

State Procurement Manual

DOA-3449 N(R06/94) Formerly AD-P-12

		Number PRO-D-3
		Effective 3-15-12
Section GENERAL POLICIES	Agencies Affected ALL	Replaces 9-1-00
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AUTHORITY: [Wis. Stats. 16.765](#)
[Wis. Adm. Code Chapter Adm 50](#)

SCOPE:

- to establish definitions related to contract compliance
- to establish policies and procedures for the administration of Wisconsin's Contract Compliance Law
- to establish sample letters to contractors, a sample affirmative action policy statement, and forms to be used in the administration of Wisconsin's Contract Compliance Law

DEFINITIONS:

I. The following definitions apply to contract compliance:

A. "Affirmative action plan (AAP)" is a written document committing the contractor to a program designed to achieve a balanced work force within a reasonable period of time. It contains, at a minimum, a policy statement, work force analysis, program goals, internal monitoring system, and dissemination of the plan. An acceptable plan is one which satisfies s. 16.765, Wis. Stats., and Adm 50, Wisconsin Administrative Code.

B. "Balanced work force" means an equitable representation of persons with disabilities, minorities and women in each level (job category) of a work force which approximates the percentage of persons with disabilities, minorities and women available for jobs at each level from the relevant labor market from which the contractor recruits job applicants.

C. "Contracting state agency" means any department, commission, board, or other agency of the State of Wisconsin, including the University of Wisconsin, with authority to purchase or contract for equipment, construction work, materials, supplies, or contractual services.

D. "Developmental disability", Wis. Stats. 51.01 (5)(a), means a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader-Willis syndrome, mental retardation, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mental retardation, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual. "Developmental disability" does not include senility which is primarily caused by the process of aging or the infirmities of aging.

E. "Employee" means anyone who has received any wages for work performed by the contractor.

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- F. "Federal Employer Identification Number (FEIN)" is the number assigned by the IRS to employers for tax reporting purposes or the Social Security Number (SSN) if the contractor is a sole proprietorship with no FEIN.
- G. "Foreign entity" means an organization which is headquartered in a country other than the United States.
- H. "Person with a disability" means a person who:
1. Has a physical or mental impairment which substantially limits one or more major life activities;
 2. Has a record of such an impairment;
 3. Or is regarded as having such an impairment.
 - a. "Has a record of such impairment" means has a history of, or has been classified as having, a mental or physical impairment which substantially limits one or more major life activities.
 - b. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
 - c. "Is regarded as having such an impairment" means:
 - (1) Has a physical or mental impairment that does not substantially limit major life activities, but that is treated by a recipient as constituting such a limitation;
 - (2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment; or
 - (3) Has none of the impairments defined in this section but is treated by a recipient as having such an impairment.
- I. "Job category" means a broad-based group of employees with comparable job responsibilities who are located at comparable levels of responsibility within an organization. The contractor may designate its job categories.

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However, the Wisconsin Office of Contract Compliance reserves the right to reject them. Sample job categories are:

1. Officials and managers:

Occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a contractor's operations. Includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains, mates and other officers, farm operators and managers, and kindred workers.

2. Professionals:

Occupations requiring either college graduation or experiences of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots, and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, teachers, and kindred workers.

3. Technicians:

Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through two years of post high school education, such as is offered in many technical institutions and junior colleges or through equivalent on-the-job training. Includes: computer programmers, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

4. Sales workers:

Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and salespersons, insurance agents and brokers, real estate agents and brokers, stock and bond salesworkers,

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demonstrators, salesworkers and sales clerks, grocery clerks, and cashiers/checkers, and kindred workers.

5. Office and clerical workers:

Includes all clerical type work regardless of level of difficulty, where the activities are predominantly nonmanual although some manual work not directly involved with altering or transporting products is included. Includes: bookkeepers, collectors (bills and accounts), messengers and office helpers, office machine operators (including computer), shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

6. Craft workers (skilled):

Manual laborers of relatively high skill level who have a thorough and comprehensive knowledge of the processes involved in their work. They exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, painters (construction and maintenance), motion picture projectionists, pattern and model makers, stationary engineers, tailors and tailoresses, arts occupations, handpainters, coaters, bakers, decorating occupations, and kindred workers.

