by the contractor if required, and whether the contractor has provided notification to OFCCP of the award of covered subcontracts.

4F ONSITE REVIEW PROCESS

4F00 PURPOSE

The purpose of the onsite review is to verify reported work hours; to determine the degree of uniformity of employment of minorities and women throughout the length of the contract and at each of the contractor's projects; to evaluate the contractor's AA efforts to comply with the Executive order, Section 503 and 38 U.S.C. 4212, if applicable; and to investigate any indications of discrimination.

4F01 BASIC STEPS

Basic steps in the onsite review process include:

- (a) Entrance Conference,
- (b) Review of Records,
- (c) Audit of Affirmative Action Specifications,
- (d) Employee/Supervisor Interviews,
- (e) Physical Inspection of Contractor's Worksites,
- (f) Identification and Resolution of Affected Class Issues, and
- (g) Exit Conference.

4G ENTRANCE CONFERENCE



4G00 PERSONS ATTENDING

The entrance conference should be attended by the contractor's Chief Executive Officer (CEO) or his/her designee.

4G01 CONTENT OF CONFERENCE

During this conference, the CO may, as appropriate:

- (a) Explanation: Provide a brief explanation of the compliance review process.
- (b) Information: Provide information on OFCCP policies, practices, rules and regulations, and determine whether the contractor includes the appropriate clauses in its covered construction subcontracts and purchase orders.
- (c) Estimate of Time: Provide an estimate of the amount of time the onsite review will require.
- (d) Confirm Availability of Records: Confirm the availability and location of the contractor's records and documentation of compliance with the AA specifications.
- (e) Request Cooperation: Request cooperation for employee and supervisory interviews.
- (f) Inspection of Worksites: State the need for and arrange to inspect Federal and non-Federal worksites.
- (g) I-9 Inspection: Provide I-9 materials and explain the inspection process.
- (h) Date for Exit Conference: Establish a tentative date for the exit conference.

4H REVIEW OF RECORDS

During the process of reviewing records, the CO should note any matters which appear questionable. The CO should follow-up on these matters by interviewing employees and any other relevant persons.

4H00 PAYROLL RECORDS

In reviewing the contractor's payroll records, the CO should determine:



- (a) Number of Months to Review: Review the contractor's payroll records for at least six (6) months to evaluate compliance with the work hour utilization goals for minorities and women in each trade. Where CC-257 reports are required, verify that the data reported in the CC-257s are consistent with payroll records. If discrepancies exist between payroll and CC-257 data, the CO should ask the contractor for an explanation and follow-up in employee interviews. Incorrect data on CC-257s (or failure to submit CC-257s when and/or where required) must be addressed in a resolution document. Falsification of records should be addressed in a CA or an enforcement recommendation. The CO should be concerned that falsified records may mask discrimination or a lack of AA. In geographic areas where CC-257s are not required, the CO must still review payroll records to determine whether the contractor has met its work hour utilization goals in each trade.
- (b) Uniformity of Assignment: Evaluate the records to determine whether there is uniformity in the assignment of employees to various project sites (Federal and nonfederal; commercial and residential; urban and rural). Determine whether certain types of projects pay more than others and, if so, whether women and minorities are being assigned to the better paying jobs in proportion to their representation in the contractor's workforce. Note: Representation in the contractor's workforce may be less than availability.
- (c) Equitable Overtime: Evaluate the records to determine whether overtime, incentives, bonuses, and other job benefits; e.g., holiday bonuses, pay advances, loans, profit sharing, etc., are provided on an equitable basis.

4H01 I-9 INSPECTION

During the onsite review, the CO will inspect the Employment Eligibility Verification Forms (Form I-9) for all employees hired since November 6, 1986 (or since the last inspection), as required by the Immigration Reform and Control Act of 1986 (IRCA). (See Chapter 3 for guidance on inspecting I-9s.)

4H02 EMPLOYMENT ACTIVITY RECORDS

The CO should determine how the contractor processes applications, union referrals, and walk-in applicants. (See Section 4I01, below.) She/he should determine if minorities and women who are qualified are being disproportionately rejected. The CO should determine the contractor's reasons for the rejections. Where selection procedures are found to have an adverse impact, see Chapter 3 and Chapter 7.



4H03 COLLECTIVE BARGAINING AGREEMENT (CBA)

When the contractor asserts that hiring is controlled through a union hiring hall in accordance with a CBA, the CO must review the agreement to verify the assertion. If the CBA does not support the contractor's claim, the CO must evaluate the contractor's good-faith efforts without considering its relationship with the union hiring hall. (See paragraph 5. of the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) set forth at 41 CFR 60-4.3.)

4I AUDIT OF AFFIRMATIVE ACTION STEPS SET FORTH IN 41 CFR 60-4.3(a)

In evaluating the contractor's compliance with the AA steps, the CO must verify that the records, interviews, and/or other information provided by the contractor demonstrate its compliance.

