

(6) The following imposed limitations: (i) National average cost per enrollee, (ii) Percent in residential program.

(7) The capability and past performance by Grantees in meeting their responsibilities as required by FMC 74-4 and OMB Circular A-102.

(8) Project Location Approval. Each project location will be approved by Forest Service and Interior through their Regional/Area Offices.

(b) The demonstrated capability of the Grantee to establish and implement an effective mechanism to assure equal employment opportunity in staff hiring by the Grantee or any sub-grantees will be considered prior to award. If the Grantee's performance is found to be so unsatisfactory or inadequate as to warrant denial, suspension, modification or termination, then appropriate action will be taken in accordance with the regulations implementing title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d.

PART 33—ALLOCATION OF DUTY-FREE WATCHES FROM THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA [NOTE]

NOTE: Public Law 89-805 (19 U.S.C. 1202) authorizes the Secretary of the Interior and the Secretary of Commerce to issue joint regulations governing the allocation of duty-free quotas for watches and watch movements assembled in the Virgin Islands, Guam, and American Samoa. For the text of these joint regulations, see 15 CFR part 303, published at 42 FR 62907, Dec. 14, 1977, and revised at 49 FR 17740, Apr. 25, 1984.

PART 34—REQUIREMENTS FOR EQUAL OPPORTUNITY DURING CONSTRUCTION AND OPERATION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

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- 34.1 Statement of purpose.
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34.11 Enforcement sanctions.

AUTHORITY: Sec. 17, Pub. L. 94-586, 15 U.S.C. 719 (1976).

SOURCE: 45 FR 31104, May 12, 1980, unless otherwise noted.

§ 34.1 Statement of purpose.

The purpose of these regulations is to implement both section 17 of the ANGTA and Condition 11 of the President's *Decision*.

§ 34.2 Applicability.

These regulations apply to all activities including, but not limited to, contracting for goods and services, employment, and any other benefits that flow from activities conducted under permits, rights-of-way, public land orders, and other Federal authorizations granted or issued pursuant to ANGTA, by recipients of those authorizations, their agents, contractors, and subcontractors, including labor unions or other persons.

§ 34.3 Definitions.

(a) As used in this part, the term, *ANGTA* means the Alaska Natural Gas Transportation Act of 1976, Public Law 94-586, 15 U.S.C. 719.

(b) *ANGTS* means the Alaska Natural Gas Transportation System as designated and described in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, September 1977, pursuant to section 7(a) of ANGTA, S.J. Res. 82, 91 Stat. 1268 (1977).

(c) The term *affirmative action plan* means a statement of those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal opportunity in employment, procurement, and the provision of services, financial aid or other benefits, and includes goals for achieving equal opportunity and a description of specific result-oriented procedures to which the recipient, contractor or subcontractor commits itself to apply a good faith effort in order to achieve the goals.

(d) The term *applicant* means a person who has applied for and is seeking Federal authorization under ANGTA to construct and operate the ANGTS, but has not received or been denied the authorization sought.

(e) The term *contract* means any agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a recipient or an applicant and any person for the furnishing of supplies or services to a recipient or applicant, or for the use of real or personal property including lease arrangements by a recipient or applicant. The term contract also includes any agreement or arrangement, whether oral or written, express or implied, between two persons and which is related in any way to the activities conducted under any certificate, permit, right-of-way, lease or other Federal authorization granted or issued pursuant to ANGTA, or in any way connected with ANGTS.

(f) The term *contractor* means a person who is a party to a contract with a recipient or an applicant.

(g) The term *discrimination* means an action or a failure to act which has the effect or would tend to have the effect of excluding a person from participation, denying a person benefits, subjecting a person to unequal treatment, or harassing a person because of and on the basis of race, creed, color, national origin or sex.

(h) The term *Federal Inspector* means the official appointed by the President pursuant to section 7(a)(5) of ANGTA to coordinate governmental actions with respect to ANGTS, including the monitoring and enforcement of the terms and conditions attached to government authorizations issued under ANGTA. The term also includes authorized representatives of the Federal Inspector.

(i) The term *female business enterprise* (FBE) means a sole proprietorship, partnership, unincorporated association, joint venture or corporation that is owned and controlled by women. To qualify as an enterprise owned and controlled by women, 51% of the beneficial ownership interests and 51% of the voting interests must be held and actually voted by women. Further, the enterprise must in fact be controlled and managed by women.

