

**NOTICE OF AFFIRMATIVE ACTION PLAN FOR INDIVIDUALS WITH DISABILITIES,  
DISABLED VETERANS AND OTHER ELIGIBLE VETERANS**

It is the policy of this Company to seek and employ qualified individuals at all locations and facilities, and to provide equal employment opportunities for all applicants and employees in recruiting, hiring, placement, training, compensation, insurance, benefits, promotion, transfer, and termination. To achieve this, we are dedicated to taking affirmative action to employ and advance in employment qualified individuals with disabilities, disabled veterans, and other eligible veterans.

The objective in adopting the Affirmative Action Program is to place qualified individuals with disabilities, disabled veterans and other eligible veterans in all job classifications. This Affirmative Action Program is available for inspection by any applicant or employee by contacting the Company's EEO Coordinator, in the Human Resources office, Monday through Friday, 8am to 5pm.

(This Notice must be posted where employees and applicants will view it.)

**EQUAL OPPORTUNITY CLAUSE**  
**(Incorporated by Reference)**

(The following clause must be included in all Purchase Orders unless the contract is exempt under the rules and regulations of the Secretary of Labor issued pursuant to Executive Order 11246, as amended.)

"The Equal Employment Opportunity Clause required under Executive Order 11246, the affirmative action commitment for disabled veterans and other covered veterans, set forth in 41 CFR 60-250.5, the affirmative action commitment for disabled veterans and other protected veterans, set forth in 41 CFR 60-300.5, the affirmative action clause for disabled workers, set forth in 41 CFR 60-741.5, and the related regulations of the Secretary of Labor, 41 CFR Chapter 60, are incorporated by reference in this purchase order. By accepting this purchase order, vendor certifies that it complies with the authorities cited above, and that it does not maintain segregated facilities or permit its employees to perform services at locations where segregated facilities are maintained, as required by 41 CFR 60-1.8."

**ALTERNATIVE LANGUAGE:**

The parties hereby incorporate the requirements of 41 C.F.R. Section 60-1.4(a)(7), 60-250.5, 60-300.5 and 60-741.5, if applicable.

## **INTRODUCTION TO THE ADVERSE IMPACT ANALYSIS REPORTS**

For years, most government contractors were satisfied with completing only the Utilization Analysis required by E.O. 11246 and the implementing regulation, 41 C.F.R. Section 60-2.11(b). Underutilization is defined by the regulations as "having fewer minorities and women in a particular group than would reasonably be expected by their availability." Now, under increased pressure from Congress, OFCCP is looking beyond the Utilization Analysis and is bringing lawsuits against many unwary contractors by using the results of various statistical tests designed to show whether the contractor discriminates in its employment practices.

The tests most widely recognized by OFCCP are the 80% (or 4/5's Rule), the Fisher's Exact Test, and the Two Standard Deviation test, adopted from a 1981 Texas case, *Firestone Tire and Rubber Co. v. Marshall*, (D.C. Texas 1981) 507 F. Supp. 1330, 24 FEP 1699. The Firestone Court used the Two Standard Deviation Test to determine whether the difference between the contractor's current utilization of minorities and females and their availability was likely to have occurred by chance alone. The Fisher's Exact Test is most valid when analyzing small groups. Even job groups that pass the Utilization Analysis may fall short under these statistical tests and provide the impetus for litigation. OFCCP uses these tests on hires, promotions, terminations, and other selection processes used by the contractor as well. The Adverse Impact Analysis uses the Fisher's Exact Test and the Two Standard Deviation test to alert the contractor of any potential problem areas before OFCCP discovers them in an audit.

### **THE FISHER'S EXACT TEST**

This test was developed to more accurately compare the selection ratios of minorities to whites, and females to males in small sized groups. OFCCP in their Federal Contract Compliance Manual, Chapter Three, recommends that this test be used when the selection pool numbers less than thirty (30) persons and the expected number of selections of minorities or females is less than five (5). A number reported greater than .05 passes the Fisher's Exact test. A number of .05 or less is considered by the OFCCP to be a statistically significant indication that the difference in selection rates occurred by something other than chance.