7. Operatives (semi-skilled):

Workers who operate machines or processing equipment or perform other factory-type duties of intermediate skill levels which can be mastered in a few weeks and which require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, sewers and stitchers, dryers, furnace workers, heaters, laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (manufactured articles), photographic process workers, stationary firefighters, truck and tractor drivers, knitting, looping, taping and weaving machine operators, welders and flamecutters, electrical and electronic equipment assemblers, butchers and meatcutters,

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inspectors, testers and graders, handpackers and packagers, and kindred workers.

8. Laborers (unskilled):

Workers in manual operations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes garbage laborers, car washers and greasers, groundskeepers and gardeners, farmworkers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

9. Service workers:

Workers in both protective and nonprotective service occupations. Includes attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, charworkers and cleaners, cooks, counter and fountain workers, elevator operators, firefighters and fire protection, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

J. "Job group" means a cluster of jobs with very similar functions, usually more precise than the job categories, which the contractor may define. However, the Wisconsin Office of Contract Compliance reserves the right to reject them. Sample job groups are: electricians, painters and carpenters; or engineers, accountants and architects.

K. "Labor market" means the area from which the contractor usually seeks or reasonably could seek workers for employment.

L. "Minorities" means persons whose race or ethnic group is either:

1. American Indian or Alaskan Native: persons with origins in any of the original people of North America who maintain cultural identifications through tribal affiliation or community recognition;
2. Asian or Pacific Islander: persons having origins in the Far East, Southeast Asia, the India Subcontinent or the Pacific Islands;

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3. Black: persons not of Hispanic culture having origins in any of the Black racial groups of Africa; or
 4. Hispanic: individuals of Mexican, Puerto Rican, Caribbean, Central or South American or other Spanish culture or origin regardless of race.
- M. "Municipality" means a Wisconsin county, city, village, town, school district, board of school directors, sewer district, drainage district, vocational, technical and adult education district or any other public or quasi-public corporation officer, board or other body having the authority to award public contracts.
- N. "Reasonable accommodation" means changes and modifications that could be made in the structure of a job or employment and training program which are done to make possible the employment of a person with a disability, unless such changes would impose undue hardship on the operation of the contractor's business. Such a change is made to employ or to continue employment of a person with a disability. Note: reasonable accommodation may include making facilities used by the employees, including hallways, restrooms, cafeterias and lounges, accessible to persons with disabilities. It also may include job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters or other similar actions.
- O. "SMSA (Standard Metropolitan Statistical Area)" means a geographic area defined by the U.S. Bureau of the Census for purposes of assessing population. It often incorporates metropolitan areas to include a city and county (counties). For example, the Milwaukee SMSA includes the City of Milwaukee and the County of Milwaukee.
- P. "Sexual orientation" means having preference for heterosexuality, homosexuality or bisexuality, having a history of such a preference or being identified with such a preference.
- Q. "Subcontractor" means a person or company that assumes by secondary contract some or all of the obligations of an original contractor.
- R. "Total number of employees" means 1) for purposes of determining whether the contractor needs to submit an Affirmative Action Plan, the number of employees on the contractor's payroll as of the date that the contractor receives a State of Wisconsin contract; and 2) for purposes of submitting a work force analysis, the number of employees on the contractor's payroll as of any date within one year of receiving its State of Wisconsin contract.

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- S. "Underrepresentation" means the contractor's work force does not approximate the percentage of women, minorities or persons with disabilities available for jobs in any particular job group or category from the relevant labor market in which the contractor recruits.
- T. "Wisconsin Office of Contract Compliance" (WOCC) means the organization within the State of Wisconsin responsible for overall administration of Wisconsin's Contract Compliance Law (s. 16.765, Wis. Stats.). The WOCC is a part of the Wisconsin Department of Administration.
- U. "Contractor" means any person or entity providing equipment, construction work, materials, supplies, contractual services, or leasing real property to a contracting state agency.
- V. "Work force" means the composite number of employees without regard to job groups or categories of the contractor. The contractor may designate its work force, for the purposes of satisfying the Wisconsin Contract Compliance Law, either as that part of the entity (division, company, subsidiary) primarily responsible for satisfying the State of Wisconsin contract or as the work force of the entire entity, with the concurrence of the WOCC.

