




March 17, 2020

MEMORANDUM TO: ALL CONTRACTING AGENCIES OF
THE FEDERAL GOVERNMENT

FROM: CRAIG E. LEEN 
Director
Office of Federal Contract Compliance Programs

SUBJECT: Contracts for Coronavirus Relief Efforts

In view of the special circumstances in the national interest presented by the novel coronavirus outbreak, and consistent with agency practice relating to emergency responses, I have decided to grant a limited exemption and waiver from some of the requirements of the laws administered by the Office of Federal Contract Compliance Programs (OFCCP). OFCCP enforces Executive Order 11246 (EO 11246), as amended, Section 503 of the Rehabilitation Act (Section 503), as amended, and Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), as amended, which require that Federal contracting agencies include in all covered supply & service and construction contracts an equal opportunity clause. OFCCP regulations authorize me to exempt contracts from requiring the inclusion of any part of the equal opportunity clause in any specific contract when I deem that special circumstances in the national interest so require, when it is impracticable to act upon requests for exemptions individually, and where such waiver will contribute to convenience in the administration of the authorities enforced by OFCCP. 41 CFR 60-1.5(b)(1), 60-300.4(b)(1), and 60-741.4(b)(1).

The exemption and waivers granted herein relate to obligations under EO 11246, Section 503, and VEVRAA. Federal contracting agencies may utilize the following equal opportunity clauses in covered contracts entered into specifically to provide Coronavirus relief. Accordingly, the EEO clauses in FAR sections may be modified as follows:

As a preamble to the insertion of 52.222-26:

Notice: The following terms of this clause are waived for this contract: subparagraph (c)(2), (c)(3), (c)(4), (c)(5)(ii), (c)(6), (c)(8), and the phrase "on-site compliance evaluations and" in (c)(9).

As a preamble to the insertion of 52.222.35:

Notice: The following terms of this clause are waived for this contract: in subparagraph (b), the phrase "and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans"; additionally, in subparagraph (b), the phrase "requirements of the equal opportunity clause at 41 CFR 60-300.5(a)" shall be interpreted to exclude in full paragraphs 2-7, 9-10, and 12 of 41 CFR 60-300.5(a), and the phrase "take affirmative action to employ, advance in employment and otherwise" from paragraph 1 of 41 CFR 60-300.5(a).

As a preamble to the insertion of 52.222-36:

Notice: The following terms of this clause are waived for this contract: in subparagraph (a), the phrase “and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities”; additionally, in subparagraph (a), the phrase “requirements of the equal opportunity clause at 41 CFR 60-741.5(a)” shall be interpreted to exclude in full paragraphs 4-5 and 7 of 41 CFR 60-741.5(a), and the phrase “take affirmative action to employ and advance in employment individuals with disabilities, and to” from paragraph 1 of 41 CFR 60-741.5(a).

In short, this exemption and waiver extends to all affirmative action obligations of supply and service and construction contracts, and other obligations as specified in the FAR clauses above. The exemption and waivers do not apply to the processing of complaints of discrimination under 41 CFR 60-1.21-1.24, 41 CFR 60-300.61 and 41 CFR 60-741.61. The exemptions and waivers also do not exempt a covered contractor from their obligation to comply with other federal, state and local civil rights laws.

I am granting this exemption and waiver for a period of three months, from March 17, 2020 to June 17, 2020, subject to an extension should special circumstances in the national interest so require. This exemption and waiver pertain only to the three programs administered by OFCCP and should not be interpreted as applicable to any other programs or laws administered by the Department of Labor.

If you have any questions or seek additional clarification on a specific contract, please contact Lissette Geán, OFCCP Chief of Staff at (202) 693-1049 or Gean.Lisette@dol.gov.