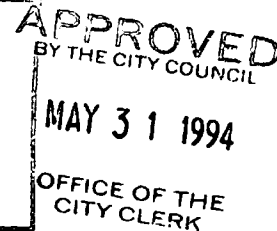




5.2

May 12, 1994

Housing Authority, Redevelopment Agency,  
and City Council of the  
City of Sacramento  
Sacramento, California



Honorable Members in Session:

**SUBJECT:** LOCAL BUSINESS ENTERPRISE AND MINORITY AND WOMEN  
BUSINESS ENTERPRISE CONTRACTING; AFFIRMATIVE ACTION IN  
CONTRACTING PROGRAM AND LOCAL/NEIGHBORHOOD HIRING  
EFFORTS

**LOCATION AND COUNCIL DISTRICT:** City

**RECOMMENDATION:**

The purpose of this report is to summarize and bring together in one place our comprehensive policies on:

- 1) Local Business Enterprise utilization;
- 2) Minority and Women's Business Enterprise utilization;
- 3) Affirmative Action on the part of contractors we hire; and
- 4) Local/Neighborhood Hire policies on the part of contractors we hire.

The report recommends adoption of resolutions to:

- approve Local Business Enterprise (LBE) policies for the City and the Agency;
- adopt the attached Plan for the Agency's Office of Economic Opportunity in Construction ("OEOC Plan") to define in concept OEOC's role in compliance efforts related to existing City and Agency requirements regarding affirmative action in construction; and
- direct the Agency to report back in two months with a proactive plan which identifies how current and proposed economic development programs can maximize economic opportunities and hiring in our low-income neighborhoods and public housing developments.

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

Housing Authority, Redevelopment Agency,  
and City Council of the City of Sacramento  
May 12, 1994  
Page 2

For the sake of comprehensiveness, the report also discusses your previously adopted Minority/Women's Business Enterprise (M/WBE) policies.

### CONTACT PERSON:

Aaron Chong, Coordinator, City of Sacramento, Office of Minority, Women and Small Business, 433-6250  
Gregory P. Hovious, City of Sacramento, Contracting Officer, 433-6377  
Anne Moore, Sacramento Housing and Redevelopment Agency, Acting Director, Community Development, 440-1357

FOR COUNCIL MEETING OF: May 31, 1994

### SUMMARY

This report provides an overview of current and proposed City and Agency construction contracting and contract hiring policies as mechanisms to achieve the representative participation of our diverse population in Sacramento's economy. The report demonstrates that, in the area of local enterprise contracting, existing City and Agency procedures function well, and it recommends adoption of Local Business Enterprise programs based on current practices including target goals for LBE utilization. Furthermore, recent and extensive efforts have resolved issues related to the City and Agency's MBE/WBE contracting policies that were adopted last year. Again, in this regard we now have a workable and well-crafted policy which is being aggressively implemented by your staff.

This report recommends adoption of the OEOC Plan (shown as Attachment III) to direct compliance activities related to the City's existing affirmative action policies. The report also discusses issues related to local/neighborhood hire efforts and proposes a schedule for the development of an action plan which identifies how current and proposed economic development programs can maximize employment of our residents, with a particular focus on at-risk youth, the residents of high density unemployment areas, redevelopment areas, targeted Community Development Block Grant (CDBG) areas, and residents of our public housing developments and transitional housing programs.

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

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May 12, 1994  
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### PUBLIC HEARINGS

Two public hearings were held to review and receive comments on the recommendations in the report with particular focus on the LBE policies. The meetings were held on March 21 and 29, 1994, and were noticed in the Sacramento Bee. Notices were also mailed to neighborhood district associations, minority chambers, organized labor organizations, the Sacramento Metropolitan Chamber of Commerce, the Mayor's Special M/WBE Task Force, contractor groups, and other interested parties.

At these hearings comments were received from three individuals representing trade councils from outside the local area defined in this report. These comments were in opposition to establishing any preferences by geographic areas.

### CEOC ACTION

At their meeting of March 17, 1994, the Commission on Economic Opportunity in Construction (CEOC) unanimously adopted recommendations regarding the OEOC Plan, as included in this report, as well as a resolution specifically supporting a work force utilization study as defined later in this report.

### COMMISSION ACTION

At their meeting of April 6, 1994, the Sacramento Housing and Redevelopment Commission (Commission) voted to recommend adoption of the attached resolutions. The votes were as follows:

	Cespedes, Dobbins, Holloway, Moose, Rotz, Simon,
AYES:	Williams, Yew, Diepenbrock
NOES:	0
ABSENT:	Harland
NOT PRESENT TO VOTE:	Amundson

### LAW AND LEGISLATION COMMITTEE

At their meeting of May 17, 1994, the Law and Legislation Committee of the City Council voted unanimously to recommend the Council's approval of the attached resolutions.

# SACRAMENTO HOUSING & REDEVELOPMENT AGENCY

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and City Council of the City of Sacramento  
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## BACKGROUND

This report deals with two aspects of City and Agency contracting policies:

- those policies which affect with which businesses the City and Agency contracts and purchases goods, (local business enterprise and minority and women business enterprise programs); and
- policies which affect the hiring practices of contractors carrying out City and Agency sponsored construction projects (the affirmative action program and potential local/neighborhood hiring incentive programs).

In addition the report looks beyond the narrow scope of contracting policies to propose a framework for the development of an action plan to maximize hiring and business opportunities for residents of the City's low-income neighborhoods.