4I00 GROUPING OF SPECIFICATIONS

For compliance review purposes, the AA specifications in 41 CFR 60-4.3(a)7 have been grouped into the following five major categories:

- (a) Audit of Recruitment Practices (4I01),
- (b) Audit of Training (4I02),
- (c) Audit of EEO Policy and Implementation (4I03),
- (d) Audit of Personnel Operations (4I04), and
- (e) Audit of Contracting Activity (4I05).

These categories correspond directly to the organization of the Form CC-40 Standard Compliance Review Report (Construction SCRR). (See Appendix 4A.) The discussion below provides instructions on completing the Construction SCRR. Section III of the Construction SCRR includes veteran/disability affirmative action requirements which are to be evaluated by the CO.

4I01 AUDIT OF RECRUITMENT PRACTICES (CONSTRUCTION SCRR III.A)

Refer to 41 CFR Part 60-20 (Sex Discrimination Guidelines); 41 CFR Part 60-50 (Religion/National Origin Guidelines); and 41 CFR 60-4.3(a)7.b, c, d, I, and j. The following subsections pertain directly to



Part III.A of the Construction SCRR and set forth the procedures for evaluating the contractor's recruitment practices.

- (a) Recruitment Sources: The contractor must establish and maintain a current list of recruitment sources for minorities and women. The contractor must provide written notification to these recruitment sources and to community organizations when it or its union(s) have employment opportunities available. The contractor must maintain a record of recruitment source responses. (See Item III.A.1. of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should:
- (1) Determine whether the contractor maintains a current list of recruitment sources.
 - (2) Determine whether the list is current (has been updated within the last year); whether it contains an adequate number of active, available sources; and whether the recruitment sources listed are in operation; i.e., active.
 - (3) Contact referral sources to verify that recruitment letters were received and to determine whether referrals were actually made.
 - (4) Interview employees and hiring supervisors to determine whether the list is used when vacancies occur.
 - (5) Review correspondence with recruitment sources. This review should:
 - (i) Verify that the letters were sent to and received by the listed recruitment sources, and that follow-up contact was made when actual vacancies occurred.
 - (ii) Ensure that the letters contained a statement of the contractor's EEO policy, and the nature of the employment opportunity.
 - (iii) Review the contractor's files, telephone logs, or other evidence to determine if the contractor maintained copies or records of responses. Determine if the contractor followed-up on responses.
- (b) Applicant Records: The contractor shall maintain a current file of the names, addresses, and telephone numbers of each minority and female walk-in applicant and minority or female referral from a union, recruitment source, or community organization, and of the action taken with respect to each individual. Where an individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, was not employed by the contractor, the documentation in the file should include the reason why the individual was not hired (or



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referred), and any action taken by the contractor. (See Item III.A.2. of the Construction SCRR.) Indications of possible discriminatory practices should be fully investigated (see Chapters 3 and 7). To evaluate the contractor's compliance with this specification, the CO should:

- (1) Determine whether the contractor maintains a current file which lists the names, addresses, and telephone numbers of each minority and female walk-in applicant and each referral from a union or community source.
 - (2) Evaluate the file for active construction recruitment sources such as unions and community referral organizations (See 4101(a)(2) above).
 - (3) Interview supervisors responsible for hiring to determine the general hiring procedure and any specific procedures used to recruit minorities and women.
 - (4) Determine what sources the contractor uses to obtain job applicants; e.g., walk-ins, union hiring hall, newspaper advertisements, word of mouth, recruitment/training programs, etc.
- (c) **Failure of Union to Refer:** The regulations at 41 CFR 60- 4.3(a)7.d require that the contractor shall immediately notify the DAS, in writing, when a union (or unions) with which it has a CBA has not referred to the contractor a minority person 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 contractual EEO obligations. (See Item III.A.3. of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should:
- (1) Determine whether the contractor took any other actions to facilitate hiring the individual such as additional written contact with the union specifically requesting referral of that individual, or attempting to hire the individual directly, without union referral.
 - (2) Whenever the contractor states in writing that the union has not referred minorities and women; or that other union actions have impeded its affirmative action efforts; or there are allegations that the union has committed unlawful discrimination; or, the CO becomes aware that union actions impede or threaten to impede the contractor's affirmative action efforts, the CO should discuss the matter with his/her supervisor as soon as possible.
- (d) **Directing Recruitment Efforts:** In accordance with 41 CFR 60-4.3(a)7.I the contractor shall direct its recruitment efforts to minority, women's, and community organizations; to schools with minority and female students; and to recruitment and training organizations for minorities and women serving the contractor's recruitment area and employment needs. Not later than one (1) month prior to the date for the acceptance of applications for apprenticeship or other training by



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any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and test(s) to be used in the selection process. (See Item III.A.4. of the Construction SCRR.) To determine whether the contractor is in compliance with this specification, the CO should:

- (1) Request written documentation of the contractor's efforts to recruit minority and female applicants for training and employment opportunities.
 - (2) Review documentation that the contractor provided timely notice to minority, women's, and community organizations at least one (1) month prior to acceptance of applications for apprenticeship or training opportunities. Verify that appropriate sources have been contacted.
- (e) Employee Referrals: The regulations at 41 CFR 60-4.3(a)7.j require the contractor to encourage present minority and female employees to recruit other minority persons and women. The regulation also requires that, where reasonable, the contractor shall provide after school, summer, and vacation employment to minority and female youth both on the site, and in other areas of its workforce. (See Item III.A.5 of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should:
- (1) Interview minority and female employees to determine whether the contractor has encouraged them to recruit other minority persons and women to apply for employment.
 - (2) Interview supervisors and minority and female employees to determine whether the contractor provides after school, summer, and vacation employment to minority and female youth.
 - (3) Review personnel records to verify employment of minority and female youths in after school, summer, and vacation job opportunities.

4I02 AUDIT OF TRAINING (CONSTRUCTION SCRR III.B.)

Refer to 41 CFR Part 60-20; 41 CFR 60-4.3(a)7.e; and Part III.B of the Construction SCRR.

- (a) Training Programs: The contractor shall develop on-the-job training opportunities and/or participate in training programs which expressly include minorities and women. These include programs designed to upgrade skills, apprenticeship, and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department



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of Labor. (See Item III.B.1. of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should:

- (1) Determine whether the contractor has developed and/or conducted any training programs and, if so, whether it has provided notice of these programs to its recruitment sources. Obtain copies of letters informing minority and women's recruitment sources or schools of training programs. Get the names of applicants referred to the programs by the contractor. Determine whether the contractor has employed and trained anyone below the journey level. If it has, describe what was done.
- (2) Determine which trades are covered by formal apprenticeship programs (typically found in projects utilizing union labor) or other types of formal training programs not associated with trade unions. When either type of program is in place, the participation rate of minorities and women must be determined.
- (3) When there are no formal programs for a particular trade, determine what, if anything, the contractor has done to provide on-the-job training for minorities and women.
- (4) If on-the-job training is provided, determine whether minorities and women have equal access to training in all trades. Determine whether minorities and women are performing all aspects of their trade or are assigned repeatedly to the same task.
- (5) Determine whether the contractor has records of cash contributions, equipment supplied, or contractor personnel provided as instructors for Bureau of Apprenticeship and Training approved, Department of Labor funded, or other training programs.
- (6) Determine whether the contractor has records of specific hiring and training of minorities and women from such programs. The results of the contractor's efforts; e.g., number and proportion of minorities and women trained, hours worked, relative compensation, trade, etc., should be determined and the results recorded in the report. (See 4Q01 below.)

4I03 AUDIT OF EEO POLICY IMPLEMENTATION (CONSTRUCTION SCRR III.C.)

Refer to 41 CFR Part 60-20; 41 CFR Part 60-50; 41 CFR 60-4.3(a)7.f, g, h, l, and p, and Part C of the Construction SCRR.

- (a) Development of and Dissemination of Policy: The contractor shall develop and disseminate its EEO policy by providing notice of its policy to unions and training programs, and requesting their help in meeting its EEO obligations. The contractor shall also include its EEO policy in any



policy manual and collective bargaining agreement and publicize it in the company newspaper or annual report, if any. The contractor shall also specifically review the policy with all minority and female employees at least once a year, and post it on bulletin boards accessible to all employees and applicants at each location where construction work is performed. (See Item III.C.1. of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should:

- (1) Determine whether the EEO policy contains at least the following:
 - (i) A statement that the contractor will not discriminate against employees and applicants for employment because of race, color, religion, sex, or national origin, and that it will take AA to ensure that employees and applicants for employment will be employed and treated during employment, without regard to race, color, religion, sex, or national origin status.
 - (ii) The name, telephone number, and means of access to the contractor's EEO Officer.
 - (iii) An assurance that this policy will be followed in all personnel actions.
 - (iv) Signature of the CEO and date.
 - (2) Determine if the EEO policy is posted in conspicuous places available to employees and applicants; e.g., company offices, project site(s), and project trailer(s), if applicable. (See 41 CFR 60-1.4(a)(3) or (b)(3), as appropriate.)
 - (3) Interview employees to determine if the EEO policy has been reviewed at least annually with all minority and female employees and personnel responsible for hiring, assignments, and other personnel actions.
 - (4) Determine whether unions (where applicable) and training programs have been notified and provided with a copy of the policy. Obtain copies of correspondence or other documentation of such notification.
 - (5) Review as applicable, policy manuals, CBAs, company newspapers, and/or annual reports for inclusion of the contractor's EEO policy.
- (b) Review of Policy: The contractor shall review, at least annually, the company's EEO policy and AA obligations with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decision, including specific review of these items with all



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onsite supervisory personnel prior to the initiation of work at any job site. The contractor must maintain a written record of the time and place of these meetings, persons attending, subject matter discussed, and disposition; e.g., any further action to be taken by attendees/ participants, of the subject matter. (See Item III.C.2., of the Construction SCRR.) In evaluating the contractor's compliance with this specification, the CO should:

- (1) Substantiate that the contractor has conducted, at least annually, a review of the company's EEO policy and AA obligations with all employees having any responsibility for hiring, job assignment, layoff, termination, or other personnel decisions, including the transferring of employees to different job sites.
 - (2) Identify each job site at which work has been initiated by the contractor within the 12-month period prior to the start of the compliance review. Verify the date prior to the commencement of work at each such job site on which the contractor met with onsite supervisory personnel to discuss the contractor's EEO policy and AA obligations.
 - (3) Review the actions taken by the contractor to resolve any problems identified.
- (c) External Dissemination of Policy: The contractor shall disseminate its EEO policy externally by including it in any advertising in the media, in particular media directed at minorities and women. In addition, the contractor shall provide written notification to, and shall discuss its EEO policy with, other contractors and subcontractors with which it does or anticipates doing business. (See Item III.C.3., of the Construction SCRR.) In evaluating the contractor's compliance with this specification, the CO should:
- (1) Review copies of advertisements to determine whether the contractor included its EEO policy: e.g., the EEO tag line, and whether advertisements appeared in media announcements directed at minorities and women.
 - (2) Determine whether the contractor's written notification to other contractors and subcontractors with which it does or anticipates doing business is accurate and timely (at least at the start of each major contract).
 - (3) Review and verify documentation such as telephone logs, file notes, etc., on the contractor's discussion(s) with other contractors and subcontractors to determine whether the contractor's EEO policy was discussed.
- (d) Promotion Policy: At least annually, the contractor shall inventory and evaluate all minority and female employees for promotional opportunities. It shall encourage minority and female employees to seek or to prepare for promotional opportunities by appropriate training. (See Item



III.C.4., of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should:

- (1) Review the contractor's policies and personnel procedures regarding upgrading and promotion; determine how first-line and other supervisors are selected; and how CBAs impact on company policies.
 - (2) Review all promotions for minority and/or female employees who could have/should have been considered.
 - (3) Obtain documentation of the contractor's annual inventory and evaluation of minority and female employees for promotional opportunities.
 - (4) Verify, through interviews and by review of documentation, that minority and female employees have been encouraged to seek or prepare for promotional opportunities through appropriate training.
- (e) Supervisory Performance: The contractor shall conduct a review, at least annually, of all supervisors' adherence to and performance under its EEO policies and AA obligations. Refer to Item III.C.5., of the Construction SCRR. To evaluate the contractor's compliance with this specification, the CO should review letters, reports, performance evaluations, EEO training courses/materials, and minutes of meetings. Interviews of supervisory personnel should be conducted.

4I04 AUDIT OF PERSONNEL OPERATIONS (CONSTRUCTION SCRR III.D.)

Refer to 41 CFR Part 60-20; 41 CFR Part 60-50; 41 CFR 60-4.3(a)7.a, k, m, and n; and Part III.D of the Construction SCRR.

- (a) Working Environment: The contractor must ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. Where possible, the contractor, will assign two or more women to each construction project. The contractor shall specifically ensure that all supervisory personnel are aware of, and carry out, its obligation to maintain such a working environment, with specific attention to minorities and women working at such sites or in such facilities. (See Item III.D.1., of the Construction SCRR.) To evaluate the contractor's compliance with this specification, the CO should note the following:



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(b) Harassment: Harassment, intimidation, and coercion on the job site can take many forms. These actions may be directed to minority as well as female employees. They may consist of verbal, visual or written abuse, such as insults, graffiti, posters, suggestive comments and demands, and/or racial slurs, leering, and pressure for sexual activity. They may also include physical aggressiveness such as touching, pinching, patting, and shoving, or the hiding or sabotaging of tools and equipment. Whatever the action, it can create an intolerable and stressful working atmosphere which impairs job performance and work relationships and often results in the victim quitting the job. During the physical inspection of the contractor's worksites, the CO should:

- (1) Look for any physical evidence of intimidation, harassment, or coercion.
- (2) Interview female and minority employees to determine whether there have been any incidents of harassment, intimidation, or coercion.
- (3) Determine whether such incidents were reported to the supervisor and if so, what action was taken to resolve the problem.
- (4) Interview supervisory staff to determine whether they are aware of the contractor's obligation under this specification.
- (5) Review contractor files (minutes of meetings, memoranda, etc.) to determine whether the contractor has discussed this specification with supervisors.
- (6) Review discharge/terminations, and where possible, interview minorities and/or women recently terminated, to determine if harassment or intimidation was a factor in their leaving the job.

(c) Validation: The contractor must validate all test and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3. (See Item III.D.2., of the Construction SCRR.) Refer also to the discussion in Chapter 3, and to the "Questions and Answers to the Uniform Guidelines on Selection Procedures," March 2, 1979, 44 FR 11996, 12009 supplemented in the Federal Register of May 2, 1980, 45 FR 29350.

Procedures for identifying adverse impact resulting from employee selection procedures are given in Chapter 2 and Chapter 3.

