

#### § 34.4

(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

subjecting individuals or establishments to discrimination in the determination of the types of services, financial aid, or other benefits, or the facilities that will be provided; or the class of individuals or establishments to which, or the situation in which, such services, financial aids, other benefits, or facilities will be provided; or the class of individuals or establishments to be provided an opportunity to participate in any activity; and

(ix) Selection of a site or location for facilities for the provision of services, financial aid, or other benefits, with the purpose or effect of substantially impairing the objectives of section 17, the President's *Decision*, and implementing rules, regulations, and orders.

(c) *Scope of prohibited discrimination.*

(1) The enumeration of specific forms of prohibited discrimination in paragraph (b) of this section does not limit the general prohibition in paragraph (b) of this section.

(2) Action taken in compliance with an affirmative action plan developed pursuant to these regulations shall not be deemed a violation of this section.

#### § 34.5 Assurances.

Every application for a certificate, permit, right-of-way, lease, public land order, or other Federal authorization to which this part applies, filed after the effective date of these regulations, and every contract covered hereunder to provide goods, services, or facilities in the amount of \$10,000 or more to a recipient, contractor, or subcontractor to which this Part applies, must contain an assurance that the recipient, contractor, or subcontractor does not and will not maintain any segregated facilities, and that all requirements imposed by or pursuant to section 17, Condition 11 of the President's *Decision* and implementing rules, regulations, and orders shall be met, and that it will require a similar assurance in every subcontract of \$10,000 or more.

#### § 34.6 Equal opportunity clause.

Each certificate, permit, right-of-way, lease, or other Federal authorization to which this part applies, shall include the following Equal Opportunity Clause:

(a) The recipient, contractor, or subcontractor hereby agrees that it will not discriminate directly or indirectly against any individual or establishment in offering or providing procurements, employment, services, financial aid, other benefits, or other activities to which these regulations apply. The recipient, contractor, or subcontractor will take affirmative action to utilize business enterprises owned and controlled by minorities and/or women in its procurement practices; to assure that applicants for employment are employed, and that employees are treated during employment, without discrimination on the basis of race, creed, color, national origin, or sex; and to assure that individuals and establishments are offered and provided services, financial aid, and other benefits without discrimination on the basis of race, creed, color, national origin, or sex. The recipient, contractor, or subcontractor agrees to post in conspicuous places available to contractors, subcontractors, employees, and other interested individuals, notices which set forth these equal opportunity terms; and to notify interested individuals, such as bidders, contractors, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements, of its obligations under section 17, Condition 11 of the President's *Decision*, and the implementing rules, regulations, and orders thereunder;

(b) The recipient, contractor, or subcontractor will comply with all rules, regulations, and orders which implement section 17 and Condition 11 of the President's *Decision*;

(c) The recipient, contractor, or subcontractor will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 17 and Condition 11 of the President's *Decision*, and will permit access to its facilities, books, records, and accounts by the Federal Inspector for purposes of ascertaining compliance with such rules, regulations, and orders;

(d) In the event of a recipient's, contractor's, or subcontractor's non-compliance with these equal opportunity terms, compliance may be effected through procedures authorized