CONTENT:

- I. Agencies with authority to purchase have responsibility to administer Wisconsin's contract compliance program as it relates to any of their contracts, including grants and leases in accordance with policies and procedures established by the Department of Administration. Even if the State Bureau of Procurement handles the bid or the request for proposal on behalf of the state agency, the state agency is responsible for obtaining the contractor compliance, as it is the contracting state agency. Contracting state agency staff may direct questions regarding the administration of the Wisconsin contract compliance program to:

Wisconsin Office of Contract Compliance
 Department of Administration
 101 East Wilson Street, 6th Floor
 P.O. Box 7867
 Madison, Wisconsin 53707-7867
 608/266-5462

- II. General equal opportunity/affirmative action requirements

- A. Every contractor contracting with the State of Wisconsin will agree to:

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1. Equal employment and affirmative action policies and practices in its employment programs; and
- B. Every contractor who receives a state contract over \$50,000 must:
1. Post a notice concerning "Wisconsin's Contract Compliance Law" in a conspicuous place for employees and applicants for employment to read. The contracting state agency will provide the contractor with this notice to post. Ordering information, the Wisconsin Contract Compliance Law Poster (stock no. 4516F) comes in packages of 10 posters. Posters are available for purchase from the Forms Center, Document Sales, 202 South Thornton Avenue, (inter-departmental). If located outside the inter-departmental mailing system, mail requests to: Wisconsin Department of Administration, Bureau of Integrated Document Services, Document Sales and Distribution Section, P.O. Box 7840, Madison, Wisconsin 53707-7840. Use form order [DOA-3331](#) to order the amount needed.
 2. Submit an affirmative action plan if the contractor has a work force of twenty-five (25) or more employees as of the award date, unless the contractor is exempt by criteria listed below. The plan is due to the contracting state agency within fifteen (15) working days of the award date of the state contract. The plan must have been prepared or revised not more than one year prior to the award date of the contract.

Universities, other states, and local governments, except those of the State of Wisconsin, who receive state contracts over \$50,000 must submit affirmative action plans in the same manner as other contractors.

NOTE: The recipient of a grant or lease, while exempt from public purchasing requirements, is not exempt from contract compliance requirements because a contractual agreement results.

- C. A contractor is exempt from submitting an affirmative action plan when:
1. A contractor receives a state contract for \$50,000 or less.
 2. The contractor has less than twenty-five (25) employees regardless of the dollar amount of the contract.
 3. The contractor is a foreign company with a work force of less than twenty-five (25) employees in the United States.

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4. The contractor is a federal government agency or a Wisconsin municipality.
5. The contractor has a balanced work force. (See definition of "balanced work force".)
6. A rare situation exists for an emergency or to meet special contracting requirements. The director of the Wisconsin Office of Contract Compliance, on the recommendation of the contracting state agency, may exempt a contractor from affirmative action plan requirements. If the contractor believes that such a situation exists, the contractor should discuss it with the contracting state agency.

When a contractor is exempt from submitting an affirmative action plan based on criteria 2. through 5. above, the contractor still must submit a Contractor Request for Exemption from Submitting Affirmative Action Plan (form [DOA-3024](#)) and its Contractor's Subcontractor List (form [DOA-3023](#)). If the contractor is exempt from submitting an affirmative action plan because it has a balanced work force (criteria 5. above), the contractor still must submit its Contractor Work Force Analysis (form [DOA-3022](#)), the Contractor Request for Exemption from Submitting Affirmative Action Plan (form [DOA-3024](#)), supporting labor market information, its affirmative action policy statement and its Contractor's Subcontractor List (form [DOA-3023](#)).

7. The U.S. Office of Federal Contract Compliance (OFCC) has audited the contractor's affirmative action program within the last year. To obtain an exemption on this basis the contractor must send the contracting state agency:
 - a. A copy of OFCC's Acceptance/Compliance Letter;
 - b. The contractor's equal opportunity/affirmative action policy statement. The contractor's policy statement must satisfy s. 16.765, Wis. Stats., and Adm 50, Wisconsin Administrative Code (Wis. Adm. Code); and
 - c. Its Contractor's Subcontractor List (form [DOA-3023](#)).