### **THE TWO STANDARD DEVIATION ANALYSIS**

The Two Standard Deviation Analysis is a commonly used to analyze selection rates for groups of all sizes. We (and the OFCCP) recommend also looking at the figures reported under the Fisher's Exact test when analyzing groups in which the selection pool numbers less than thirty (30) persons and the expected number of selections of minorities or females is less than five (5). A group passes the Two Standard Deviation analysis if the number reported is between -2 and +2.

**POST-OFFER INFORMATION FORM FOR INDIVIDUALS WITH DISABILITIES & ELIGIBLE VETERANS**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position Applied for: \_\_\_\_\_

**CHECK ALL THAT APPLY:**

- Disabled?
- Disabled Veteran?
- Special Disabled Veteran?
- Vietnam Era Veteran?
- Other Protected Veteran?
- Newly Separated Veteran? (Date of Discharge \_\_\_ / \_\_\_ / \_\_\_\_\_)
- Armed Forces Service Medal Veteran?

This employer is a government contractor subject to section 503 of the Rehabilitation Act of 1973, as amended, and section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, which requires government contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities, disabled veterans, and other eligible veterans. If you have a disability or are a covered veteran and would like to be considered under the affirmative action program, please fill out and return this form.

You may inform us of your desire to benefit under the program at this time and/or at any time in the future. This information may assist us in placing you in the appropriate position and in making any necessary reasonable accommodation.

It is the policy at [Contractor's Name] to provide equal employment and advancement opportunities to all qualified individuals. To achieve this goal, [Contractor's Name] is dedicated to taking affirmative action to employ and advance in employment, qualified disabled persons, disabled veterans, and other eligible veterans. All personnel actions, including recruitment, hiring, training, and promoting persons in all job titles, will be administered without regard to disability or covered veteran status, and all employment decisions are based solely on valid job requirements.

Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. Information you submit about your disability or veteran status will be kept confidential, except that (1) supervisors and managers may be informed regarding restrictions on the work or duties of individuals with disabilities, and regarding necessary accommodations; (2) first aid and safety personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment; and (3) government officials engaged in enforcing discrimination laws may be informed. The information provided will not be used in a manner inconsistent with section 503 of the Rehabilitation Act of 1973 and section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

If you are an individual with a disability, a disabled veteran, or a covered veteran, we would like to include you in our affirmative action program. It would assist us if you tell us about (1) any special methods, skills, and procedures which qualify you for positions that you might not otherwise be able to do because of your disability so that you might be considered for any available positions of that kind, and (2) the accommodations which we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job, provision of personal assistance services or other accommodations.

#### DEFINITIONS:

"Disabled" A person is disabled if he or she has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment. [Applies to VETS-100 & VETS-100A reporting.]

"Disabled Veteran" (1) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or (2) A person who was discharged or released from active duty because of a service-connected disability. [Applies to VETS-100A reporting only.]

"Special Disabled Veteran" means (i) a veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under the laws administered by the Department of Veterans Affairs for disability (A) rated at 30 percent or more, or (B) rated at 10 or 20 percent in the case of a veteran who has been determined under Section 30 U.S.C. 3106 to have a serious employment handicap or (ii) a person who was discharged or released from active duty because of a service-connected disability. [Applies to VETS-100 reporting only.]

"Veteran of the Vietnam Era" means a person who: (i) served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed: (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975, in all cases; or (ii) was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-related disability if any part of such active duty was performed (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975 in any other location. [Applies to VETS-100 reporting only.]

"Other Protected Veteran" means a veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the Department of Defense. [Applies to VETS-100 & VETS-100A reporting.]

"Newly Separated Veterans" means any veteran who served on active duty in the U.S. military, ground, naval or air service during the three-year period beginning on the date of such veteran's discharge or release from active duty. [Applies to VETS-100 & VETS-100A reporting. VETS-100 uses a "one-year" instead of a "three-year" period.]

"Armed Forces Service Medal Veteran" means any veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985. [Applies to VETS-100A reporting only.]

# PRE-EMPLOYMENT INFORMATION FORM FOR WOMEN AND MINORITIES

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position Applied for: \_\_\_\_\_

## RACE / ETHNIC GROUP:

Hispanic / Latino? (If yes, check box and skip to Gender. Others use the race categories below:)

White

Black

Asian

American Indian / Alaska Native

Hawaiian / Pacific Islander

Two or More Races

GENDER: Male:  Female:

Signature: \_\_\_\_\_

Qualified applicants are considered for employment, and employees are treated during employment, without regard to race, color, religion, sex, national origin, age, marital status, medical condition, or disability.

Please complete this information to assist us in complying with equal opportunity/affirmative action record keeping and reporting requirements. Providing this information is voluntary, refusal to provide the information will not result in any adverse treatment. This Information Form will be kept in a separate, confidential file and will be used only for safety and government reporting purposes.

## **SAMPLE LETTER - COLLEGE RECRUITMENT**

Dear \_\_\_\_\_:

In light of our recruitment efforts at your institution, we would like to take this opportunity to reaffirm (Company Name) position as an Equal Opportunity - Affirmative Action Employer. We request that among the applicants referred to us for interviews, you include qualified minority, women, veteran, and disabled individuals.

We appreciate your efforts and assistance in this area.

Sincerely,

(Name)  
EEO Coordinator

**SAMPLE LETTER - DISSEMINATED TO UNION**

Dear \_\_\_\_\_:

(Company) strives to comply with the requirement of Executive Order 11246, as amended, related to affirmative action; Section 503 of the Rehabilitation Act and the Americans with Disabilities Act, covering the employment of the disabled; and Section 402 of the Vietnam Era Readjustment Assistance Act of 1974, covering the employment of veterans.

Regulations currently require that a non-discrimination clause be part of all collective bargaining agreements. Please consider this letter as official notice that we will comply with all applicable Federal laws, regulations, and rulings in our hiring and employment activities. This is not intended in any way to circumvent our present collective bargaining agreement.

We appreciate your cooperation in our effort to fully comply with these Federal requirements.

Sincerely,

(Name)  
EEO Coordinator

## **SAMPLE LETTER - RECRUITMENT SOURCE**

Dear \_\_\_\_\_:

(Company Name) has a long standing policy of Equal Opportunity in employment. Our practice is to fill positions by selecting applicants who can perform the work in a competent and professional manner. We do not discriminate on the basis of age, sex, race, color, religion, national origin, disabled, or veteran status. Our continued dealing with any community assistance group, agency, institute of higher learning, or placement service is predicated on an understanding of and compliance to this policy.

We expect your services to include active recruitment and referral of qualified minorities, women, disabled and veteran individuals.

Sincerely,

(Name)  
EEO Coordinator

## SAMPLE LETTER - SUBCONTRACTORS, VENDORS & SUPPLIERS

Dear \_\_\_\_\_:

It is the policy at (Company) to provide equal employment and advancement opportunities to all qualified individuals. To achieve this goal, (Company) is dedicated to taking affirmative action to employ and advance in employment qualified women, minorities, disabled persons, disabled veterans, and other protected veterans, in compliance with Executive Order 11246, Section 503 of the Rehabilitation Act of 1973 and Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 (2001) ("Section 4212" or "VEVRAA") and the implementing regulations. (Company) is committed to take voluntary, positive action in providing affirmative action and equal employment opportunity to women, minorities, disabled persons, disabled veterans, and other protected veterans. All personnel actions, including compensation, benefits, recruitment, hiring, training, and promoting persons in all job titles, will be administered without regard to race, ethnicity, national origin, gender, disability, veteran, or other protected status, and all employment decisions are based solely on valid job requirements. In addition, employees and applicants are protected from harassment, threats, coercion, intimidation, interference or discrimination for:

- (1) Filing a complaint;
- (2) Assisting or participating in an investigation, compliance review, hearing, or any other activity under Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 or any other law requiring equal opportunity for disabled persons, and other protected veterans;
- (3) Opposing any practice made unlawful by these laws, or
- (4) Exercising any other right protected by these laws.