# SACRAMENTO HOUSING & REDEVELOPMENT AGENCY

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## LBE Contracting Policies

In the course of completing the Minority/Women Business Enterprise Utilization Study for the City and the Agency, detailed data was compiled on the City's and Agency's contracts over a multi-year period, including the location of the businesses contracted. The data demonstrates that from 1982 through 1992, for the City of Sacramento and from 1985 through 1990, for the Agency, the LBE participation rate (the percentages of contracts let and dollars expended to LBE firms located within the four-county Standard Metropolitan Statistical Area (SMSA) and the dollars expended which went to those LBE firms) was:

### City of Sacramento (1982-1992)

<u>Expenditure Category</u>	<u>% of LBE Firms</u>	<u>% of Dollars to LBE's</u>
	<u>SMSA</u>	<u>SMSA</u>
Construction and Construction Related Services	75.48	77.93
Professional Services	60.77	45.42
Other Services Contract	88.65	79.47
Purchasing Expenditures/Materials & Supplies	57.55	67.66
Purchasing Expenditures/Other Services Contracts	<u>76.37</u>	<u>81.91</u>
Dollar Weighted Average		70.48

### SHRA (1985-1990)

<u>Expenditure Category</u>	<u>% of LBE Firms</u>	<u>% of Dollars to LBE's</u>
Construction and Construction Related Services	82.74	88.08
Professional Services	81.26	74.65
Other Services Contract	91.10	85.44
Purchasing Expenditures/Materials & Supplies	69.65	63.07
Purchasing Expenditures/Other Service Contracts	<u>89.55</u>	<u>81.11</u>
Dollar Weighted Average		85.72%

This data demonstrates that businesses from within the SMSA limits already receive an average of 70 percent of City construction, service, and materials and supplies contract dollars. The corresponding Agency rate of contracting with local enterprises (80 percent) is higher, due to the smaller size of the majority of our contracts as well as the types of services contracted (i.e., residential housing contracts, employment services, business coordinators, etc.). As a practical matter, in the case of both City and Agency contracting, local firms may have an edge over non-local firms when bidding on City and Agency

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

Housing Authority, Redevelopment Agency,  
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May 12, 1994

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contracts, because local firms' costs of providing goods and services do not include the transportation or mobilization costs which may have to be incurred by non-local firms.

Other major cities in the region have not performed as well in their efforts to contract with local businesses. For example, the City of Oakland has an LBE program which sets a goal of 20 percent for small local business enterprises with annual revenues under \$14 million per year. Oakland justifies its program by demonstrating that economic conditions in that city are bleak, that local businesses operate at disadvantages because of their location, and that businesses from outside the City which bleed contract dollars away from Oakland are a cause of those bleak economic conditions. The City of Oakland LBE goal of 20 percent is considerably lower than Sacramento's current utilization of local businesses within the Sacramento Metropolitan Statistical Area. However, Oakland's goal includes only small LBEs, while the statistics for Sacramento's current utilization includes both small and large businesses and covers the SMSA, not just the City of Sacramento.

The City and County of San Francisco has an LBE program which provides a five percent price preference to local firms. San Francisco justifies its program by demonstrating that businesses located in San Francisco suffer serious disadvantages over businesses located outside the City, as the San Francisco businesses must pay higher rents, higher taxes, etc.

Based on the current level of LBE utilization in Sacramento, staff believes that it would be difficult to make such findings which could be upheld against a legal challenge. Therefore staff recommends against any price preferences at this time. It is important to note that establishing LBE target goals rather than formal programs with utilization goals does in effect give some advantages to both local and non-local M/WBE firms bidding on City and Agency projects. Staff feels that, given the strong rate of LBE contracting evidenced in this report and your Council's commitment to increasing M/WBE contracting, this is appropriate. In the future as M/WBE contracting rates increase Council may wish to revisit this issue.

Based on comments made by the Council's Law and Legislation Committee, staff proposed that "local firms" be defined as those located in the four-county SMSA. To facilitate the process of actually implementing this definition, staff further proposes that these SMSA areas be defined by zip code areas to ease the sorting of mailing addresses.

Staff recommends that the proposed LBE target goals be applied to all firms, both large and small. This is in keeping with Council's strong direction to enhance the economic vitality of the Sacramento region, a goal which can only be accomplished with the full participation of all of our local firms. We believe that efforts to strengthen our small businesses can be most effectively accomplished through proactive small business development programs such as those discussed later in this report.

In summary, it is staff's position that the need for a formal LBE program and utilization

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

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goal is not demonstrated at this time. The current LBE participation rates for the City and for the Agency are very good, indicating that local businesses are well represented in City and Agency contract awards and procurements. We are, of course, committed to continue to strive to increase LBE participating rates, and we believe we can do so in a proactive manner without the necessity of adopting a formal program which may be subject to legal challenge. Instead we recommend the adoption of a City goal of 70 percent and Agency goal of 80 percent. With your Council's concurrence and direction staff proposes to monitor LBE participation over the next 18 months in order to determine how LBE rates can be increased. Semi-annual reports will be submitted to Council during this time, documenting any changes in LBE participation rates and evaluating the impact of any changes in staff procedures and policies and recommending changes to improve LBE contracting rates.

### Minority and Women Business Enterprises Contracting Policies

The revised City and Redevelopment Agency M/WBE Program policies adopted November 2, 1993, and November 23, 1993, respectively, address major issues related to the awarding of bids to M/WBE's. The primary policy changes included the application of price and point preferences in awarding contracts and the strengthening of Good Faith Efforts requirements. In addition the governing bodies established a formal, regional M/WBE certification process. Similar policies have been adopted by the County of Sacramento and the Sacramento Regional Transit District (RT).

As you are well aware, the M/WBE policy was the result of an extensive study conducted jointly with the City, County, RT, and SHRA to determine whether M/WBE firms were excluded from doing business with the four sponsoring agencies as well as throughout the Sacramento region due to past discrimination. The study found a history of disparate utilization in most business categories by all four sponsoring agencies and documented anecdotal evidence of discriminatory practices in the larger Sacramento region. The M/WBE policies adopted are designed to address and correct these findings and include the goals for the City and Agency which are shown as Attachment I to this report. No additional policy regarding the M/WBE program is necessary at this time.

Your staff is working aggressively to carry out your policy direction. Periodic reports to Council on the status of the respective M/WBE programs are scheduled quarterly by City staff and annually by Agency staff. In addition, Agency staff reports semi-annually to the Department of Housing and Urban Development (HUD) regarding the M/WBE programs utilization rates as they relate to the expenditure of federal funds.

### Affirmative Action in Construction Hiring Policies

On December 1, 1992, the City Council, Housing Authority, and the Redevelopment Agency of the City of Sacramento authorized the creation of the OEOC within the Sacramento Housing and Redevelopment Agency (Agency) to replace the Greater Sacramento Area

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

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Plan (GSAP) and the establishment of an 11-member Commission for the OEOC.

