



DEFENSE LOGISTICS AGENCY
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J. KINGMAN ROAD, SUITE 4950
FORT BELVOIR, VIRGINIA 22060-6222

IN REPLY
REFER TO

DESC-CPA

APR 30 2004

CONTRACTING INSTRUCTION (CI): 04-05
MEMORANDUM FOR CI Distribution

SUBJECT: DEPI Parts 22.805 through 22.809, Equal Employment Opportunity (EEO)

This CI is being issued to provide the Commodity Business Units (CBUs) the ability to obtain EEO Clearances. Previously the process was managed and executed exclusively by the Administrative Support Branch (DESC-CPC) of the Procurement Planning and Support Division in the office of the Center Senior Procurement Official.

Effective immediately, Contracting Officers and Contract Specialists are authorized to obtain required EEO clearances directly from the Office of Federal Contract Compliance Programs (OFCCP) Regions. DEPI 22.805 through 22.809 is updated to provide guidance and to reflect this change. Form letter FL-11, to be utilized to request an EEO clearance from OFCCP, is being added to the Q drive at: Q\C\Forms for contracting officers/contract specialists who want to request the EEO clearance, directly. A copy of the form letter and updated DEPI coverage is attached for your information. Alternatively, DESC-CPC will provide assistance by obtaining EEO clearances if so requested by the CBU on DESC Form 4.67.

This CI is effective immediately and expires upon inclusion in the DEPI. Point of contact is Cheryl Creason, extension 8471.

GABRIELLA M. EARHARDT
Center Senior Procurement Official

Attachment:
DEPI coverage
Form Letter



SUBPART 22.8 - EQUAL EMPLOYMENT OPPORTUNITY

22.805 Procedures.

(a) Preaward clearances for contracts and subcontracts of \$10 million or more.

(1) (i) Thirty-five calendar days before making an award or modification requiring equal employment opportunity (EEO) clearance (FAR 22.805(a)(7)), the contracting officer/contract specialist will check the National Preaward Registry (<http://www.dol.gov/esa/ofccp/index.htm>) of the Office of Federal Contract Compliance Programs (OFCCP), to see if the contractor is listed as having a clearance. If the contractor is listed in the registry, a copy of the listing will be placed in the contract file.

(ii) If the contractor is not listed in the Registry, the contracting officer/contract specialist will forward a letter to the appropriate regional office (s) of OFCCP requesting an EEO clearance. The list of regional offices may be found on the web site specified above. Click on "major metropolitan centers" and go to the applicable regional office. Information includes phone and fax numbers as well as an email address if that particular region receives requests via email. The letter must include the information listed at: FAR 22.805(a)(5)(i-vi). A form letter that may be used for this purpose may be found at: Q:\CAForms\FL-11 EEO. When the location of the corporate headquarters of the prime contractor or any subcontractor is different than the site where performance of the contract takes place, the contracting officer/contract specialist will include both the location of the corporate headquarters and the site where performance takes place.

In those instances where there is more than one location and the locations are in different regions, letters will be sent to each regional office concerned. When the contracting officer/contract specialist receives notice of clearance from OFCCP, he/she will promptly place a copy in the contract file and provide a copy to DESC-CPC who will place a copy in the contractor general file. If the contracting officer/contract specialist encounters unusual situations or difficulties during the processing of the clearance, he/she may request support from DESC-CPC. Also, if preferred, the contracting officer/contract specialist may request DESC-CPC to request the EEO clearance from OFCCP, on his/her behalf, by submitting DESC Form 4.67 to DESC-CPC.

(2) When awards must be made in less than the time specified in (1) above, the contracting officer/contract specialist will request the EEO clearance from OFCCP before the date of award. If the clearance from OFCCP is not received five working days before award, the contracting officer, before making award without EEO preaward clearance, shall:

(i) Notify the regional OFCCP by phone, email or fax that DESC is planning to waive the EEO preaward clearance and that DESC will be requesting a postaward clearance.

(ii) Prepare a Memorandum to the Director, DESC, requesting authority to award a contract without EEO preaward clearance pursuant to FAR 22.805(a)(8). The Memorandum should be coordinated through DESC-G, the Division Chief CBU Director and the CSPO and read substantially as follows:

(Requesting division symbol)

MEMORANDUM FOR D/DO

THROUGH: G/CSPO

SUBJECT: Request for Authority to Award a Contract without EEO Preaward Clearance

Pursuant to FAR 22.805(a)(8) we request authorization to award contracts(s) _____ to _____ without an EEO preaward clearance.
(number) (contractor name)

(As a minimum, include information concerning product, quantity, dollar value, ordering period, and date of award.)