As a federal government contractor, (Company) expects all of its subcontractors, suppliers and vendors to comply with all of their applicable obligations under Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 or any other law requiring equal opportunity for disabled persons, and other protected veterans. Further, the equal employment opportunity clauses set forth in 41 CFR 60-1.4(a), 41 CFR 60-250.5(a) and 41 CFR 60-741.5(a) are hereby incorporated by reference into all of the transactions between our companies.

We appreciate your cooperation in our effort to fully comply with these Federal requirements.

Sincerely,

(Name)  
EEO Coordinator

## UNDERSTANDING YOUR REPORTS

**NARRATIVE** - The narrative portion of your plan describes the structure and policies backing your affirmative action program. Review the narrative to ensure it accurately reflects your affirmative action program. The Current Plan Year Analysis section provides a general analysis of the problem areas by job group. References are made to your recruiting patterns and selection rates for hires, promotions and terminations. OFCCP is now, during audits, concentrating on this section as well as the Action Oriented Programs section. You are encouraged to add to this section by listing specific reasons why you feel there is underutilization or adverse impact that may exist in any of your job groups; and by listing specific action plans you will take during the plan year that will aim to address the issues.

**WORKFORCE ANALYSIS** - The Workforce Analysis report lists all jobs in each department by salary range (lowest to highest), race, and sex. This report also shows the total number of males, females and minorities for each job and department. Employees from other facilities that were included in the report are noted. The Annotations report following the Workforce Analysis lists the total number of males, females and minorities for each job and department that work at your facility but report to or are hired through another facility. These employees should be included in the plan for the facility they report to or are hired through.

**JOB GROUP ANALYSIS** - The Job Group Analysis report lists all jobs in each job group by race and sex, and shows the total number of males, females and minorities for each job and job group. Employees from other facilities that were included in the report are noted. The Annotations report following the Job Group Analysis lists the total number of males, females and minorities for each job and job group who work at your facility but report to or are hired through another facility. These employees should be included in the plan for the facility they report to or are hired through.

**AVAILABILITY ANALYSIS** - The Availability Analysis report analyzes your workforce by matching the current percentage of minorities and females you have in the jobs that make up each job group to the percentage of minorities and females that are available in the labor market you use to fill those jobs. The top of the reports shows the name of the job group, and the total number of total employees, females, and minorities that constitute the job group. To determine minority and female availability, the OFCCP has developed two main factors that you see listed in the middle of the report.

To determine female and minority availability, these factors are:

1. The percentage of minorities or women with requisite skills in the reasonable recruitment area.
2. The percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization.

We have broken these down into Factors 1A (local census area), 1B (non-local census area), 1C (training institutions), 2A (promotable/transferable) and 2B (persons trainable). Factors 1A & 1B represent those individuals in relevant labor market areas who currently have the skills and experience for the jobs in the job group. Factor 1C is the percent of minorities and females at training institutions where your company recruits who have the educational training in areas needed by your company. These factors are more often applicable to job groups where a higher level of training or experience is required. Factor 2A gives the percentages of females and minorities in job groups that "feed" into the job group being analyzed. Factor 2B gives the percentage of minorities and females in your workforce who are trainable for promotion or transfer during the current plan year.

