

EQUAL EMPLOYMENT OPPORTUNITY

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My topic specifically pertains to the Federal Highway Administration and Public Roads involvement in the effort of equal employment opportunity. Before I get into program reviews and how they will be performed by the federal agencies, let me briefly recall to your mind the steps by which our current program developed.

You will recall that Congress passed the 1964 Civil Rights Act. Title VI of that Act provided for nondiscrimination in federally-assisted programs, to be administered by each federal agency empowered to extend federal financial assistance.

In 1965 the President issued Executive Order 11246 which more specifically outlined the requirements for contractors on federally-aided contracts. It was considered that this order would bring about equal employment opportunity. However, the Office of Federal Contract Compliance developed pre-award procedures which were not compatible with the State-Federal-contractor relationship. As a result, Section 22 of the 1968 Federal Aid Highway Act provided that "He (the Secretary) shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder." The law further provided that "contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility." These two requirements of the 1968 Federal Highway Act were included at the request of the highway industry.

The Federal Highway Administration developed the prequalification procedure as prescribed by Interim Order 7-2. This prequalification was to be written by the contractor setting forth his program for accomplishing equal employment opportunity. As some of you are aware, this did not provide a uniform effort and was not well received in the highway industry.

As a result FHWA Interim Order 7-2(1) was written, which prescribed a ten-point EEO program to be included in each federal-aid contract as special provisions to be followed by the prime contractor and all subcontractors with subcontracts of \$10,000 or more. The special provisions in brief contain these ten points:

1. not to discriminate,
2. to have a policy,
3. to name an equal employment opportunity officer,
4. to disseminate his policy and procedures,
5. unless precluded by a valid bargaining agreement, to recruit with emphasis on minorities,
6. to handle wage and personnel actions of every type without regard to race, color, religion, sex, or national origin,
7. to make full use of apprenticeship, preapprenticeship and other training programs in his area,

8. to use his best efforts to obtain cooperation of unions to effect referrals of minorities and increase opportunities for minorities,
9. to use his best efforts to utilize minority subcontractors or subcontractors having minority employees, and
10. to keep records of minority and non-minority employees and submit certain records.

Both the Civil Rights Act of 1964 and the Federal Aid Highway Act of 1968 required the State highway departments to sign assurances obligating them to the EEO program and further obligating them to establish enforcement procedures to supplement those set up by the FHWA and Bureau of Public Roads.

Federal enforcement procedures fail in two categories: compliance reviews and inspections-in-depth--compliance reviews to look at the contractors' specific efforts--inspections-in-depth to review the effectiveness of the State's procedure.

The compliance review is designed to evaluate the contractors' overall EEO operation. It can, however, be directed toward a specific contract if his efforts in a particular area are of interest. These reviews will in general be performed by FHWA or DOT personnel from the Washington office or the FHWA Regional Office of Civil Rights. Being federally-aided, it is possible that the Office of Federal Contract Compliance, OFCC, could perform a compliance review.

It might be well to mention here that the State's procedure as presently established also provides for compliance reviews to be performed by State central office personnel on contractor operations.

When you realize that the Washington office is responsible for all contracts in the 50 States, while the Region with limited personnel has five large States, it is easy to see that their efforts will be concentrated on large contracts in areas of high minority population.

To assure that the program is carried out on all projects, large or small, and in all areas of the State, the division office of the BPR in Frankfort has been assigned the responsibility to administer the EEO inspection-in-depth program. This will involve a series of detailed, project inspections, one in each State highway district. The State's method for assuring compliance with the contract provisions will be reviewed. Since the day-to-day contract surveillance is the responsibility of the resident engineer, he will be the principal contact during these inspections. It will be expected that he will have in his project files adequate documentation to support the contractor's compliance with the provisions of the contract.

You will note that I said the resident engineer will be the principal contact. We, Public Roads personnel, will also interview certain contractor employees to ascertain that the contractor has in fact made his EEO policy known to his employees.

We have recently completed a series of Regional and State compliance reviews and Public Roads inspections-in-depth, and have determined that in general contractors in Kentucky have

- a. adopted a non-discrimination policy,
- b. designated an EEO officer,
- c. posted the required EEO signs,

- d. made periodic inspections of working conditions,
- e. reviewed personnel actions, and
- f. retained personnel records in excess of three years.

During these reviews we also noted that some contractors had expended considerable effort to develop a satisfactory program. Others must continue to exert efforts to become completely familiar with the intent of the program and to recognize the action that must be taken on their part. The contractors in general must exert additional effort to instruct their staff of the equal employment opportunity responsibilities by means of letters and personnel meetings. They must also disseminate their policy to all company employees and encourage their present employees to assist them in locating and hiring members of the minority group.

While the Contractors Association and certain contractors are making progress in establishing training programs, others must take affirmative steps with the Association and unions to provide training opportunities for potential employees.

The special provisions require that the contractor utilize minority group subcontractors. Since to our knowledge there are no existing qualified minority group subcontractors in Kentucky, it will be necessary to locate minority persons who have the ability to perform certain work and assist them in becoming operative subcontractors, if possible.

As all of you are aware there are many civil-rights organizations currently working to improve the employment situation of the minority. Contractors should establish personal contact with these organizations and solicit their assistance in locating potential minority employees.

The special provisions included in all contracts clearly point out the need for documentation. Additional effort is needed by most contractors to clearly document their efforts to accomplish the provisions of their contracts. As I mentioned earlier this documentation should also be furnished the resident engineer for the specific contract involved.

In July we tabulated from a required Work Force Analysis report for federal-aid contracts totaling \$130,436,363 the following:

- 1. of 2,307 total employees, 93 were minority,
- 2. of 56 supervisors, there were no minority,
- 3. of 155 foremen, 2 were minority,
- 4. of 717 operators, 20 were minority,
- 5. of 166 carpenters, 2 were minority, and
- 6. of 798 laborers, 57 were minority.

So you see, we have a long way to go to provide equal employment opportunity in our industry in Kentucky, an effort which is now a contractual obligation of the contractor.

We realize that part of the problem involves a shortage of trained minority and considerable emphasis is being placed on training--OJT, apprenticeship, etc. As you will recall, training is a requirement of the provisions to be accomplished by the contractor.

I'm sure that the Kentucky contractors are capable of meeting the challenge and will provide equal employment opportunity to the people of Kentucky.