



TRANSMITTAL

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

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Number: 223

Date: April 15, 1998

ADM Notice/PreAw

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1. **SUBJECT:** Revisions in the Pre-Award Clearance Procedures and Information Concerning OFCCP's Pre-Award Registry
2. **PURPOSE:** To provide clarification of the pre-award requirements as stipulated in 41 CFR 60-1.20(d); to provide an explanation of the operating procedures of OFCCP's new Pre-Award Registry
3. **ORIGINATOR:** Division of Policy, Planning and Program Development, Branch of Policy Development and Procedures

4. **FILING INSTRUCTIONS:**

Holders of ADM and LEG Binders only: File this Notice behind the "PreAw" tab in your Administrative Practices Binder.

District and Area Office EOSs and EOAs only:  
File this Notice behind the tab for ADM Directives in your FCCM Binder.

5. **OBSOLETE DATA:** None
6. **DISTRIBUTION:** A, B (both hard copy and electronically);  
C (hard copy only)

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(sgd) Shirley J. Wilcher  
SHIRLEY J. WILCHER  
Deputy Assistant Secretary for  
Federal Contract Compliance

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**U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS  
WASHINGTON, D.C. 20210**

**OFCCP Order No. ADM Notice/PreAw**

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3. **ORIGINATOR**: Division of Policy, Planning and Program Development, Branch of Policy Development and Procedures
4. **BACKGROUND**: Executive Order 11246 prohibits employment discrimination and establishes affirmative action requirements for nonexempt Federal contractors and subcontractors. It has not undergone substantial revision since the 1970s. However, OFCCP has revised its implementing regulations in order to reduce compliance burdens on covered contractors, and to improve efficiency.

Administrative burdens have been reduced in several ways. First, the dollar threshold at which pre-award clearance of a prospective contractor must be obtained has been raised from \$1 million to \$10 million. Second, the time frames in which a pre-award clearance decision must be made have been reduced. Third, OFCCP has established a Pre-Award Registry on the Internet, available for use by the procurement community.

5. **POLICY**: Section 60-1.20(d) of Title 41 of the Code of Federal Regulations (CFR), as published in the August 19, 1997, Federal Register, provides that, "Each (contracting) agency shall include in (its) invitation for bids for each formally advertised nonconstruction contract or state at the outset of negotiations for each negotiated contract, that if the award, when let, should total \$10 million or more, the prospective contractor and its known first-tier subcontractors with subcontracts of \$10 million or more will be subject to a compliance evaluation before the award of the contract unless OFCCP has conducted an evaluation and found them to be in compliance with the Order within the preceding 24 months.

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"The awarding agency will notify OFCCP and request appropriate action and findings in accordance with this subsection. Within 15 days of the notice OFCCP will inform the awarding agency of its intention to conduct a pre-award compliance evaluation. If OFCCP does not inform the awarding agency of its intention to conduct a pre-award compliance evaluation, clearance shall be presumed and the awarding agency is authorized to proceed with the award. If OFCCP informs the awarding agency of its intention to conduct a pre-award compliance evaluation, OFCCP shall be allowed an additional 20 days after the date it so informs the awarding agency to provide its conclusions. If OFCCP does not provide the awarding agency with its conclusions within that period, clearance shall be presumed and the awarding agency is authorized to proceed with the award."

41 CFR 60-1.29 was not affected by the August 19, 1997, revision of 60-1. That section was in effect before August 19 and continues in effect. The section reads as follows:

§60 - 1.29 Pre-award notices.

"(a) Pre-award compliance reviews. Upon the request of the Deputy Assistant Secretary, agencies shall not enter into contracts or approve the entry into contracts or subcontracts with any bidder, prospective prime contractor, or proposed subcontractor named by the Deputy Assistant Secretary until a pre-award compliance review has been conducted and the Deputy Assistant Secretary or his designee has approved a determination that the bidder, prospective prime contractor or proposed subcontractor will be able to comply with the provisions of the equal opportunity clause.

"(b) Other special pre-award procedures. Upon the request of the Deputy Assistant Secretary, agencies shall not enter into contracts or approve the entry into subcontracts with any bidder; prospective prime contractor or proposed subcontractor specified by the Deputy Assistant Secretary until the agency has complied with the directions contained in the request."

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6. **OFCCP NATIONAL PRE-AWARD REGISTRY**: The National Pre-Award Registry, which is found on the Internet at [http://www.dol-esa.gov/ofccp/preaward/pa\\_reg.html](http://www.dol-esa.gov/ofccp/preaward/pa_reg.html), provides information on Federal Contractors which have been reviewed by OFCCP within the past 24 months and found to be in compliance with its Equal Employment Opportunity (EEO) regulations. This Registry is updated-nightly with information from the Compliance Review Information System (CRIS). Establishments reviewed more than two years ago are removed as new ones are added.

This system provides information only for the specific contractor establishments requested. It does not provide information on the Parent Organization or other establishment locations that have not been reviewed within the past two years. If a given establishment is found to be in compliance, this does not imply that other sibling establishments under the same parent organization received the same favorable finding.

This registry provides two primary functions:

- a search engine that will enable contracting agencies to search the Registry (in ascending or descending order) using the name of the contracting establishment;

and

- the capability to download the entire Registry, about 1 MB in comma delimited format, to the user's computer. Once downloaded, this information can then be imported into any word processor, spreadsheet or database software package.

The awarding contracting agencies are being advised that they may review the Registry to search for prospective Federal contractors to whom they intend to award contracts of \$10 million or more. If the specific contractor establishment receiving the contract is listed on the Registry, the contracting agency is not required to request pre-award clearance from OFCCP.

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If, however, the contractor is not listed in the Registry, regular pre-award request procedures must be followed.

7. **PENDING REVISION OF THE FAR:** We are working with staff members of the Federal Acquisition Regulation (FAR) Committee to acquaint them with the Registry and to include information about the Registry in the FAR. The inclusion of such information in the FAR will, in time, permit contracting officers to access the two-year file and make awards to listed contractors without contacting the Regional Office for pre-award clearance.



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