There are two columns of figures under the Minorities and Females headings. The first column gives the total percent of availability (Raw Percent) for each factor. The second column representing the Net Percent is the result of the multiplication of the percentage under the Weight Factor column times the raw percentage. The Weight Factor column is the degree of consideration you give to each factor when filling

the jobs in each job group. A zero percentage is shown where no consideration is given to that factor. Adding the percentages in the Net Percent column yields the total percentage of availability for minorities and females. Listed just below this availability figure is the current percentage of minorities and females found in the job group. The total availability and the utilization are compared in a 2 Standard Deviations test to determine whether your organization is underutilized in minorities and/or females in the job group. If the current utilization percentage of females and minorities is beyond 2 Standard Deviations of their availability percentage, a placement goal is set; the goal is the total percent availability.

**UTILIZATION SUMMARY REPORT** - This report is a summarization of each job group giving the total number of employees, minorities, and females, the number of minorities and females each job group is under utilized, and the percentages of availability and underutilization.

**ANNUAL GOALS REPORT** - This report displays the placement goals of each job group that is underutilized in females and/or minorities. The placement goal is equal to the total availability percentage calculated on the Availability Analysis Report.

**GOALS PROGRESS REPORT** - The Goals Progress Report shows each job group's actual hire and promotion percentage rates for females and minorities during the previous plan year and the placement rate goal set at the beginning of the previous plan year.

**COMPENSATION ANALYSIS REPORTS** - The compensation analysis reports are preliminary analyses designed to expose possible compensation issues, but are not indicative of illegal wage discrimination. The Salary Summary report lists the total compensation by race and gender for each job title. This report may be submitted to OFCCP to satisfy their initial request for compensation data in the audit letter. The Salary Analysis reports consist of a comparison of average and median pay of females to males and whites to minorities within each job title. The last report, the Salary Regression Analysis by job title is the best indicator of whether a difference in pay between males and females or between whites and minorities is statistically significant. This report includes factors, such as seniority, work performance, related experience, etc., that may explain pay differences.

## **ADDITIONAL OBLIGATIONS AS AN AFFIRMATIVE ACTION EMPLOYER**

### **PURCHASE ORDERS/CONTRACTS**

An Equal Employment Opportunity (EEO) Clause must be incorporated into each non-exempt subcontract. The most common practice is to place the clause on all subcontracting documents without assessing on an individual basis whether each subcontractor is covered by affirmative action requirements. A sample EEO Clause is included in these materials. It should be placed on purchase orders and included in formal contracts.

### **EQUAL OPPORTUNITY POLICY STATEMENT**

The Equal Opportunity Policy Statement, which reaffirms the commitment to qualified disabled individuals and covered veterans must be posted on bulletin boards or other appropriate locations.

### **LETTER TO VENDORS, SUBCONTRACTORS & SUPPLIERS**

Current regulations suggest contractors notify subcontractors, vendors and suppliers of its equal opportunity policy and request appropriate action on their part. A sample letter has been included.

### **POSTERS**

A poster with specific EEO language must be posted, visible to both current employees and applicants. This poster is available on the Office of Federal Contract Compliance Program's website or can be purchased from office supply vendors.

### **EEO-1 FORM**

All companies required to have a written affirmative action plan must annually file a Standard Form 100 (EEO-1) with the Joint Reporting Committee. The form can be requested from your local EEOC office. Once requested, it will be automatically sent annually. The EEO-1 form and the Vets-100 form (discussed below) are the only affirmative action-related forms that you must annually report. See the EEO-1 Form Instructions for details on when and where to submit the form. Your affirmative action plan is updated annually, but is not submitted to any government agency unless you are selected for an audit.

### **VETS-100 AND VETS-100A FORMS**

All contractors and subcontractors with at least one government contract of \$25,000 or more entered into before December 1, 2003 must file a Vets-100 Form annually. All contractors and subcontractors with at least one government contract of \$100,000 or more entered into on or after December 1, 2003 are required to submit a Vets-100A Form. Information regarding Vietnam era veterans, disabled veterans, and other eligible veterans is reported. Contractors with contracts dated before and after December 1, 2003 must file both the VETS-100 and VETS-100A forms. See the Vets-100 and Vets-100A Reporting Instructions for details on when and where to submit the form.