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III. Submittal of an affirmative action plan

- A. After awarding a contract, the contracting state agency should review the Contractor Directory to determine whether the contractor has compliance eligibility. The Contractor Directory is available on the Bureau of Procurement Web site: <http://vendornet.state.wi.us>.
- B. If the Contractor Directory notes that a contractor has compliance eligibility, the contracting state agency need not require anything of the contractor but should annotate the contractor file with the date of eligibility expiration.
- C. If the contractor does not have current compliance eligibility, the contracting state agency sends the contractor a copy of the Instructions for Contractors: Affirmative Action Plan Requirements booklet, a contract compliance poster, and a letter advising the contractor that an affirmative action plan or an exemption request is required from the contractor. The letter should include the agency contact, address, and telephone number.
- D. A contractor will submit an affirmative action plan for review to the state agency that awarded the contract.
- E. The following timetable applies to obtaining the plan/exemption statement.

Timetable for Obtaining an Affirmative Action Plan

<u>Step</u>	<u>Number of Days*</u>	<u>Activity</u>
1 (Optional)	2 days	Send the first letter requesting an affirmative action plan/exemption statement within fifteen (15) working days of the contract award date. The agency should direct the letter to the President/CEO of the company if no other appropriate individual within the contractor's organization is known.
2	17 days	Send the second letter requesting an affirmative action plan/exemption statement within five (5) working days to the President/CEO of the company, referencing the first request or the general terms and conditions, as is appropriate, and noting the ability to identify the contractor as "ineligible" and to withhold payment on the unpaid balance of the contract or to terminate the contract.
3	24 days	Telephone contact the contractor to try to determine the reason that the contractor has not submitted an affirmative action plan/exemption statement and to attempt to obtain one. The agency needs to contact that person responsible for submitting the affirmative action information.

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- 4 31 days Recommend identifying the contractor as "ineligible" and consider withholding payment if an affirmative action plan/exemption statement is not received. Send a Contractor Directory Recommendation (form [DOA-3001](#)) and copies of correspondence with the contractor, the purchase order and the affirmative action plan and the review guide, if a plan was submitted, to the Wisconsin Office of Contract Compliance.

*Working days from the contract award date.

At any step in the above timetable that the contractor submits an affirmative action plan, the contracting state agency proceeds to review the plan.

IV. Review of the affirmative action plan

- A. The following timetable applies for the contracting state agency's reviewing the plan and obtaining additional information if necessary.

Timetable for Reviewing an Affirmative Action Plan

<u>Step</u>	<u>Number of Days*</u>	<u>Activity</u>
1 (Optional)	5 days	Acknowledge receipt of an affirmative action plan if unable to review it within ten (10) working days of its receipt.
2	15 days	Review the affirmative action plan with the Affirmative Action Plan Review Guide (form DOA-3724). If the plan is acceptable, notify WOCC with the Contractor Directory Recommendation (form DOA-3001) and send an acceptance letter to the contractor. If the plan is not acceptable, send the first letter to the President/CEO of the organization specifying the information necessary for an acceptable plan.
3	45 days	Send the second letter to President or CEO of the organization with a copy of the first letter which specifies missing information and note ability to identify the contractor as "ineligible" and to withhold payment or to terminate the contract, if a plan is not received within five (5) working days.
4	50 days	Call the contractor to request information.
5	55-60 days	Recommend designating the contractor as "ineligible" (form DOA-3001) and send copies of all correspondence, the plan and the review guide to the Wisconsin Office of Contract Compliance.

*Working days from date of receipt of the affirmative action plan.

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- B. An affirmative action plan must have been prepared or revised within the last year prior to the contract award date and must include five components, namely:
1. Policy statement;
 2. Work force analysis;
 3. Program goals;
 4. Plan dissemination; and
 5. Internal monitoring method.
- C. Equal employment opportunity and affirmative action policy statement:
1. The contractor's affirmative action policy statement sets the general policy and commitment under which the contractor implements its affirmative action equal opportunity program. The following are essential:
 - a. Identification of the contractor by name;
 - b. Commitment to equal opportunity in employment programs for any applicant for employment or any employee by not basing employment decisions on age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin;
 - c. Commitment to affirmative action policies and practices in employment programs to achieve a balanced work force;
 - d. A statement that identifies employment programs to include at least employment, promotion, demotion, transfer, recruitment, compensation, training, and layoff and termination;
 - e. Designation of an employee of a contractor with their name and title as equal employment opportunity/affirmative action officer;
 - f. Provision for holding supervisors and managers accountable for affirmative action initiatives to balance their respective work forces; and