(d) Effect of Personnel Practices: The contractor must ensure that seniority practices, job classifications, work assignments, opportunities for overtime, and other personnel practices do not have a discriminatory effect on minorities and women by monitoring all personnel and employment related activities to ensure that the specifications are being carried out. (See Item III.D.3. of the



Construction SCRR.) In evaluating the contractor's compliance with this specification, the CO should:

- (1) Determine whether the contractor's personnel policies and practices have a discriminatory effect. (See Chapter 2, Chapter 3, and Chapter 7.)
 - (2) Review personnel policies and practices such as transfers that create employment opportunities, seniority practices, job classifications, work assignments (e.g., minorities and women sent only to federally or state funded projects), layoff procedures, project locations, wage rates (may be specified in CBAs), overtime hours, etc., for discriminatory effects.
- (e) Nonsegregated Facilities and Activities: The contractor must ensure that all job sites, facilities, and company activities are nonsegregated, except for separate or single user toilets and changing facilities where necessary to assure privacy between the sexes. (See Item III.D.4. of the Construction SCRR.) In evaluating the contractor's compliance, during the worksite inspection, the CO should:
- (1) Determine whether the contractor provides and maintains adequate toilet and changing facilities to ensure privacy between the sexes.
 - (2) Interview management and employees to determine whether announcements of company social/recreational activities have been posted and are made available to all employees.

4105 AUDIT OF CONTRACTING ACTIVITY (CONSTRUCTION SCRR III.E.)

Refer to 41 CFR 60-4.3(a)7.0; and Part III.E of the Construction SCRR.

- (a) Record of Solicitations: One element of a good-faith commitment to AA is through the use of minority- and female-owned subcontracting firms. Such efforts must be documented. Records of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulations of solicitations to minority and women's contractor associations must be maintained and produced upon request. (See Item III.E.1. of the Construction SCRR.) In assessing the contractor's efforts in this regard, the CO should:
- (1) Determine whether there are solicitations to minority and female contractors, suppliers, and associations.



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- (2) Verify that the solicitations to minority and female contractors and suppliers are made on the same basis as those to nonminority male contractors.

4J INTERVIEWS

4J00 GENERAL

Conduct of Interviews: See Chapter 3 for guidance on conducting interviews.

During worksite inspections of the contractor's Federal and nonfederal projects, the CO should interview:

- (a) Supervisors: Interview supervisors to determine if they are aware of and adhere to the AA specifications. Supervisory personnel are often the individuals to whom applicants speak concerning employment opportunities, and they are likely to make job and overtime assignments.
- (b) Other Employees: Interview nonminority males, as well as minorities and women. If the contractor has only a few female and/or minority employees, every effort should be made to interview each one. If all minority males cannot be interviewed, a representative sampling from each trade should be selected for interview. In addition, interview former minority and female employees to determine how they were treated on the job by the contractor and coworkers. Is there any evidence of sexual or racial harassment?
- (c) Number of Interviews: Conduct sufficient interviews of employees and supervisors to resolve any outstanding issues or questions.
- (d) Davis-Bacon Complaints: Refer any complaints received from employees relating to the Davis-Bacon Act wage rates to the local U.S. Department of Labor Wage and Hour office.

4K COMPLIANCE WITH 41 CFR PART 60-20

All construction contractors, whether involved in Federal or federally assisted construction work, must be able to demonstrate compliance with 41 CFR Part 60-20, the Sex Discrimination Guidelines. Refer to Chapter 3 for procedures to be followed in reviewing for compliance with these requirements. Describe the contractor's compliance with these guidelines in Section III.F. of the Construction SCRR.



4L COMPLIANCE WITH 41 CFR PART 60-50

All construction contractors, whether involved in Federal or federally assisted construction work, must be able to demonstrate compliance with 41 CFR Part 60-50, Guidelines on Religion and National Origin. Refer to Chapter 3 for procedures to be followed in reviewing for compliance with these requirements. Describe the contractor's compliance with these guidelines in Section III.G. of the Construction SCRR.

4M COMPLIANCE WITH 41 CFR PART 60-250 AND 41 CFR PART 60-741

Construction contractors with Federal contracts or subcontracts of \$10,000 or more are required to comply with the requirements of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and its implementing regulations at 41 CFR Part 60-250. Similarly, construction contractors with Federal contracts or subcontracts in excess of \$10,000 are required to comply with the requirements of Section 503 of the Rehabilitation Act of 1973, as amended, and its implementing regulations at 41 CFR Part 60-741. Refer to Chapters 2 and 3, for procedures to be followed in assessing contractor compliance with these requirements. Describe in detail the Federal contractor/subcontractor's compliance with these Acts and implementing regulations in Section III.H. of the Construction SCRR.

4N PHYSICAL INSPECTION OF CONTRACTOR WORKSITES

4N00 PURPOSE

The purpose of conducting an inspection of worksites is to obtain additional information regarding the contractor's compliance with the requirements including, requirements that must be implemented at such sites; e.g., posting of policy, EEO poster, etc. In addition, the type of work performed, the conditions under which it is performed, and the makeup of the workforce performing that work can be documented through the onsite inspection.