(j) The terms *minority* and *minority groups* include:

(1) Black, all persons having origins in any of the Black African racial groups not of Hispanic origin;

(2) Hispanic, all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race;

(3) Asian and Pacific Islander, all persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands including persons having origin, for example, in China, India, Japan, Korea, the Philippine Islands, Samoa; and

(4) American Indian or Alaskan Native, all persons having origins in any of the original people of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

(k) The term *minority business enterprise* (MBE) means a sole proprietorship, partnership, unincorporated association, joint venture or corporation that is owned and controlled by minorities. To qualify as an enterprise owned and controlled by minorities, 51% of the beneficial ownership interest and 51% of the voting interests must be held and actually voted by minority people. Further, the enterprise must in fact be controlled and managed by minority people.

(l) The term *person* includes recipients, contractors, subcontractors, governmental agencies, corporations, associations, firms, partnerships, joint stock companies, labor unions, employment agencies, and individuals.

(m) The term *President's Decision* means the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, September 1977, pursuant to section 7(a) of ANGTA, approved and adopted S.J. Res. 82, 91 Stat. 1268 (1977).

(n) The term *procurement* means the acquisition (and directly related matters) of personal property and nonpersonal services (including construction) by such means as purchasing, renting, leasing, (including real property) contracting, or bartering, but not by condemnation or donation.

(o) The term *procurement practice* means any course of conduct or activity taken to effect procurement.

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(p) The term *recipient* means any corporation association, joint stock company, partnership, firm, agency or individual who receives a certificate, permit, right-of-way, lease, or other Federal authorization granted or issued under ANGTA to construct and operate the ANGTS, whether directly or through another recipient including any successor, assignee or transferee thereof.

(q) The term *subcontract* means any agreement or arrangement between a contractor and any person, regardless of tier, (in which the parties do not stand in the relationship of employer and employee) in any way related to the performance of any one or more contracts as defined above.

(r) The term *vendor* means a person who sells or provides goods or services for the construction and operation of ANGTS. A vendor may be a contractor or subcontractor.

§ 34.4 Discrimination prohibited.

(a) *General.* No person shall, on the grounds of race, creed, color, national origin, or sex, be discriminated against or excluded from receiving any benefit from or participating in any activity conducted under any certificates, permits, rights-of-way, leases, and other Federal authorizations to which this part applies.

(b) *Specific actions in which discrimination is prohibited.* No person shall directly or through contractual or other arrangements, discriminate in any activity to which this part applies, including the following:

(1)(i) Employment policies and practices of employers, including advertising, hiring or firing, up-grading, promotion, or demotion, transfer, layoff, or termination, rates of pay, and other forms of compensation or benefits, or other terms and conditions of employment;

(ii) Employment policies and practices of labor unions, including, acceptance of applications for membership, enrolling or expelling members, classification of members, referrals for employment, training and apprenticeship programs, and the provision of other benefits of membership;

(iii) Employment policies and practices of employment agencies including

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acceptance of applications for employment services, referrals for employment, classification of individuals for employment, and the provision of other benefits and services.

(2) Procurement practices, including manner of procurement, qualification for contracting or placement on procurement source lists, the composition of sources solicited, the use of pre-bid conferences, solicitation for proposals or bids, the designation of quantities, delivery schedules or other specifications, selection procedures, or performance standards.

(3) The provision of services, financial aid and other benefits provided in whole or in part, under any Federal authorization to which this part applies, more specifically including actions that result in the:

(i) Denial to an individual or establishment of any service, financial aid, or other benefits;

(ii) Provision of any service, financial aid, or other benefit to an individual, or establishment which is different, or is provided in a different manner, from that provided to others;

(iii) Subjection of an individual to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefits;

(iv) Restriction of an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit;

(v) Treatment of an individual that is different from others in the determination of any admission, enrollment, eligibility, membership requirements or other conditions which individuals must meet in order to be provided any service, financial aid, or other benefit;

(vi) Denial to an individual of an opportunity to participate in any activity that is different from that afforded others;

(vii) Denial to an individual of the opportunity to participate as a member of any planning or advisory body that participates in the provision of any service, financial aid, or other benefit;

(viii) Use of criteria or methods of administration which have the effect of