The OEOC was charged with the three primary responsibilities below:

1. Establishment of a coordinated mechanism to increase the number of women and minorities employed on locally-funded construction projects.

The recruitment of viable candidates for employment on construction projects has been accomplished using a community-networking approach. More than a dozen community-based organizations participated in OEOC recruitment efforts. The most prominent recruiters included the Neighborhood Service Agency in Del Paso Heights, the Northern California Minority Trades Council, the California Department of Corrections, and the trade unions. This process was successful in building the current employment pool that consists of more than 200 persons categorized by trade and skill level.

In 1993, a total of 46 persons were hired on construction projects as a result of referrals from the OEOC. Of those hired 31 were African American, four Hispanic, one Asian, one Native American, and nine other. Forty-one were men, and five were women.

2. Provide a forum for public entities to discuss affirmative action issues with construction-related firms, labor organizations, interested groups representing minority and women, and training programs.

In 1993, the 11-member Commission on Equal Opportunity in Construction (CEOC) was established to act as an advisory body and to provide a public forum on such issues as labor union practices, apprenticeship programs, open shop hiring procedures, recruitment strategies for youth, and examining the employment opportunities for women in the construction industry.

The CEOC convenes monthly and will have an integral role in the continual development of the OEOC programmatic components consisting of recruitment, training, technical assistance to contractors, and compliance.

3. Establishment of a procedure to monitor construction firms' hiring records in compliance with federal and local affirmative action policies for minorities and women.

One of the actions recommended in this report, the adoption of an OEOC Affirmative Action Compliance Plan, fulfills this responsibility.



## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

Housing Authority, Redevelopment Agency,  
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May 12, 1994  
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On February 22, 1994, the City Council approved its citywide Affirmative Action Requirements for Construction (AAC Requirements). The AAC Requirements which are applicable to locally-funded construction projects include:

1. establishes the contractor workforce hiring goals of 20 percent for minorities and 6.9 percent for women;
2. designates the Office of Equal Opportunity in Construction (OEOC) as the lead organization to provide a source for minority and female trade workers, offer technical assistance to contractors in implementing the requirements, and to monitor contractor compliance with those requirements; and
3. imposes penalties and sanctions if contractors are determined to be in willful noncompliance of the requirements.

The City's AAC Requirements, which are presented as Attachment II, were designed to have a major interaction with community action groups to identify and employ minority and female individuals with the requisite skills and abilities to work on the City's public projects. The Agency's OEOC Program was created to carry out these compliance efforts citywide. The OEOC has been successful in creating the necessary linkages with community-based organizations to recruit in these neighborhoods.

This report recommends the adoption of the OEOC Plan presented as Attachment III, a conceptual plan which guides the OEOC's role in implementation of the City's AAC Requirements. The OEOC Plan is focused on the process that will be employed to assist contractors meet the goals and to assess contractor compliance with those specifications. The responsibility for the actual enforcement of the City's AAC Requirements will continue to rest with the City.

The key aspects of the OEOC Plan are:

1. The assessment of and provision of technical assistance to contractors in developing individually-tailored programs to meet the City's AAC Requirements.

The OEOC will assist individual contractors to create and upgrade company affirmative actions programs by setting workable goals and timetables to meet the City's workforce hiring goals.

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

Housing Authority, Redevelopment Agency,  
and City Council of the City of Sacramento  
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2. Recruitment to create a pool of prospective minority and female employees as a primary source of referral for contractors in meeting the City's hiring goals.

The OEOC has already established its community network and administers a pool of employment candidates ready for referral to contractors.

3. The monitoring of contractors' adherence to the implementation of their affirmative actions programs to meet the City's AAC Requirements.

The issue of compliance will hinge on a contractor's implementation of a workable affirmative action program to provide equal employment opportunities to minorities and women. Compliance will not be evaluated solely on whether hiring goals are met. In the event that a contractor is found in noncompliance, the OEOC will offer technical assistance in modifying the contractor's affirmative action program to correct the underutilization of minorities or women goals.

4. Notification and recommendations to the City when contractors are deemed in noncompliance with City AAC Requirements.

Should a contractor be found in willful noncompliance, the OEOC will provide written documentation to that effect and recommendations for corrective and/or punitive actions. The City will act as the enforcement organization to make a final determination.

Agency staff will be returning to Council with further recommendations regarding the implementation of the OEOC program and the role of its Commission on Economic Opportunity in Construction. Included will be an analysis of the need for an affirmative action utilization study. Such a study might be used to establish a basis for setting local minority and women hiring goals by construction trades in the County based on analysis comparing County workforce characteristics to those of the SMSA. The current City goals were predicated on the federal goals as supported by the 1990 census. However, a utilization study was not used to "certify" those goals.

The results of a study could suggest how affirmative action goals should reflect the availability of minorities by ethnic group and gender and should be the sum of each individual ethnic group and could also indicate what sort of training and apprenticeship programs would be most effective in addressing availability and diversity issues.

### Local/Neighborhood Hire

The February 22, 1994, City staff report accompanying the approved City AAC Requirements also addressed the issue of "local hire" and concluded that local hire typically

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May 12, 1994

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means "neighborhood hire", which closely relates to the issue of hiring in comportment with the racial make-up of specific neighborhoods. However, as pointed out in the February report, the development of a local hire policy requires that numerous legal and constitutional issues be addressed in order to mitigate the risks of litigation.

We propose that the outcry for increased neighborhood hire in our low-income communities can and should be addressed most effectively in a proactive rather than a regulatory mode. We also believe that strong efforts under the OEOC provision cited above will go a long way toward assisting with local/neighborhood hire objectives as well.

Because local and neighborhood hire utilization goals appear to be vulnerable to legal challenge, staff believes that time and energy can be more efficiently channeled into positive efforts to create business opportunities for targeted neighborhood residents and to assure that those residents are actually recruited for employment and training opportunities. Particular attention must be directed to at-risk youth. Many of the pieces of a proactive neighborhood hire and economic opportunity programs are in place and functioning.