4N01 SELECTION OF WORKSITES FOR INSPECTION

At least one construction worksite should be inspected as part of the compliance review. Whenever possible, nonfederally involved worksites should also be inspected.



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4N02 INVESTIGATION OF COMPLIANCE

- (a) **Technical Requirements:** The CO should review bulletin boards maintained onsite to ensure that contractor's EEO policy has been posted, and that the required notice at 41 CFR 60-1.42 has also been posted. For contractors subject to the AAP requirements of 41 CFR Parts 60-2, 60-250, and 60-741, determine whether notice of the location and hours of availability of the written AAP(s) should also be posted. Contractors may utilize onsite bulletin boards to disseminate the invitation to self identification (see Chapter 3, 41 CFR 60-250.5(d) and 60-741.5(c)).
- (b) **Working Conditions:** Review working conditions to determine whether there is evidence of harassment, intimidation, or coercion of women or minorities including, for example, a substantial difference in the conditions available to women and/or minorities. Where feasible, two or more women should be assigned to the project(s). Also ensure that all facilities are nonsegregated, and that, where appropriate, separate or single-user toilet and changing facilities are provided to ensure privacy between the sexes.
- (c) **Interviews:** Conduct interviews with onsite supervisors, and with members of each of the trades used by the contractor. Persons interviewed should include minorities and nonminorities, men, and women. Interviews should be directed at determining whether or not the contractor has complied with those requirements involving interaction with minorities and women in its construction workforce; e.g., encouraging present minorities and women to recruit others (41 CFR 60-4.3(a)7.j); conducting an annual inventory of minority and female employees for promotional opportunities (41 CFR 60-4.3(a)7.l); and review of the contractor's EEO policy with management personnel and with minorities and women (41 CFR 60-4.3(a)7.f). (See Section 4J, above, and Chapter 3.)

40 IDENTIFICATION AND RESOLUTION OF EMPLOYMENT DISCRIMINATION

Questions of potential individual or systemic discrimination may be identified during the compliance review. Chapter 3, Section 3J, contains a detailed description of the procedures to be used for gathering and analyzing facts to determine whether employment discrimination exists. These procedures are directed primarily at supply and service reviews, but may be adapted for use in construction compliance reviews. The theoretical bases for proving discrimination, described in Chapter 7, are equally applicable to employment discrimination identified in construction compliance reviews. Remedies for employment discrimination are also found at Chapter 7.



4P VOLUNTARY TRADE ASSOCIATIONS

Other factors may need to be considered in determining a contractor's compliance status, such as participation in and use of the affirmative action efforts of a voluntary trade association, Hometown Plan, Heavy Highway Plans, etc. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant may be asserted as fulfilling any one or more of its obligations providing that the contractor:

- (a) Actively participates in the groups;
- (b) Makes every effort to ensure that the concrete benefits of the program are reflected in its workforce participation; and
- (c) Can provide documentation which demonstrates the effectiveness of specific action taken on its behalf.

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. (See 41 CFR 60-4.5 on Hometown Plans.)

4Q STANDARD CONSTRUCTION COMPLIANCE REVIEW REPORT (CONSTRUCTION SCRR, CC-40) (APPENDIX 4A)

4Q00 USE OF CONSTRUCTION SCRR

The CO shall use the CC-40 to report the results of compliance reviews of construction contractors. It is designed to provide objective measures of a contractor's efforts to implement the required AA obligations specified in the regulations.

In investigating discrimination, the CO should use appropriate pages/worksheets from the SCRR (Construction SCRR, CC-50), as appropriate.

4Q01 NARRATIVE SUMMARY

See Part V of the Construction SCRR. The narrative summary should be organized as follows:

- (a) Scope of Review: Briefly state those items covered in the pre-review, the onsite review and the project interviews.



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- (b) Analysis: Present an analysis of pertinent materials for each area examined. Sources of information must be identified; e.g., interviews conducted, records examined, worksites inspected, and community contacts made. Where deficiencies are found, the explanation must be sufficient to permit a person who is

unfamiliar with the case to understand the basis for each deficiency determination.

Provide detailed narrative information on problem areas identified during the course of the review concerning the contractor's:

- (1) Recruitment practices,
 - (2) Training,
 - (3) EO/AA policy and implementation,
 - (4) Personnel operations,
 - (5) Contracting activity,
 - (6) Affected class situations,
 - (7) Implementation of 41 CFR Part 60-20,
 - (8) Implementation of 41 CFR Part 60-50, and
 - (9) Implementation of Section 503 and 38 U.S.C. 4212 (where Federal construction contracts or subcontracts are involved).
- (c) Conclusions: The CO must make a final assessment of the findings and how these relate to the contractor's compliance status.
- (d) Resolution: If violations are identified, the CO must describe the corrective action necessary for the contractor to be considered in compliance. Specific corrective actions must be agreed to and set forth in a LOC or CA, as appropriate (see Sections 4T and 4U, below), or a Show-Cause Notice must be issued (see 41 CFR 60-4.8, and Chapter 8).