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- g. Commitment to abide by s. 16.765, Wis. Stats., state regulations and federal laws pertaining to equal employment opportunities and affirmative action during the life of a contract with the State of Wisconsin.
- h. Additionally, this equal employment opportunity/affirmative action policy statement must be:
 - (1) Dated and signed by the contractor's chief executive officer; and
 - (2) Written on the contractor's letterhead stationery.

D. Work force analysis:

1. The affirmative action plan must include an analysis of the contractor's work force by job groups or categories which specifies for each job group/category the total number of employees, the number and percent of males, number and percent of females, the number and percent of minorities, and the number and percent of persons with disabilities. The contractor submits a Contractor Work Force Analysis (form [DOA-3022](#)) or comparable document to provide this information. (Note: This data must be current within one (1) year prior to the contractor's receiving its state award.)
2. A contractor will compare its job groups/categories to that of the labor market from which it recruits employees to identify any areas of underrepresentation of women, minorities, or persons with disabilities. Contractors with multiple locations may use the work force of the operation/facility that is responsible primarily for satisfying the state contract. If the contractor does not have this data already, the data is available from State Job Service Offices which are listed in local telephone directories under State Government Job Service or Employment Security.
3. While the contractor identifies both the work groups and the relevant labor market, the contracting state agency, with the concurrence of the Wisconsin Office of Contract Compliance, reserves the right to not accept them.

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E. Program and numeric goals:

1. Goals are intended to achieve a balanced work force within a reasonable period of time. The nature of these goals is contingent on the nature of any underrepresentations of women, minorities and persons with disabilities in any of the job categories/groups of the contractor's work force. Each goal must:

- a. Be specific; and
- b. Have an implementation target of between six (6) months to two (2) years.

2. Some samples of goals include:

- a. Committing to hire new employees in relationship to their availability in the labor market.
- b. Developing a company employee affirmative action committee to advise the chief executive officer on affirmative action issues.
- c. Reviewing job descriptions to ensure that they reflect actual job duties and have reasonable work related requirements.
- d. Restructuring jobs, where possible, to encourage appointing trainees.
- e. Broadening recruitment notices to include community organizations likely to refer women, minorities, and persons with disabilities.
- f. Advertising employment opportunities in minority media.
- g. Targeting specific jobs, job groups or job categories with significant under-representation(s) for special affirmative action recruiting.
- h. Developing interview teams, which include affirmative action group members, where possible, for all positions or selected types of positions.

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G. Internal monitoring systems:

1. The affirmative action plan provides for a method or system for an internal monitoring of the affirmative action plan to regularly evaluate results achieved by the plan. The affirmative action plan:
 - a. Specifies the frequency of review, the individual(s) performing the review, and the consequence of the review.
 - b. Holds supervisory and management personnel accountable, through performance appraisals and compensation reviews, for implementing affirmative action initiatives within their specific operations.

H. Public record access/confidentiality:

1. A contractor's affirmative action plan is available for public review in accordance with Wisconsin Statutes Subchapter II, Public Records and Property. A contracting state agency may charge for the cost of copying any documents requested by the public.
2. When a contractor alleges that part or all of its affirmative action plan is confidential, the contractor must identify clearly to the contracting state agency those pages or sections which it believes contain confidential information. This identification of any confidential information must be given both:
 - a. In a letter to the contracting state agency; and
 - b. On each page that the contractor states contains confidential information.
3. If a contractor asserts that all or part of its affirmative action plan is confidential, the contractor is responsible for defending its confidentiality under Wisconsin Statutes. The contractor must agree in advance in writing to hold the State of Wisconsin harmless and to provide for any necessary defense of the confidentiality of the contractor's records, if a challenge occurs.
4. Generally, the State of Wisconsin's open meetings/records law (s. 19.21, Wis. Stats.) permits confidentiality to a very limited number of documents, for example, records which constitute a trade secret. Usually affirmative action plans required by the State of Wisconsin are not considered confidential documents.

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V. Use of subcontractors

- A. The contractor will provide the contracting state agency with the Contractor's Subcontractor List (form [DOA-3023](#)) within fifteen (15) working days of the award date which includes the estimated dollar amount and anticipated effective date for any subcontractor. If no subcontractors exist, the contractor must so state on this form. These subcontracting conditions pertain only to affirmative action requirements. A state contract also usually requires that a contractor obtain prior approval to subcontract from the contracting state agency.
- B. The contracting state agency reviews any subcontractors identified on the Contractor's Subcontractor List for a subcontract over \$50,000 with the current Contractor Directory.
 1. If a subcontractor has compliance eligibility, the contracting state agency notifies the contractor that no further information is necessary.
 2. If a subcontractor is designated as "ineligible" the contracting state agency notifies the contractor that it must terminate its subcontractor.
- C. The contracting state agency monitors receipt of subcontractor affirmative action plans or exemption statements by using the Contractor's Subcontractor List provided by the contractor and reviews plans as it does prime contractors.
- D. If subcontractor plans or exemption statements are not received, the contracting state agency will notify the contractor to obtain them.

VI. Contractor compliance eligibility

- A. The Wisconsin Office of Contract Compliance updates the Contractor Directory weekly. The Directory has two sections: ineligible contractors and eligible contractors. The Wisconsin Office of Contract Compliance enters data received by state agencies, (Contractor Directory Recommendation, form [DOA-3001](#), Notice to Contractor Filing Information, form [DOA-3784](#)). Agencies use this information to find out if contractors they are contracting with have submitted affirmative action information, also how long the contractor is eligible until they must submit new affirmative action information. If the contractor is not on the eligible contractor list, then the contracting agency must request affirmative action information.

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- B. If questions develop concerning a contractor's compliance, the inquirer should contact the Wisconsin Office of Contract Compliance at 608/266-5462.
- C. An eligible contractor remains in the Contractor Directory, i.e., has compliance eligibility, for three (3) years from the contract effective date or the life of the contract, whichever is greater. The contracting state agency must determine the longer period of eligibility and so specify on form [DOA-3001](#).
 - 1. In the case of multiple year contracts/extended contracts; if a contractor's contract is renewed the contractor receives an additional period of eligibility. The contracting state agency will report to the WOCC on the continuing eligibility of the contractor, using form DOA-3001.
 - 2. If the eligible contractor receives another award from the State of Wisconsin prior to the expiration of its contract compliance eligibility, the contractor need not submit other affirmative action information. NOTE: The agency that awarded the contractor contract compliance eligibility is the only agency that can extend a contractor's eligibility. All other agencies must do contract compliance if the contractor does not appear in the Contractor Directory at the time of award.

VII. Contractor failure to comply: ineligible contractor

- A. When a contractor or subcontractor fails to provide an acceptable affirmative action plan, when one is required, the contracting state agency recommends identifying the contractor as "ineligible" by notifying the Wisconsin Office of Contract Compliance (form DOA-3001). Copies of all correspondence with the contractor, the Affirmative Action Plan Review Guide (form [DOA-3724](#)) and the plan, if a plan was submitted, must accompany the recommendation.
- B. The coordinator of the Wisconsin Office of Contract Compliance makes an additional contact with the contractor to attempt to obtain an acceptable plan. The coordinator reviews the information, determines the status of the contractor, and notifies both the contractor and the contracting state agency of the determination. Designation as an "ineligible contractor" in the Contractor Directory means that:

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1. The contracting state agency may terminate the contract at any time without liability and, may withhold payment of any unpaid balance for failure to satisfy significant requirements of the contract. The contracting state agency may not extend a contract with an ineligible contractor.
 2. All agencies will remove the contractor from their bidder lists.
 3. The contractor may not participate in any State of Wisconsin bidding. The State of Wisconsin may not purchase any goods, services, or capital equipment from an ineligible contractor, either directly or through a supplier or other means.
- C. An ineligible contractor may become eligible after submitting an affirmative action plan to the coordinator of the Wisconsin Office of Contract Compliance which satisfies s. 16.765, Wis. Stats., and Adm 50, Wis. Adm. Code. Otherwise, an ineligible contractor remains so designated indefinitely.