State the present clearance status and, if applicable, reason why the OFCCP was not given 35 days to provide the clearance. Also, state why the award must be made immediately, without a clearance.

State that, on _____, _____ of
(date) (name of contracting officer)

DESC- _____ notified _____ OFCCP _____
(symbol) (name of notified) (location)

Regional Office, that DESC would award a contract in excess of \$10,000,000 without EEO preaward clearance.

(signature of contracting officer)

(iii) Prepare a statement of authorization from the Director, DESC, to make the award pursuant to FAR 22.805(a)(8). The statement should be substantially as follows:

TO: (Requesting division)

The Office of Federal Contract Compliance Program has been notified that DESC will award a contract in excess of \$10,000,000 without EEO preaward clearance. Accordingly, pursuant to the authority of FAR 22.805(a)(8), I hereby authorize the contracting officer to award _____.
(contract number)

Director, DESC

Space permitting, this authorization may be placed on the bottom of the Memorandum. In this case, to preclude repetition of the same information already included in the document, the Director's statement should be shortened to read "Pursuant to the authority of FAR 22.805(a)(8), I hereby authorize the contracting officer to make this award."

(iv) Prepare a letter to the cognizant OFCCP regional office confirming notification of DESC's intent to make award without EEO preaward clearance. The letter should be substantially as follows:

FROM: DESC- (requesting division)

TO: (ADDRESS)

Dear _____:

This letter confirms telephone conversation of _____
(date)

notifying your office that the Defense Energy Support Center will award a contract(s) in excess of \$10 million without an EEO clearance review. Enclosed is a copy of the Head of Contracting Activity's approval setting forth the circumstances of the preaward clearance waiver. We request that a postaward clearance review be conducted.

Sincerely,

Contracting Officer
(Buying Division)
(CBU)

(v) Have the documents in (ii), (iii) and (iv) above arranged in a manila folder, with the Memorandum on the outside of the folder, the authorization on the right and the letter to OFCCP on the right, and routed to DESC-D through DESC-G the CBU Director, and CSPO.

(vi) Submit the authorization to the Director, DESC, for signature. After signature, the letter will be mailed to OFCCP by the division, which initiated the request. The letter may be faxed. A copy of the letter and authorization will be placed in the contract file.

(b) Furnishing posters. Whenever the EEO clause is applicable to the contract, the contract specialist will notify the contractor to hang an appropriate number of copies of the notice entitled "Equal Employment Opportunity is the Law" . The poster may be accessed on the web cite specified in paragraph (a)(1), above.

22.809 Enforcement.

22.809(101) EEO show cause letters.

When DESC receives an EEO show cause letter, DESC-CPC will be immediately informed and will place a copy of such letter in the appropriate contractor general file and furnish a copy to DESC-G. In the event verbal information is received concerning a contractor's EEO status, a memorandum for file to this effect will be placed in the appropriate contractor general file.



DEFENSE LOGISTICS AGENCY
DEFENSE ENERGY SUPPORT CENTER

DESC-

U. S. Dept. of Labor
OFCCP

Date

Dear :

The firm listed below has provided an acceptable offer under solicitation _____, and may be awarded a contract of \$10,000,000 or more. Pursuant to FAR Part 22, please advise whether the prospective contractor, and subcontractor (if listed), is considered eligible for award in terms of compliance with the EEO program.

Name/Address of Prospective Contractor (Prime)

Telephone No. Dollar Amount

POC:

Prospective Subcontractor

Telephone No. Dollar Amount

POC:

Place(s) of Performance
(including corporate affiliates and/or
subcontractors)(Include address)

Telephone No. Dollar Amount

POC:

The anticipated date of award is _____.

The contractor has , has not , and the subcontractor has, has not, previously held a Government contract, subcontract, or Federally assisted construction contract. Please forward your response to the DLA Defense Energy Support Center (DESC), 8725 John J. Kingman Road, Suite _____, Fort Belvoir, VA 22060-6222. If you have questions or require additional information please contact the undersigned at the number (703) 767-_____ or email to _____@dla.mil.

Sincerely,