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- (e) Recommendations: The CO must recommend that the contractor be found either in apparent compliance or noncompliance. Reasons to support the CO's recommendation must be documented in the case file.

4R EXIT CONFERENCE

4R00 Content of Conference

The CO should conduct an exit conference, attended by the construction firm's CEO and/or his/her designee at the conclusion of the on-site review. During this conference, the CO should:

- (a) Outline: Outline the results of the review.
- (b) Violations and Corrective Actions: Identify any violations, and the corrective actions necessary to resolve the violations.
- (c) Further Notice: Inform the contractor that it will receive a written notice summarizing the violations and giving remedies required.
- (d) Types of Resolution Documents: Inform the contractor that the violations may be resolved with an acceptable LOC or CCA, as appropriate.
- (e) Additional Information: Where the contractor disputes the violation finding, assure the contractor that OFCCP will consider any pertinent additional evidence submitted within a specified time before determining its compliance status.

4S NOTIFICATION OF COMPLIANCE REVIEW RESULTS

4S00 NO APPARENT VIOLATIONS

When no violations are found, the CO will prepare a letter of no apparent violations, to be issued and signed by the DD/ADD (See Figure 4-2.).

4S01 VIOLATIONS IDENTIFIED



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- (a) Preparation: When violations are found, the CO will prepare a Notice of Violation (NOV), to be issued and signed by the DD/ADD (See Chapter 8.).
 - (b) Content of Notice: The Notice must include full details of each deficiency/ violation, including appropriate citations to the regulations, and the corrective actions necessary to resolve the noncompliance.

4S02 RESOLUTION OF VIOLATIONS

The nature of the violations will determine whether they may be voluntarily resolved through a LOC or CA. (See Sections 4T and 4U, below, for a discussion of these resolution documents.)

4T USE OF CONCILIATION AGREEMENTS

4T00 TYPES OF VIOLATIONS RESOLVED

Unless Section 4U01 is applicable, violations such as those listed below should be resolved in a CA:

- (a) List of Recruitment Sources: Failure to maintain list of minority and female recruitment sources, to provide written notice to these sources and community organizations regarding job opportunities, and maintaining records of their responses (41 CFR 60-4.3(a)7.b).
- (b) List of Applicants: Failure to maintain a file of the names, addresses, and telephone numbers of each minority and female applicant and referral, and the actions taken (41 CFR 60-4.3(a)7.c).
- (c) Referrals to Unions: If applicants are referred to a union, failure to document results of this referral and any additional action taken (41 CFR 60-4.3(a)7.c).
- (d) Impeding AA Efforts: Failure to notify OFCCP that a union is impeding the contractor's AA efforts (41 CFR 60-4.3(a)7.d).
- (e) Direction of Recruitment Efforts: Failure to direct its recruitment efforts to minority, female and community organizations, schools, and training organizations (41 CFR 60-4.3(a)7.i).
- (f) Training Programs: Failure to develop on-the-job training opportunities and/or participate in training programs expressly for minorities and women (41 CFR 60-4.3(a)7.e).



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- (g) Annual Review of Specifications: Failure to review, at least annually, the obligations under the specifications with all employees having responsibility for employment decisions (41 CFR 60-4.3(a)7.g).
 - (h) Annual Review of EO/AA Performance: Failure to conduct an annual review of its supervisors' adherence to and performance under EO/AA obligations (41 CFR 60-4.3(a)7.p).
 - (i) Annual Inventory: The contractor's failure to conduct an annual inventory/ evaluation of minority and female employees for promotional opportunities (41 CFR 60-4.3(a)7.l).
 - (j) Intimidation or Harassment: Evidence of intimidation, harassment, or coercion (41 CFR 60-4.3(a)7.a).
 - (k) Validation: Failure to validate tests and selection procedures where required under 41 CFR Part 60-3 (41 CFR 60-4.3(a)7.k).
 - (l) Monitoring Personnel Activities: Failure to monitor all personnel and employment activities to ensure nondiscriminatory effect (41 CFR 60-4.3(a)7.m).
 - (m) Segregated Facilities: Evidence of segregated facilities except where separate facilities are necessary to provide privacy between sexes (41 CFR 60-4.3(a)7.n).
 - (n) Submission of CC-257s: Failure of the contractor to submit CC-257s where required, or failure to report its employment utilization completely, accurately, and/or in a timely manner (41 CFR 60-1.4(a)5.; 41 CFR 60-1.4(b)5.; 41 CFR 60-1.7(a)(4)).
 - (o) Discrimination: All investigations in which evidence of employment discrimination is found.

4U USE OF LETTER OF COMMITMENT (LOC)

4U00 TYPES OF VIOLATIONS RESOLVED

A LOC may be used to correct violations such as those listed below:

- (a) Encouragement to Recruit: Failure of the contractor to encourage present minority and/or female employees to recruit other minorities and women, and failure to provide after school, summer, and vacation employment to minorities and women, where reasonable (41 CFR 60-4.3(a)7.j).



