

remedies, for all aggrieved persons covered by the Title VII charge. If conciliation is successful, the conciliation agreement will state that the complainant/charging party agrees to waive the right to pursue the subject issues further under Title VII. OFCCP will close the Title VII component of the compliant/charge, and promptly notify EEOC's Director, Office of Field Programs, of the closure.

(ii) Unsuccessful Conciliation—When conciliation is not successful, the Executive Order 11246 component of the compliant/charge will be considered for further OFCCP processing consistent with OFCCP's usual procedures. At the conclusion of OFCCP processing, OFCCP shall transmit the Title VII charge component to EEOC for any action EEOC deems appropriate. If EEOC declines to pursue further action, EEOC will close the Title VII charge and issue a notice of right-to-sue.

(5) Issuance of Notice of Right-to-Sue Upon Request—Consistent with the Title VII procedures set forth at 29 CFR 1601.28, after 180 days from the date the complaint/charge was filed, OFCCP shall promptly issue upon request a notice of right-to-sue on the Title VII component of a compliant/charge that it retains. Issuance of a notice of right-to-sue shall terminate further OFCCP processing of the Title VII component of the complaint/charge unless it is determined at that time or at a later time that it would effectuate the purposes of Title VII to further process the Title VII component of the compliant/charge.

(6) Subsequent Attempts to File an EEOC Charge Covering the Same Facts and Issues—If an individual who has already filed an OFCCP complaint/charge that is deemed dual filed under Title VII subsequently files a Title VII charge with EEOC covering the same facts and issues, EEOC will forward the charge to OFCCP for consolidated processing.

#### 8. Confidentiality.

(a) When EEOC provides information to OFCCP, then the confidentiality requirements of sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964 apply to that information. When OFCCP receives the same information from a source independent of EEOC, the preceding sentence does not preclude disclosure of the information received from the independent source. However, OFCCP will also observe any confidentiality requirements imposed on such information by the Trade Secrets Act or the Privacy Act.

(b) When OFCCP obtains information from its receipt, investigation, and processing of the Title VII component of a dual filed charge, or when OFCCP creates documents that exclusively concern the Title VII component of a dual filed charge, OFCCP will observe any confidentiality requirements imposed on such information by the Trade Secrets Act, the Privacy Act, and sections 706(b) and 709(e) of the Civil Rights Act of 1964.

(c) Questions concerning confidentiality under Title VII shall be directed to EEOC's Deputy Legal Counsel for Legal Services, Office of Legal Counsel.

(d) Questions concerning confidentiality under Executive Order 11246, as amended, or 38 U.S.C. 4212 (Section 402 of VEVRAA)

shall be directed to OFCCP, Director, Division of Program Operations.

9. OFCCP and EEOC seek to ensure consistent compliance and enforcement standards and procedures that will facilitate consistency of compliance determinations. The agencies also seek to make the most efficient use of their available resources through coordination. Accordingly, the CCC shall advise in the development of standards and procedures for both agencies, including, but not limited to:

- Criteria and mechanisms for selecting industries and organizations for review and investigation;
- Procedures for routine access to and exchanges of electronic data bases, including, but not limited to, lists of proposed and completed compliance reviews, systemic, ELI and individual cases and conciliation agreements and settlements;
- Consistent analytical approaches to identifying and defining employment discrimination and determining appropriate remedies;
- Uniform training programs and training materials;
- Joint Policy statements;
- Procedures for coordinated collection, sharing and analysis of data;
- Joint projects to develop consistent definitions and to share expertise, foster consistency, and reduce duplicative efforts in such areas as: analysis of employee selection procedures, labor market availability and use of employment statistics;
- Procedures to be utilized in obtaining compliance with OFCCP or EEOC requests for data and information, pursuant to investigations under either Title VII or Executive Order 11246.

10. EEOC and OFCCP shall conduct periodic reviews of the implementation of this agreement, on an ongoing basis.

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BILLING CODE 6570-01-M and 4510-27-M

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### Department of Labor

#### Coordination of Functions; Memorandum of Understanding

AGENCY: Equal Employment Opportunity Commission and Department of Labor.

ACTION: Final notice.

**SUMMARY:** The Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL), Employment Standards Administration (ESA) have adopted a Memorandum of Understanding to maximize the effectiveness of the laws they enforce that prohibit unlawful compensation discrimination.

**EFFECTIVE DATE:** April 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carol R. Miaskoff, Assistant Legal

Counsel For Coordination, Equal Employment Opportunity Commission, (202) 663-4639 (voice), 202-663-7026 (TTY); or James I. Melvin, Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, Employment Standards Administration, Department of Labor, (202) 693-0102 (voice), (202) 693-1308 (TTY).

**SUPPLEMENTARY INFORMATION:** The Memorandum of Understanding will enhance enforcement of the federal laws prohibiting compensation discrimination, which are enforced by the EEOC and by the SOL's ESA. The agreement will reduce duplication of effort and result in increased enforcement activity on the issue of compensation discrimination through training of ESA personnel, and through sharing of information and data concerning potential issues of compensation discrimination.

EEOC enforces the Equal Pay Act of 1963 (EPA) and Title VII of the Civil Rights Act of 1964, which prohibit pay discrimination on the basis of sex. ESA's Office of Federal Contract Compliance Programs (OFCCP) enforces nondiscrimination requirements that apply to federal government contractors, primarily Executive Order 11246, and include prohibitions against discrimination in compensation. ESA's Wage and Hour Division enforces federal standards for wages and hours of work.