The Agency is currently promoting those efforts in the following areas:

1. OEOC recruitment efforts

The OEOC facilitated the City's community hire efforts for the William J. Kinney Police Facility. Staff developed recruitment and referral procedures that formed productive relationships between the Del Paso Heights community, the contractor (John F. Otto), the Neighborhood Services Agency, and the Sacramento Sierra Building and Trades Council. Of the approximately 135 tradespersons employed at the project site, 35 percent resided in the neighborhood area. Twenty-four employees were "new hires". The action plan referred to in this report will address the expansion of OEOC recruitment efforts to all low-income communities throughout the City.

2. Recruitment in high density unemployment areas (HDUAs)

The Enterprise Zone Job Bank and the (OEOC) are two programs that currently recruit residents from Oak Park, Del Paso Heights, Meadowview, and public housing to fill available jobs created by private companies in Enterprise Zones and by contractors who are awarded public construction contracts.

3. Cultivation of new small businesses

Small business account for more than 80 percent of the jobs in the nation. Given the current reduction of federal, state, and local government jobs, the

## **SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

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May 12, 1994

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Agency has begun to develop new programs to stimulate the formation of small businesses to counteract the impact of the downsizing in the public sector. Business incubation, small business development training, and microloan programs are just the first potential programs to stimulate job creation by assisting in the development of small businesses.

#### 4. Training for youth

The success of our recruitment and small businesses development efforts require that our youth are adequately trained to fill available jobs and to become entrepreneurs. The Agency is at the leading edge of this economic development issue with such programs as its Youth Entrepreneurial Start-up (YES) program, the Oak Park Construction Skills Training Program, and the proposed federal Youthbuild Construction Training Program. The City's Workrecreation Program is another key component of this effort.

We propose to return to you within two months with a specific action plan which summarizes the full range of economic programs available to meet our goal of maximizing neighborhood hiring and economic opportunity, identifying the communities currently targeted by existing programs and those which must be added, and proposing the action steps required to maximize jobs and business opportunities for the residents of all of our low-income communities and public housing developments and participants in transitional housing programs.

### FINANCIAL CONSIDERATIONS

The actions recommended in this report do not raise financial considerations at this time. If, however, a formal LBE program is adopted by the Agency and the Council, some increased costs for construction projects and other City procurement can be expected as vendors and bidders incorporate their increased costs of compliance into their bids. OEOC is funded by contributions from the City, County and Agency which have been previously approved in each entities respective budgets.

### POLICY CONSIDERATIONS

Adoption of the programs recommended herein are consistent with expressed Council direction and the Sacramento City Code, as well as established State and Federal laws. The recommendations have been developed to foster growth of local businesses, improve the economic climate, and create employment opportunities for local residents.

**SACRAMENTO HOUSING & REDEVELOPMENT AGENCY**

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and City Council of the City of Sacramento  
April 6, 1994  
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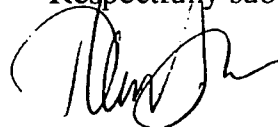
ENVIRONMENTAL REVIEW

The proposed action does not constitute a project under CEQA per Guidelines Section 15378(b)(3), nor a federal undertaking under NEPA.

M/WBE CONSIDERATIONS:

In general, as a result of the implementation of the proposed recommendations, we can expect increased contracting opportunities for LBEs, some of which may be MBE/WBE. Because the LBE policies do not include the adoption of utilization goals, contracting preferences will continue to be solely offered to M/WBE bidders and to non-M/WBE bidders who meet M/WBE subcontracting goals.

Respectfully submitted by,

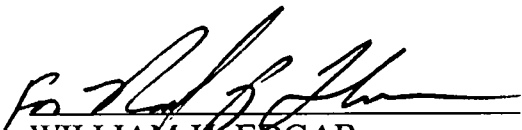


JOHN E. MOLLOY  
Executive Director



JACK CRIST  
Deputy City Manager

Transmittal approved by:



WILLIAM H. EDGAR  
City Manager

**RESOLUTION NO.**

94-030

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF \_\_\_\_\_

**AFFIRMATIVE ACTION PROGRAM**

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1: The Executive Director is directed to report back within three months to the Agency with a proactive plan which identifies how current and proposed economic development programs can maximize economic opportunities on hiring in low-income neighborhoods.

Section 2: The Affirmative Action Plan for the Office of Economic Opportunity in Construction attached as Attachment III is adopted to direct the compliance efforts related to the affirmative action policies of the Redevelopment Agency of the City of Sacramento.

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
SECRETARY

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**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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**RESOLUTION NO. 94-031**

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF \_\_\_\_\_

**LOCAL BUSINESS ENTERPRISE CONTRACTING**

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1: A local business enterprise targeting goal of 80 percent is established for all Agency contracting activities. The goal applies to the share of dollars contracted to businesses located within the Standars Metropolitan Statistical Area.

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
SECRETARY

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**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_



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# RESOLUTION NO. 94-004

ADOPTED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO

ON DATE OF \_\_\_\_\_

## AFFIRMATIVE ACTION PROGRAM

BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO:

Section 1: The Affirmative Action Plan for the Office of Economic Opportunity in Construction attached as Attachment III is adopted to direct the compliance efforts related to the affirmative action policies of Housing Authority of the City of Sacramento.

\_\_\_\_\_  
CHAIR

ATTEST

\_\_\_\_\_  
SECRETARY

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# RESOLUTION NO. 94-005

ADOPTED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO

ON DATE OF \_\_\_\_\_

## LOCAL BUSINESS ENTERPRISE CONTRACTING

BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO:

Section 1: A local business enterprise targeting goal of 80 percent is established for all Housing Authority contracting activities. The goal applies to the share of dollars contracted to businesses located within the Standard Metropolitan Statistical Area.

\_\_\_\_\_  
CHAIR

ATTEST

\_\_\_\_\_  
SECRETARY

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**RESOLUTION NO. 94-343**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**LOCAL BUSINESS ENTERPRISE CONTRACTING**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO:

Section 1: A local business enterprise targeting goal of 70 percent is established for all City contracting activities. The goal applies to the share of dollars contracted to businesses located within the Standard Metropolitan Statistical Area.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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**APPROVED**  
BY THE CITY COUNCIL  
**MAY 31 1994**  
OFFICE OF THE  
CITY CLERK

**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

**RESOLUTION NO. 94-344**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AFFIRMATIVE ACTION PROGRAM**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO:

Section 1: The Affirmative Action Plan for the Office of Economic Opportunity in Construction attached as Attachment III is adopted to direct the compliance efforts related to the affirmative action policies of Sacramento Housing and Redevelopment Agency, the City of Sacramento, and the County of Sacramento.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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**APPROVED**  
BY THE CITY COUNCIL  
**MAY 31 1994**  
OFFICE OF THE  
CITY CLERK

**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

## Study of Utilization of MWBEs

**EXHIBIT 3-1  
BUSINESS CATEGORIES FOR CONTRACTS AND PURCHASES**

- **CONSTRUCTION AND CONSTRUCTION RELATED SERVICES**

Any construction related business, including:

- Major/Heavy Construction  
(e.g., road construction, bridge construction)
- Light/Maintenance Construction  
(e.g., carpentry, electrical, plumbing)
- Architectural/Engineering Services  
(including environmental consulting)
- General Contractors

- **PROFESSIONAL SERVICES**

Any services provided by a person or firm that is of a professional nature, or is professionally regulated or licensed, including:

- Financial Services  
(e.g., accounting, appraising, insurance)
- Legal Services
- Medical Services  
(e.g., medical, nursing, lab testing)
- Other Professional Services  
(e.g., management consulting, training, systems development)

- **OTHER SERVICES**

Any services that are labor intensive and not a professional or construction service, including:

- Maintenance Services  
(e.g., janitorial, vehicle repair, lawn maintenance)
- Other  
(e.g., employment services, security services, delivery services)

- **MATERIALS AND SUPPLIES**

Equipment, consumable items purchased in bulk, or deliverable product. Wholesale, retail and manufacturing are included in this category, including:

- Printing and Reproduction Services  
(e.g., newspaper advertising, printing, photography)
- Equipment and Parts  
(e.g., vehicles, parts, pumps)
- Consumable Goods and Supplies  
(e.g., office supplies, chemicals, fuel)
- Leases  
(e.g., storage, property leases, copy machine lease)
- Construction Materials and Supplies



**M/WBE PARTICIPATION GOALS**

**CITY GOALS**

ETHNIC CATEGORY	CONSTRUCTION	PROFESSIONAL	OTHER SVCS.	MAT/SUPPL
BLACK AMERICANS	2.00%	3.00%	5.00%	2.00%
HISPANIC AMERICANS	5.00%	4.00%	9.00%	7.00%
ASIAN-PACIFIC ISLANDERS	3.50%	7.50%	11.50%	9.50%
NATIVE AMERICANS	0.07%	0.17%	0.25%	0.21%
WOMEN BUS. ENT.	9.50%	14.67%	25.75%	18.71%

**COUNTY GOALS**

ETHNIC CATEGORY	CONSTRUCTION	PROFESSIONAL	OTHER SVCS.	MAT/SUPPL
BLACK AMERICANS	2.00%	3.00%	5.50%	2.00%
HISPANIC AMERICANS	6.00%	4.00%	14.00%	6.50%
ASIAN-PACIFIC ISLANDERS	4.50%	7.00%	9.50%	9.50%
NATIVE AMERICANS	0.00%	0.00%	0.25%	0.21%
WOMEN BUS. ENT.	9.50%	14.00%	24.50%	18.21%

**SHRA GOALS**

ETHNIC CATEGORY	CONSTRUCTION	PROFESSIONAL	OTHER SVCS.	MAT/SUPPL
BLACK AMERICANS	1.50%	2.50%	0.00%	3.00%
HISPANIC AMERICANS	3.50%	3.00%	0.00%	8.50%
ASIAN-PACIFIC ISLANDERS	3.00%	6.00%	0.00%	11.00%
NATIVE AMERICANS	0.05%	0.13%	0.24%	0.25%
WOMEN BUS. ENT.	8.05%	11.63%	22.50%	22.75%

**SAC. REGIONAL TRANSIT GOALS**

ETHNIC CATEGORY	CONSTRUCTION	PROFESSIONAL	OTHER SVCS.	MAT/SUPPL
BLACK AMERICANS	0.00%	3.00%	0.00%	3.50%
HISPANIC AMERICANS	0.00%	3.00%	9.50%	2.00%
ASIAN-PACIFIC ISLANDERS	5.00%	6.00%	11.00%	9.50%
NATIVE AMERICANS	0.00%	0.50%	0.50%	0.50%
WOMEN BUS. ENT.	9.50%	0.00%	0.00%	24.00%

## DEFINITIONS

**CERTIFIED** - A firm that has documented that it is at least 51 percent owned and controlled by a qualified minority (or minorities) and/or woman (women) as defined by the criteria described in 49 CFR, Part 23, Subpart A.

**PROGRAM ELIGIBLE** - A Joint Certification Program (JCP) - certified M/WBE firm that has attempted to do business within the jurisdiction of the participating agencies, as stipulated by the owner's signature on the affidavit contained in the JCP application form.

**PREFERENCE ELIGIBLE M/WBE FIRM** - A Certified and Program Eligible M/WBE firm that is owned by a woman (women) or by a minority (minorities) for whose ethnic group the agency that is soliciting the bid has a goal in the firm's business category.

### Comparison Charts of Agencies' Procurement Policies

	SHRA	CITY	COUNTY	RT
Construction < legal limit	(< \$25,000) 5% price preference	(< \$50,000) 5% price preference	(varies per PCC#) 5% price preference*	(< \$5,000) 5% price preference
Construction > legal limit	(> \$25,000) no preference; GFE★ required	(> \$50,000) 2%-7% preference available and/or GFE★	(varies per PCC#) no preference; GFE★ required	< \$5,000 no preference GFE★ required
Materials and Supplies Purchases	5% price preference*	5% price preference*	5% price preference*	< \$10,000 5% price preference
Professional Services	5% point preference	5% point preference	5% point preference	> \$10,000 5% point preference
Other Services	5% point/price preference*	5% point/price preference*	5% point/price preference*	< \$25,000 5% point/price preference
Procurement Rules	< \$2000: Minimum one MWBE \$2,000-25,000: 1 of 3 > \$25,000: formal procedures	< \$2000: Minimum one MWBE \$2,000-\$50,000: 1 of 3 > \$50,000: formal procedures	< \$5000: Minimum one MWBE > \$5000: 1 of 3	< \$5,000: 1 of 3 MWBE solicited. > \$5,000: formal procedures

# Public Contract Code

★ Good Faith Efforts

\* not to exceed \$25,000

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## AFFIRMATIVE ACTION REQUIREMENTS

Minority employee Workforce goal is 20% Woman employee Workforce goal is 6.9%

The City of Sacramento, in conjunction with the County of Sacramento and the Sacramento Housing and Redevelopment Agency (SHRA) has established the OFFICE OF EQUAL OPPORTUNITY IN CONSTRUCTION, hereinafter referred to as OEOC. OEOC is established to assist contractors by providing technical assistance and monitoring compliance in meeting these Affirmative Action Requirements. The City requires all contractors and all subcontractors to carry out the requirements as specified in this contract. The Contractor is required to take Affirmative Action for all minority groups, both male and female, and all women, both minority and non-minority. In cases where minority women are employed by a contractor, the percentage may be credited towards the Minority employee Workforce goal or towards the Woman employee Workforce goal, but may not be credited to both.

### DEFINITIONS:

As used herein:

- A. "Awarding Agency" means the agency responsible for contract enforcement.
- B. "Workforce" means the contractors aggregate working Workforce hours for Construction Trades within the County of Sacramento.
- C. "Minority" includes:
  - (1) Black Americans (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic Americans (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (3) Asian or Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands); and
  - (4) Native American (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

### REQUIREMENTS

1. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work in a value in excess of \$10,000 involving any construction trade a copy of these Affirmative Action Requirements shall be physically attached.
2. Any Contractor or subcontractor who is not in compliance with the goals set forth above shall implement the specific Affirmative Action standards provided in paragraphs 3a through 3m herein. The goals set forth above are expressed as percentages of the total hours of employment and training attributable to minority and female utilization. The Contractor is expected to make uniform progress through a conscientious endeavor toward meeting and maintaining the goals during the period of this contract.
3. The Contractor by affixing its signature to this contract is accepting the terms of this agreement and the Affirmative Action obligations under this contract. Contractors must be able to demonstrate their participation in and compliance with the provisions of these Affirmative Action Requirements. Any Contractor who does not meet the Affirmative Action Goals shall document these efforts fully and shall implement Affirmative Action steps at least as extensive as set forth below. Each Contractor or Subcontractor is individually required to make a conscientious endeavor (as defined in paragraphs 3a through 3m herein) to achieve Affirmative Action goals. The evaluation of the Contractor's compliance with these specifications shall be based upon verifiable data that directly demonstrates efforts to achieve maximum results from its actions.

- a. Contact the OEOC Program Coordinator for referrals from the established pool for all employment opportunities, before making a selection for hire. If OEOC is unable to provide an employee who has the requested skill level or trade requirement, the contractor may provide notification of job vacancy to other recruitment sources. The contractor shall maintain a record of the other recruitment sources and responses.
- b. If affiliated with a local Union Hall for a specific trade and the local hall is in compliance with these Affirmative Action Requirements, and the hall working membership is in compliance with these goals, then each signatory Contractor shall be deemed to be in compliance. If affiliated with an approved State of California Division of Apprenticeship Standards program for training apprentices to a specific trade, and the program is in compliance with the California Apprenticeship Councils "California Plan," then each Contractor employing indentured apprentices from the program shall also be deemed to be in compliance. OEOC will maintain a quarterly reporting of ethnic and gender make-up of each trade, by each local hall and training program Apprenticeship Training Committee (ATC). If the information is not provided by the local hall or the ATC on a quarterly basis, it becomes a material provision of this contract, that the contractor agrees to provide the required report. If the local hall or ATC is found not to be in compliance, or will not provide the required documents, then each Contractor or Subcontractor shall take direct action to ensure Affirmative Action Compliance or exercise a conscientious endeavor to attain the goals. The failure of a local Union Hall, or ATC to attain these Affirmative Action Requirements, or the terms and conditions of any collective labor agreement, shall not excuse the Contractor or any Subcontractor from compliance with these requirements.
- c. Continue outreach and maintain a current file of the names, addresses and telephone number of each minority and female off-the-street applicant and minority or female referral from a union or other recruitment source, and provide these referrals to the OEOC Program Coordinator as they become available. Contractor shall document what action was taken concerning each such individual. If such individual was sent to the union hiring hall for referral and was not referred to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented with the reason therefore, along with whatever additional actions the Contractor may have taken. This file shall be available for the Awarding Agency to inspect, upon request.
- d. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain Affirmative Actions, with specific attention to minority or female individuals working at such sites or in such facilities.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs; especially those programs funded or approved by the Department of Labor. Quarterly, the Contractor shall provide notice of participation in these programs to the Awarding Agency.
- f. Establish and implement a company Affirmative Action policy identifying such concerns as rehires, new hires, terminations, promotions, etc. If affiliated with labor union, provide notice of the policy to the signatory unions and training programs and request their cooperation in assisting in meeting the obligations required by company policy and this contract. Additionally, disseminate the policy by including it in the company policy manual. Publicize it in the company newspaper, annual report, etc.; review the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company policy on bulletin boards available to all employees at each location where construction work is performed. Disseminate the policy externally by including it in all advertising, specifically minority and female media, and providing written notification to and discussing the policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- g. Review at least quarterly, the company's Affirmative Action policy and obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with on-site supervisory personnel including, but not limited to, Superintendents, General Foreman prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Direct recruitment efforts and requirements, both oral and written, to the OEOC Program Coordinator. At the earliest time possible, normally one month before the date of acceptance of applications for

- apprenticeship or other training by any recruitment source, the Contractor shall send written notification to the OEOC Program Coordinator, describing the openings, screening procedures, and tests to be used in the selection process.
- i. Encourage present minority and female employees to recruit other minority persons and women, refer these persons to the OEOC Program Coordinator, and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of the Contractor's work force.
  - j. Validate all tests and other selection requirements for new hires, and promotions within. Provide copies of this process and each modification to the Awarding Agency for review and acceptance.
  - k. Conduct at least annually an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities.
  - l. Ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the policy and the Contractor's obligations under these specifications are being carried out.
  - m. Document and maintain a record of all solicitations of offers for subcontracts to minority business enterprises (MBE) and women business enterprises (WBE) construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
4. Contractors are encouraged to participate in voluntary associations which assist in fulfilling their Affirmative Action obligations. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 3a through 3m herein, provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the benefits of the program are reflected in the Contractor's minority and female work force participation, makes a conscientious endeavor to meet its individual goals, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
  5. The Contractor shall not use the goals or Affirmative Action standards to discriminate against any person because of race, color, religion, sex, national origin, age, veteran's status or disability.
  6. The Contractor shall not enter into any subcontract with any person or firm debarred from any city, county, state or federal government contracts pursuant to these Affirmative Action Requirements or Executive Order 11246, as amended.
  7. The Contractor shall carry out such sanctions and penalties for violation of these specifications, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to these Affirmative Action Requirements or other requirements of this contract. Any Contractor or subcontractor who fails to carry out such sanctions and penalties shall be in violation and this contract may be terminated.
  8. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company Affirmative Action Policy is being carried out, to submit reports relating to the provisions hereof as required by the awarding agency. This official will coordinate with OEOC for all hires and request assistance as necessary to comply with these Affirmative Action Requirements. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records. These records shall be available for inspection by the awarding agency or the OEOC Program Coordinator, upon reasonable notification.
  9. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977, the Community Development Block Grant Program).

## REPORTING REQUIREMENTS

1. All contracts and subcontracts are subject to the reporting requirements.
2. Contractors and subcontractors must submit a CC-257 (Monthly Employee Utilization Report) to the County of Sacramento Labor Compliance office at 3020 Explorer Drive, Suite #3, Sacramento, CA 95827. This report must arrive no later than the 15th calendar day of the following month for the month being reported.
3. Failure to report is cause to find the Contractor in non-compliance.
4. Each report is monitored by OEOC and measured against the specified goals for minorities and women.
5. Within five days of notification of award of this contract, complete and submit to the Awarding Agency for transmittal to OEOC the following documents:
  - a. Personnel Projection Worksheet (provided within this contract)
  - b. Copy of the company Affirmative Action Policy which defines the steps that the contractor will take to meet Affirmative Action hiring goals. The policy should describe practices for hiring, promotions, training, transfers and termination's. If the company does not have such a policy, OEOC will provide technical assistance to the contractor to formulate such a policy.
  - c. List of the current workforce, (provided within this contract)

## COMPLIANCE AND ENFORCEMENT

1. During the performance of this contract, the city may withhold contract progress payments of a value not less than \$1,000 or more than \$10,000 for violations of the Affirmative Action Requirements. Withholdings made shall be retained until the offending contractor or subcontractor provides to the Awarding Agency, a satisfactory detailed Affirmative Action Policy that will correct the violation.
2. Every contractor or subcontractor, or any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest who is found by the city manager to be in willful violation of the provisions of these Affirmative Action requirements, with the intent to defraud shall be ineligible to bid on or receive a contract paid out of moneys deposited in the city's treasury for a period of not more than five years from the date such determination is made by the city manager.

## **OEOC AFFIRMATIVE ACTION PLAN FOR EQUAL EMPLOYMENT OPPORTUNITY FOR LOCALLY FUNDED CONSTRUCTION CONTRACTS**

This OEOC Affirmative Action Plan (AAP), establishes the general work plan that the Office of Equal Opportunity in Construction (OEOC), will employ to implement Affirmative Action Requirements approved by the Sacramento Housing and Redevelopment Agency, the City of Sacramento, and the County of Sacramento for building and construction contracts.

### **DEFINITIONS**

#### *Affirmative Action*

Affirmative action is a positive and concrete action by an employer to assure that current practices and procedures are designed to effectuate and promote the equal opportunities for employment, retention and advancement of minorities and women residing in a specified area.

#### *Affirmative Action Requirements*

Affirmative action requirements are the specifications adopted by an Awarding Agency that stipulate the categorical actions to be taken by a contractor on a construction project that will ensure equal employment opportunity for minorities and women in order to achieve Agency's minority and women hiring goals.

#### *Affirmative Action Plan*

An affirmative action plan is a set of specific and results-oriented procedures established by a contractor to implement the Awarding Agency's affirmative action requirements.

#### *Awarding Agency*

The Awarding Agency is the entity which specifies the requirements that will apply on the applicable construction projects and is responsible for the enforcement of the policy when a determination of contractor noncompliance is made.



## *OEOC*

The OEOC is the Office of Equal Opportunity in Construction which was formed to assist and monitor a contractor's performance in meeting the affirmative action contract requirements stipulated by an Awarding Agency. The role of the OEOC is as follows:

- Recruit and refer eligible minority and women candidates to state-approved training programs and where applicable pre-apprenticeship programs.
- Assess the contractor's affirmative action plan for meeting the hiring goals of the Awarding Agency and provide technical assistance to the contractor in implementing that plan.
- Recruit and refer minority and female job-ready employment candidates to the contractor to meet minority and women hiring goals.

## *Goals*

Goals are established by the Awarding Agency and specify the percentage of a contractor's total construction trade workforce that would be representative of the available minority and women within a specified project area.

### **ASSESSMENT OF CONTRACTOR'S AFFIRMATIVE ACTION PROGRAM**

1. The Contractor will be required to provide the following documentation to the OEOC as specified by the Awarding Agency's contract document:
  - A. A copy of the contractor's current affirmative action plan that describes its equal opportunity employment practices for recruiting, hiring, training, retaining, promoting, transferring, and terminating of the members of its workforce.
  - B. A list of the contractor's current workforce in the County of Sacramento in accordance with the requirements and in the form specified by the Awarding Agency.
  - C. A list of the projected workforce that will be required for the contract award in accordance with the form provided by the

Awarding Agency or the OEOC.

2. The OEOC will then make the following assessments:

A. The extent to which the contractor's affirmative action plan will provide an effective mechanism to meet the Awarding Agency's goals and requirements.

If needed, OEOC will provide the contractor with recommendations that would improve the program's effectiveness. Examples of that assistance, includes, but is not limited to:

- (1) Establishing attainable goals and timetables to realize the workforce goals.
- (2) Developing a policy statement and plan to implement procedures.
- (3) Assisting in a job classification utilization analysis to identify problem areas or deficiencies that may exist in a contractor's workforce.
- (4) Assisting in developing an outreach and recruitment program.
- (5) Assisting in developing on-the-job training programs.
- (6) Assist in the reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

B. The degree to which the contractor is meeting the Awarding Agency's contract requirements in terms of minority and female hiring goals.

OEOC will determine the number minority and female hires that the contractor needs to attain Awarding Agency's goals, and provide, to the extent possible, referrals of job-ready candidates for the contractor's consideration by trade and skill level.

C. If the Awarding Agency's goals are not being met, the extent to which the progress towards the goals can be made using the current construction contract award.

OEOC would determine how new hires within the projected workforce would provide the hiring opportunities to make progress towards or to meeting the goals.

### RECRUITMENT AND REFERRAL

The OEOC will take the following actions to recruit and make referrals:

1. Coordinate and establish linkages with community-based organizations, State Employment Development Department, Sacramento Tradeswomen, and local employment programs, to recruit minorities and women for employment and training by trade and skill level.
2. Coordinate with the contractor to interview and assess the capabilities of off-the-street minority and females who inquire or submit applications at the job site.
3. Develop and maintain a data base that incorporates a community network of available minorities and women tradespersons, who are either located within Unions or Apprenticeship training programs, pre-apprenticeship programs, or are semi-skilled/skilled and seeking employment.
4. Coordinate with the contractor to make referrals from the employment pool.
5. Coordinate referrals to local union halls and apprenticeship programs on behalf of the contractor.
6. In the event that OEOC is unable to provide a minority or female, OEOC shall cooperate with the Division of Apprenticeship Standard's training programs and unions to assist with the referral of a minority or female.

### COMPLIANCE MONITORING

The OEOC will determine if the contractor is in compliance with the Awarding Agency's requirements by making the determinations below. Examples given are intended to provide general guidelines and are not considered an all-inclusive listing.

1. Does the contractor provide the required documentation to the OEOC

in accordance with this AAP and Awarding Agency's requirements?

Example

The contractor is required by the Awarding Agency to provide workforce utilization statistical reports to OEOC and fails to do. The contractor will be deemed in noncompliance.

2. Is the contractor implementing its affirmative action plan to meet the Awarding Agency's goals? If not, has the contractor accepted the assistance of OEOC when offered to implement that plan?

Example

The contractor does not have an affirmative action plan to meet the Awarding Agency's goals and refuses to accept the assistance of the OEOC to establish such a plan. The contractor will be deemed in noncompliance.

3. If the Awarding Agency's goals are not being met, has the contractor worked with the OEOC to receive minority and women referrals to meet those goals. If not, the contractor will be deemed in noncompliance.

Example

The contractor is not meeting the Awarding Agency's goals. The OEOC contacts the contractor and wishes to refer minority and women employment candidates to assist the contractor in meeting the goals. The contractor refuses to or fails to interview these candidates. The contractor will be deemed in noncompliance.

4. When OEOC referrals are accepted, does the contractor provide good cause in writing to the OEOC when a employment candidate is not hired, or hired and subsequently terminated?

Example

The contractor interviews an OEOC employment candidate and the candidate is not hired. The contractor fails to provide in writing the reason(s) why the candidate was not hired. The contractor will be deemed in noncompliance.

Examples of good cause for not hiring a candidate include:

- A. Referral fails to meet the job classification requirements.
- B. Referral does not possess the required tools necessary to perform the work.
- C. Referral cannot obtain the necessary transportation to report to the job site.

Example

The contractor hired an OEOC employment referral and the employee is later terminated. The contractor fails to provide in writing the reason(s) why the employee was terminated. The contractor will be deemed in noncompliance.

Examples of good cause for terminating an OEOC-referred employee include:

- A. Employee fails to demonstrate appropriate skill level required.
- B. Employee fails to report to work on the days and times required.
- C. Employee exhibits inappropriate work habits that endangers himself or other workers at the job site.
- D. Employee's work production is below the production of other employees performing the same work.
- E. The work assignment has been completed.

**REPORTS TO AWARDING AGENCIES**

The OEOC will provide, at a minimum, quarterly reports to Awarding Agency regarding the following:

1. Status of recruitment and number of referrals made to contractors.
2. Number of hires, dates of those hires, employing contractors, and places of work
3. Number of employment terminations and the reasons for those terminations.

4. Number and types of technical assistance provided to contractors.
5. Number of referrals to training programs, pre-apprentice programs, classroom vocational training.
6. Status reports on the progress made by contractors to comply with contractual commitments, as requested by the Awarding Agency or the public.
7. Upon reviewing a contractor's performance and a determination that the contractor deviated substantially from the contract specifications of the Awarding Agency, OEOC shall provide documentation to the Awarding Agency for enforcement.

#### **SOLICITATION OF INFORMATION FROM AWARDING AGENCIES**

From time to time, the OEOC will solicit contractor information from the Awarding Agencies for administrative purposes. Such information may include:

1. Schedules of construction project pre-bid and pre-construction conferences. OEOC will brief contractors on its services and the implementation of this AAP.
2. Contract award information necessary for OEOC to make contact with contractors to implement this AAP.

#### **CONTRACTOR'S RESPONSIBILITY TO SUBCONTRACTORS**

The Prime Contractor is responsible for informing each subcontractor, regardless of tier, in writing, of the subcontractor's obligations within the Awarding Agency's affirmative action requirements and this AAP.

#### **RIGHTS OF APPEAL**

The Contractor has the right to appeal any actions taken by the OEOC with the Awarding Agency as stipulated in the construction contract document.

Revision Date 3/7/94  
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