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- (b) Dissemination of Policy Internally: Failure of the contractor to disseminate its EEO policy to unions and training programs; to include its policy in, for example, a policy manual and/or CBA; or to publicize its EEO policy in contractor printed materials. Failure of the contractor to conduct an annual review of its policy with minority and female employees and with management personnel and/or to post EEO policy (41 CFR 60-4.3(a)7.f).
 - (c) Dissemination of Policy Externally: Failure of the contractor to disseminate its EEO policy externally (41 CFR 60-4.3(a)7.h).
 - (d) Documentation of Solicitations: Failure of the contractor to document and maintain a record of solicitations for offers for subcontracts from minority and female subcontractors and suppliers, including circulation of solicitations to minority and female contract or associations and other business associations (41 CFR 60-4.3(a)7.o).
 - (e) Award of Covered Subcontracts: Failure of the contractor to provide notice to OFCCP of the award of a construction subcontract in excess of \$10,000, as required by the Notice at 41 CFR 60-4.2(d) (paragraph 3).

4U01 SUBSTANTIAL COMPLIANCE

If a contractor demonstrates substantial compliance with a good-faith step or steps listed under Section 4T above, and the contractor was not found in violation of any other step under that section, a LOC may be used to resolve the violation. Determining whether substantial compliance has occurred, the CO must take into consideration the size of the contractor, the resources available to it, and the effectiveness of its compliance with the other specifications in meeting its goals.

4U02 NON-COMPLIANCE WITH REQUIREMENTS UNDER SECTION 503/38 U.S.C. 4212

Notwithstanding the provisions of Section 4U01 above, where a contractor covered by the provisions of Section 503 of the Rehabilitation Act of 1973, as amended, and/ or the provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, is found to be in violation of its implementing regulations, to the extent that such violation(s) must be remedied in a CA (see Chapter 8), the contractor shall be required to incorporate all identified violations in the CA, including those involving the non-major violations of 41 CFR Part 60-4. (See 4U00 above.)

4V REVIEW COMPLETION LETTER



Figure 4-2 provides a format for a Notice of Review Completion where no violations were found. Where a violation(s) was found, sample Notices of Review Completion are provided in Chapter 8. Figure 8-15 is used where minor deficiencies were resolved in a LOC. Figure 8-13 or 8-14 is used where major deficiencies were voluntarily resolved in a CA. If a Show-Cause Notice was issued, use Figure 8-13, which includes rescission of the Show-Cause Notice. If no Show-Cause Notice was issued, use Figure 8-14.

4W REFERRAL FOR ENFORCEMENT

If violations cannot be resolved in a LOC or CA, the case will be recommended for enforcement. Refer to 41 CFR 60-4.8 and Chapter 8.



**U.S. Department of Labor
Employment Standards Administration
Office of Federal Contract Compliance Programs**

**Federal Contract Compliance Manual (FCCM)
CHAPTER IV - CONSTRUCTION INDUSTRY COMPLIANCE PROGRAM**

FIGURES



Figure 4-1: LETTER TO EEOC AND OTHER AGENCIES

Name of Agency Office
Street Address
Post Office Box Number, if Applicable
City, State, Zip Code

Dear *(Representative of Agency)*:

A compliance review of *(Name and Address of Construction Firm)* has been scheduled.

Please forward any information you have concerning complaints filed against this contractor and/or other information about its Equal Employment Opportunity posture in the community which you believe should be considered during the course of the review.

A prompt response would be appreciated.

Sincerely,

Compliance Officer



***Figure 4-2: LETTER OF REVIEW COMPLETION FORMAT, NO DEFICIENCIES FOUND
(CONSTRUCTION)***

Mr. John Scott
President and Chief Executive Officer
B & V Construction Company
450 Newton Avenue
Somewhere, Pennsylvania 16543

Dear Mr. Scott:

Our compliance review of your construction firm's equal employment opportunity policies and practices has been completed. It covered your firm's compliance with Executive Order 11246, as amended, ([include if applicable:] the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, and Section 503 of the Rehabilitation Act of 1973, as amended) and its (their) implementing regulations at 41 CFR Chapter 60, in the covered area consisting of *(name of SMSA or names of counties in the EA)*.

This is to advise you that we found no apparent violations of those requirements in the covered area indicated above. This determination may be modified by the Assistant Regional Administrator, or by the DAS, OFCCP, within 45 days of issuance of this letter.

This determination does not preclude a future determination of noncompliance based on a finding that your firm has failed to comply with its affirmative action obligations.

(Optional Paragraph)

The Office of Federal Contract Compliance Programs sincerely appreciated the cooperation and courtesies extended by you and your staff during the conduct of the compliance review.

Sincerely,

DD/ADD



Figure 4.3: MONTHLY EMPLOYMENT UTILIZATION REPORT (CC-257)

Not available in electronic format