**Ida L. Castro,**

*Chairwoman, Equal Employment Opportunity Commission.*

**Alexis M. Herman,**

*Secretary of Labor.*

**Bernard E. Anderson,**

*Assistant Secretary, Employment Standards Administration.*

**Shirley J. Wilcher,**

*Deputy Assistant Secretary for Federal Contract Compliance.*

#### MEMORANDUM OF UNDERSTANDING BETWEEN THE EMPLOYMENT STANDARDS ADMINISTRATION AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

##### I. Background and Purpose

The purpose of this Memorandum of Understanding (MOU) is to maximize the effectiveness of those laws enforced by the Employment Standards Administration (ESA) and the Equal Employment Opportunity Commission (EEOC) which prohibit unlawful compensation discrimination, and other unlawful compensation practices.

Historically, EEOC and ESA have maintained excellent working relationships in areas of mutual law

enforcement interest. EEOC enforces Title VII of the Civil Rights Act of 1964, and the Equal Pay Act of 1963, among other equal employment opportunity laws. The ESA Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246, as amended, and other contract-based equal employment opportunity laws. The ESA Wage and Hour Division (WHD) enforces the Fair Labor Standards Act, the Family and Medical Leave Act (FMLA) and other laws establishing minimum wage and labor standards.

The agreement will enhance enforcement efforts to prohibit compensation discrimination and reduce duplication of effort. It will also result in increased enforcement activity on the issue of compensation discrimination through the training of ESA personnel, and through the sharing of information and data.

## II. Agency Authorities and Responsibilities

### *Employment Standards Administration*

Office of Federal Contract Compliance Programs: Executive Order 11246, as amended, and its implementing regulations, prohibit covered federal contractors from discriminating in employment on the basis of race, color, sex, religion, or national origin, and require them to take affirmative action to ensure that equal opportunity is provided in all aspects of employment, including compensation.

### *Wage and Hour Division*

The Fair Labor Standards Act of 1938 (FLSA) establishes minimum federal standards for wages and hours of work. The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks of unpaid job-protected leave a year for qualifying family leave reasons.

### *EEOC*

The Equal Pay Act of 1963 prohibits employers from paying employees at a rate less than employees of the opposite sex at the same establishment "for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions . . . 29 U.S.C. 206(d)(1). Title VII of the Civil Rights Act of 1964 protects individuals from employment discrimination based on sex, race, color, religion, and national origin.

## III. Provisions

### *Training*

Consistent with available resources, EEOC and ESA will develop and provide training to assist WHD enforcement staff in recognizing potential compensation discrimination. EEOC and ESA will determine the exact nature of the training, as well as costs and payment responsibilities, by consensus.

### *Transfer of Information*

When, in the course of its enforcement activities, or through other sources, WHD learns of a potential issue of compensation discrimination, the WHD may, to the extent authorized by law, provide such information to OFCCP for a determination of the employer's contract status and for appropriate action. If OFCCP determines that the employer is not a federal contractor, but may be covered by the Equal Pay Act or Title VII, OFCCP may, to the extent authorized by law, provide the information to EEOC.

When in the course of its activities, OFCCP identifies potential issues of compensation discrimination, OFCCP may, to the extent authorized by law, share such information, as appropriate, with EEOC, as well as any other information that will enhance the effectiveness of the EEOC as an enforcement agency.

Likewise, when, in the course of its enforcement activities, EEOC identifies potential issues of compensation discrimination, EEOC may, to the extent authorized by law, share such information, as appropriate, with OFCP, as well as any other information that will enhance the effectiveness of the Employment Standards Administration's OFCCP and WHD as enforcement agencies or programs.

Exchanges of information will, generally, include any supporting documentation gathered during contact with employers, potential complainants, or other sources of information. The agency receiving information has the responsibility to ensure that any disclosures of the information are in conformance with all provisions of law that apply to the employees of the originating agency, including Section 706(b) and Section 709(e) of Title VII of the Civil Rights Act of 1964. The agency receiving the information is also bound to take all appropriate steps to assure that the information is protected from unauthorized disclosure or use.

ESA and EEOC will provide each other with semi-annual reports of actions taken on compensation discrimination referrals provided

pursuant to this MOU. OFCCP and EEOC headquarters staff will meet periodically to coordinate enforcement on questions relating to compensation discrimination.

## IV. Agreement

The provisions of this Memorandum of Understanding may be reviewed and jointly modified as appropriate when it is determined by ESA and EEOC that such review and modification is in the interest of their respective enforcement responsibilities.

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## FEDERAL COMMUNICATIONS COMMISSION

[DA 99-643]

### Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

**SUMMARY:** This Public Notice advises interested persons of a meeting of the Public Safety National Coordination Committee ("NCC"), which will be held at the Federal Communications Commission in Washington, D.C. The Federal Advisory Committee Act, Public Law 92-463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the initial meeting of the Public Safety National Coordination Committee.

**DATES:** April 29, 1999 at 10:00 a.m.—5:00 p.m.

**ADDRESSES:** Federal Communications Commission, Commission Meeting Room, Room TW-C305, 445 12th Street, S.W., Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** D'wana R. Terry, telephone (202) 418-0680. Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202-418-0600, or e-mail mmccarri@fcc.gov.

**SUPPLEMENTARY INFORMATION:** Following is the complete text of the Public Notice: The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764-776/794-806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements