

United States Department of Labor

Office of Federal Contract Compliance Programs

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS AND THE NATIONAL INDUSTRY LIAISON GROUP

This Memorandum of Understanding ("MOU") is made and entered into by and between the United States Department of Labor's ("DOL") Office of Federal Contract Compliance Programs ("OFCCP") and the National Industry Liaison Group ("the NILG"), collectively referred to as "the parties."

I. Purpose and Scope:

The parties recognize the value of establishing a collaborative relationship to promote voluntary compliance by employers that are covered federal contractors and subcontractors ("contractors") with their mandatory obligations under the laws administered by OFCCP. OFCCP administers Executive Order 11246, Section 503 of the Rehabilitation Act of 1973 (Section 503), and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA). The parties are entering into this MOU with the specific and mutual goals of working together to support contractor education and training; enable voluntary compliance with OFCCP's regulations; and minimize, to the extent feasible, the cost of compliance by contractors. The MOU, therefore, is a vehicle for exchanging information, obtaining feedback, and receiving advice from contractors.

This MOU envisions OFCCP and the NILG coordinating at the national level, and NILG facilitating coordination between OFCCP and local ILG chapters. In this regard, the MOU contemplates the parties exploring compliance challenges experienced by contractors, identifying options for minimizing and eliminating operational, organizational and attitudinal barriers that contractors may have experienced or believe may be obstructing affirmative action and equal employment opportunity in contractors' workplaces, and developing proactive and innovative solutions to eliminate those barriers.

This MOU emphasizes the parties' intent to explore how individual contractors have successfully implemented and appropriately used apprenticeship programs as affirmative action and equal employment opportunity tools to help develop a pipeline of diverse workers. This, in turn, should result in a workforce that is highly qualified and appropriately representative of the broader population, which should help federal contractors and subcontractors comply with the laws and regulations administered by OFCCP. In addition, this public-private collaboration supports effective and efficient government procurement by ensuring that contractors make full use of the qualified labor pool in carrying out their federal contractual obligations, in addition to supporting voluntary compliance with the laws enforced by OFCCP.

Finally, this MOU seeks to improve the relevance, clarity, accuracy, and consistency of OFCCP's

contractor education and compliance tools and resources. This includes the intent to engage in an ongoing dialogue on providing more transparency to federal contractors regarding OFCCP's compliance review process and procedures.

II. **Authority:**

The Department of Labor's OFCCP is responsible for securing compliance by all Government contractors and subcontractors with Executive Order 11246 and any implementing rules or regulations, as well as Section 503 and VEVRAA and their regulations. This responsibility not only includes conducting compliance evaluations and investigations but also proactively securing compliance with the terms of the contracts entered into by federal agencies and their contractors related to nondiscrimination and affirmative action obligations.

This MOU, like other measures undertaken by OFCCP to educate and support contractor compliance about their contractual nondiscrimination and affirmative action obligations, generally promotes economy and efficiency in federal procurement.

III. **Provisions:**

The OFCCP is a civil rights agency within DOL that protects the rights of workers by ensuring that covered federal contractors and subcontractors comply with their legal obligations to provide equal employment opportunity and not discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. In addition, contractors are prohibited from discharging or otherwise discriminating against applicants or employees who inquire about, discuss, or disclose their compensation or that of others, subject to certain limitations.

The NILG is a non-profit employer association that focuses on affirmative action and equal employment opportunity. Since the early 1990s, the NILG has encouraged enhanced communications between the contractor community and various federal agencies, including OFCCP. In addition to entering into substantive dialogue with federal agencies, the NILG facilitates communication and discussion concerning equal opportunity and affirmative action obligations and practices with approximately 60 local, unaffiliated ILG chapters that share the NILG's mission. Because of its unique function as a facilitator of wide-ranging dialogue between federal agencies and the regulated community, the NILG is well-positioned to address important compliance and other issues regarding affirmative action and equal employment opportunity.

OFCCP's Commitments

Pursuant to the MOU, OFCCP makes the below commitments.

- a. OFCCP's national office leadership agrees to meet, once annually, with the NILG Board. The purpose of this annual meeting is to review the implementation of the MOU, discuss contractor compliance challenges, explore new and innovative ways to mutually address these compliance challenges, and provide relevant information on OFCCP regulations and procedures, as well as recent changes to regulations and procedures, that effect contractors' obligations and their compliance.
- b. OFCCP agrees to provide input into and participate in, to the extent it deems it appropriate and practicable, an annual national NILG conference. OFCCP's participation is to provide quality contractor education that helps to secure voluntary compliance with OFCCP's laws and regulations and greater transparency. This includes, for example, ensuring that contractors are accurately informed of OFCCP policies and procedures, the compliance evaluation process, and changes to agency regulations and procedures that effect their ability to comply with the laws and regulations administered by OFCCP.