VIII. Investigation of complaints

- A. The contracting state agency may receive complaints concerning alleged employment discrimination. These generally fall into one of two categories: individual employee complaints; or general contract compliance complaints.
1. Employee complaints:
 - a. An employee of a contractor doing business with the State of Wisconsin may allege discrimination in employment decisions based on age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin.
 - b. Since the contracting state agency has no legal basis for resolving such allegations under the Wisconsin Contract Compliance Law, it should refer the employee of a Wisconsin contractor directly to the Wisconsin Department of Workforce Development, Equal Rights Division, 201 East Washington Avenue, Room 407, P.O. Box 8928, Madison, Wisconsin 53708-8928, telephone 608/266-6860. This agency does have the legal responsibility for investigating allegations of employees and applicants for employment concerning discrimination in employment in Wisconsin.

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- c. An employee of a non-Wisconsin contractor should contact the comparable agency within their state.
 2. General compliance complaints:
 - a. The contracting state agency should refer any written complaint concerning allegations of violations of Wisconsin's Contract Compliance Law to the coordinator of the Wisconsin Office of Contract Compliance with the Wisconsin Department of Administration.
 - b. The Wisconsin Office of Contract Compliance:
 - (1) Investigates the complaint provided the complainant identifies the issues and themselves.
 - (2) Keeps the complainant and the contractor informed of the status of the matter.
 - (3) Prepares an investigative report or letter to the contractor containing a narrative of the facts and a listing of the actions, if necessary, to bring the contractor into compliance within thirty (30) working days after receipt of a complaint or finding of noncompliance. The contractor, if not in compliance, has thirty (30) working days to obtain compliance.
 - (4) Provides a copy of the investigative report and notice of final disposition to the complainant, the contractor, and the purchasing director of the state contracting agency.
 - (5) Retains, as confidential, the identity and statement of any person interviewed during the investigation unless the individual authorizes in writing releasing his/her name.
- IX. Management reviews of state agency
 - A. Wisconsin Office of Contract Compliance will conduct periodic management reviews of contract compliance procedures to assure that the contracting state agency satisfies the policies and procedures specified in this Manual. The office will:

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1. Advise the state agency of the management reviews in advance.
2. Provide a list of applicable contracts.
3. Request contract compliance records for management reviews.
4. Report the management review findings to the state agency head.

X. Sample correspondence and forms

- A. The following documents are available from Document Sales, 202 South Thornton Avenue, (inter-departmental). If located outside the inter-departmental mailing system, mail requests to: Wisconsin Department of Administration, Bureau of Integrated Document Services, Document Sales and Distribution Section, P.O. Box 7840, Madison, Wisconsin 53707-7840, telephone 608/266-3358.
 1. Instructions for Contractors: Affirmative Action Plan Requirements (form [DOA-3021P](#)) which includes these three forms:
 - a. Contractor Work Force Analysis (form [DOA-3022](#))
 - b. Contractor's Subcontractor List (form [DOA-3023](#))
 - c. Contractor Request for Exemption from Submitting Affirmative Action Plan (form [DOA-3024](#))
 2. Wisconsin's Contract Compliance Law poster (form [DOA-3031P](#))
- B. Other forms and the sample letters for administering this program may be adapted for agencies' use.
- C. References
 - [Letter](#) sent with purchase order over \$50,000 noting need for affirmative action information (optional)
 - [Second letter](#) requesting affirmative action plan
 - [First letter](#) requesting additional information for an affirmative action plan

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- [Second letter](#) requesting additional information for an affirmative action plan
- [Letter](#) accepting affirmative action plan
- [Sample](#) Affirmative Action Policy Statement
- Form [DOA-3022](#), Contractor Work Force Analysis
- Form [DOA-3023](#), Contractor's Subcontractor List
- Form [DOA-3024](#), Contractor Request for Exemption from Submitting Affirmative Action Plan
- Form [DOA-3724](#), Affirmative Action Plan Review Guide
- Form [DOA-3001](#), Contractor Directory Recommendation
- Form [DOA-3784](#), Notice to Contractor Filing Information

Authorized:



Rick S. Hughes, Director
State Bureau of Procurement