### **HELP WANTED ADVERTISEMENTS**

Help wanted solicitations must state that all qualified applicants will be considered without regard to race, color, religion, sex, or national origin. Companies typically use the abbreviation "Equal Opportunity Employer" or "EOE-M/F" to meet this obligation in advertisements. In addition to advertising you may undertake, you must also list all employment openings with your state Unemployment Security Commission (Job Service Center). "All employment openings" includes all positions except executive- and top management-level positions, positions that are filled from within the contractor's organization, and positions that last three days or less. Listing with this agency does not require that you hire any particular applicant.

### **NOTIFYING LABOR UNIONS**

Government contractors must notify each labor union with which it has a current collective bargaining agreement of its commitment to take affirmative action to employ qualified disabled veterans and other protected veterans. Although it is not specifically required, most companies also note their commitment to employ the non-veteran disabled, as well as women, and minorities. A sample letter of notification has been included for your convenience.

## AVAILABILITY OF THE AAP FOR EMPLOYEE INSPECTION

The Disabled and Veterans portion of the affirmative action plan must be available for inspection to any employee or applicant. The Women & Minorities narrative and statistical materials need not be made available for viewing. A notice identifying the location and hours during which employees and applicants have access to the Disabled and Veterans affirmative action plan must be posted. This is usually done by placing the notice on company letterhead on a company bulletin board next to the EEO poster. A sample notice is included in these materials.

## CERTIFICATION OF NON-SEGREGATED FACILITIES

Contractors must ensure that facilities provided for employees are not segregated on the basis of race, color, religion, national origin or sex. The Code of Federal Regulations 41, Section 60-1.8 was amended to eliminate the previous requirement that written certification be obtained from subcontractors.

## RECORD RETENTION

Personnel and employment records made or kept by a contractor must be preserved for two years from the date of the record or from the date of the personnel action, whichever occurs later. However, the record retention period is one year if the contractor has fewer than 150 employees or does not have a federal contract of at least \$150,000. In addition, each establishment must maintain its AAP and supporting documentation for the current and preceding plan years.

## SUPPORT DATA FOR THE PLAN

Regulations require that contractors maintain support data for the affirmative action plan, such as progression line charts, seniority rosters (if applicable), applicant flow data, adverse impact analysis reports, promotion data, transfer data, and termination data. An analysis of hiring practices must be performed at least annually. This should include an adverse impact analysis of minority and female hires. The government most closely scrutinizes applicant flow and rejection data during an audit. Their purpose of the scrutiny is to identify minority or female applicants who were more qualified than white or male applicants who were hired. If the company cannot prove that persons who were hired were more qualified than those who were not hired, the auditor may insist that rejected applicants be offered positions and be given back pay to the date they were initially, wrongfully rejected. Copies of various job requisition requests, solicitations, and referral sources should also be retained as support data for the AAP.

Included is a sample voluntary identification form, The Pre-employment Information Form for Women and Minorities that should be given to each applicant to complete. Information from this form is intended to be entered into an applicant flow log. Once logged, the Voluntary Identification forms should be kept in a file separate from other applicant/employee information. The government allows contractors to visually determine race and sex when applicants refuse to self-identify. The contractor may directly log this information on the applicant flow log. This method is less defensible if questions arise about your visual determinations.

The Vietnam Era Veterans Readjustment Assistance Act and the Rehabilitation Act requires affirmative action employers to invite all disabled applicants and disabled veterans and other eligible veterans to identify themselves. A form similar to the sample included, The Post-Offer Information Form For Individuals with Disabilities & Eligible Veterans, should be given to all new-hires after they have been offered the job but before they begin their first day of work.