- c. OFCCP agrees to make one or more representatives available for at least one ILG meeting in each OFCCP region annually, as practicable. These meetings should be collaborative and jointly planned by OFCCP and the regional or local ILGs, with NILG input as appropriate. At a minimum and as appropriate, these regional or local meetings will identify and address compliance challenges and barriers, current OFCCP initiatives, and educate contractors on what to expect and how to prepare for an OFCCP compliance evaluation.
- d. OFCCP agrees to engage in various outreach initiatives that encourage all contractors, including NILG and local ILG members, to provide constructive feedback on OFCCP's compliance evaluation process, education, outreach, and compliance assistance activities. OFCCP may reflect a consideration of this feedback in the development of contractor –focused activities. When appropriate, OFCCP will seek to include NILG member contractors in OFCCP outreach and education initiatives to ensure that OFCCP appropriately reflects contractor issues, concerns, perspectives.
- e. As a part of any OFCCP program or initiative encouraging the use of apprenticeships by covered contractors to comply with their obligations under OFCCP's laws, OFCCP agrees to work with the NILG and other DOL agencies, as appropriate, to facilitate contractor education and outreach. OFCCP views these programs as tools that can help contractors comply with their affirmative action and equal opportunity obligations.

NILG's Commitments

Pursuant to the MOU, the NILG makes the below commitments.

- a. The NILG agrees to use the annual meeting with OFCCP to constructively identify and explore concerns raised by contractors related to OFCCP's compliance evaluation process and the training and education barriers that effect contractor compliance. Reaching a consensus on the issues and concerns, or how they could be addressed, is not a requirement.
- b. The NILG agrees to work cooperatively with OFCCP to ensure the ongoing integrity and professionalism of its annual NILG conference and to take action to support the usefulness of regional or local ILG–OFCCP meetings as compliance assistance opportunities. It is the NILG's goal to ensure that contractors receive accurate and useful information, are presented a variety views and perspectives, and have access to implementable compliance assistance from OFCCP and other conference presenters.
- c. The NILG agrees to proactively inform its Board members and members of local ILGs of OFCCP initiatives, events, and other opportunities that provide contractors an opportunity to give OFCCP constructive feedback about its program.
- d. The NILG agrees to proactively inform its Board members and members of local ILGs of opportunities to participate in OFCCP–sponsored compliance assistance, education, and other similar events for contractors.
- e. The NILG agrees to participate in OFCCP–sponsored contractor outreach and education presentations, as appropriate, and to work with OFCCP to prepare and distribute publications of common interest to contractors.
- f. The NILG agrees to proactively inform its Board members and members of local ILGs of any OFCCP apprenticeship program that supports their compliance and any other

contractor-focused program or initiative that supports contractor education and compliance with OFCCP's laws.

IV. **Implementation**

Within 45 days of the effective date of this MOU, each party must designate three Liaisons who will coordinate the implementation of the commitments set forth in this MOU. These Liaisons must meet as often as necessary, but at least semi-annually, to discuss issues related to the interpretation and implementation of this MOU. As agreed by the parties, these meetings may be held telephonically or otherwise remotely.

The parties will conduct periodic reviews of the implementation of this MOU.

V. **Effect of Agreement**

- a. Nothing in this MOU limits OFCCP's interpretation and enforcement of its laws and regulations.
- b. This MOU does not authorize the expenditure or reimbursement of any funds. Nothing in this MOU obligates OFCCP to expend appropriations or enter into any contract or other obligation.
- c. This agreement will be performed in full compliance with all applicable laws, including the Privacy Act of 1974, the Freedom of Information Act, and the Federal Records Act.
- d. This MOU does not intend to create an advisory committee under the Federal Advisory Committee Act (FACA). This MOU must be interpreted and implemented in a manner consistent with this intent.
- e. By entering into this MOU, the parties do not imply an endorsement or promotion by either party of the policies, priorities, or services of the other.
- f. Nothing in this MOU shall be interpreted as limiting, superseding, or otherwise affecting OFCCP's normal operations and functions.
- g. This MOU also does not limit or restrict the parties from participating in similar activities or arrangements with other entities.
- h. This MOU contains all of the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or be binding upon the parties. This MOU is not intended to confer any right upon any private person or third party.

VI. **Resolution of Disagreements**

Any disputes arising under this MOU will be resolved informally by discussions between the designated implementation Liaisons (see section III. Implementation) or other officials designated by each party.

VII. **Period of Agreement and Modifications**

The provisions of this agreement are effective on the date of signature, and the parties can only modify the MOU by mutual consent. This MOU is effective for a three-year period unless extended by mutual agreement, in writing, by the parties. Either party can unilaterally terminate this MOU by providing 30-day written notice to the other party.

This MOU supersedes any previous agreements between OFCCP and NILG.

The undersigned hereby agree that this document represents the understanding between them.

/S/

CRAIG E. LEEN

Date Signed: 08/10/18

Acting Director

Office of Federal Contract Compliance Programs

/S/

PAUL MCGOVERN

Date Signed: 08/27/18

Chair, National Industry Liaison Group