

AFFIRMATIVE ACTION PLAN (AAP)

Introduction

Clayco, Inc. (“Clayco”), is a construction contractor as defined by and subject to the affirmative action requirements of Executive Order 11246, as amended (“Executive Order”), Section 503 of the Rehabilitation Act of 1973 (“503”), the Vietnam Era Veterans’ Readjustment Assistance Act (“VEVRAA”) and the Code of Federal Regulations (“CFR”).

The Executive Order, as amended, prohibits construction contractors and subcontractors, whether or not federally assisted, from discrimination based on race, color, religion, sex, sexual orientation, gender identity and national origin in employment practices such as recruitment, rates of pay, hours, upgrading, layoff, promotion, selection for training, advertising efforts, job classifications, seniority, retirement ages, or job fringe benefits such as employer contributions to company pension or insurance plans. Sexual harassment is also a violation of the nondiscrimination provisions of the Executive Order.

Section 503 prohibits federal contractors and subcontractors from discriminating in employment against individuals with disabilities, and requires these employers to take affirmative action to recruit, hire, promote, and retain these individuals.

VEVRAA requires covered federal government contractors and subcontractors to take affirmative action to employ and advance in employment specified categories of veterans protected by the Act and prohibits discrimination against such veterans.

The Office of Federal Contract Compliance Programs (“OFCCP”) is responsible for enforcing Federal laws and regulations.

All federal government construction contracts are covered by the Executive Order, 503 and VEVRAA. Contractors and subcontractors who are subject to OFCCP requirements have a contractual obligation to comply with the applicable OFCCP-administered laws at all work sites.

A “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” (“Notice”) is included in the government’s bid solicitation for all federal and federally assisted construction contracts and subcontracts in excess of \$10,000. The Notice informs the bidder of the affirmative action requirements imposed under the Executive Order and includes specific goals for minority and female participation. In addition, the construction contractor’s equal employment opportunity (“EEO”) and affirmative action (“AA”) obligations are specified in the contract.

Every covered construction contract and subcontract must contain specific EEO clauses imposed under the Executive Order. The text of these equal opportunity clauses may be expressly included or incorporated by reference. In addition, Federal and federally assisted construction contracts and subcontracts in excess of \$10,000 must include the “Standard Federal Equal Employment Opportunity Construction Contract Specifications,” which describe the obligations and set forth the specific sixteen AA steps to be implemented in order to make

a good faith effort to achieve the goals for minority and female participation that were listed in the bid solicitation.

Clayco is committed to achieving these goals.

Therefore, Clayco's Chief Compliance Officer's (CCO) will have the responsibility to assure compliance with this Affirmative Action Plan ("AAP") and will have access to all EEO records. In addition, Clayco requires that all of its subcontractors comply with these same requirements and make their AAP & EEO records available for review.

CLAYCO PLAN:

- Evaluate the sixteen EEO and AA program requirements and other regulatory requirements.
- Define, develop, implement and demonstrate good faith efforts in meeting the requirements.
- Ensure that employment policies and practices are free of discriminatory intent or impact; evaluate the process to ensure efforts are complete and effective.
- Provide reasonable accommodation to qualified individuals with disabilities.
- Determine how to remedy any discriminatory practices or regulatory violations.
- Maintain and retain records.

Contractor(s) shall mean Clayco and any subcontractor it hires.

Evaluate the Sixteen EEO and AA Program Requirements:

1 - Contractor must maintain a work environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned. Contractor must take specific steps to ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the company's contractual obligation to maintain such a working environment, with specific attention to minorities and women working at all work sites and facilities.

2 - Contractor must establish and maintain current lists of minority and female recruitment sources; provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available; and maintain a record of the organizations' responses.

3 - Contractor must maintain current files containing the names, addresses and telephone numbers of each minority or female off-the-street applicant and minority or female referral from a union, recruitment source or community organization and of what action was taken with respect to each individual. Contractors may send an individual to the union hiring hall for referral back to the contractor. If the union did not refer the individual to the contractor **or** if the individual was referred but was not hired, the contractor must keep a record of all actions taken, along with the reasons why the referral or hiring did not occur.

4 - Contractor must immediately notify the Deputy Assistant Secretary in writing when the union or unions with which the contractor/subcontractor has a collective bargaining agreement has not referred a woman or minority individual sent by the contractor. Contractor must notify OFCCP when the contractor/subcontractor has other information that the union referral process has impeded the contractor's efforts to meet its EEO and affirmative action obligations.

5 - Contractor must develop on-the-job training opportunities or participate in training programs for the job area(s) which expressly include minorities and women. Contractor's actions must include upgrading programs, apprenticeships and trainee programs relevant to the contractor's employment needs, especially those programs approved by the Department of Labor. Contractor must provide notice of these training opportunities and job programs to recruitment

sources, state employment offices and other referral sources that the contractor has compiled under *Specification 2* above.

6 - Contractors must disseminate EEO policies by:

- Providing notice of the policies to unions and training programs and requesting their cooperation and assistance in meeting EEO obligations;
- Including EEO policy statements in all policy manuals and collective bargaining agreements;
- Publicizing these policies in company newsletters, the annual report, etc.;
- Specifically reviewing the policy with all management personnel and with all minority and female employees at least once a year;
- Posting the EEO Policy on bulletin boards accessible to all employees at each location where construction work is performed.

7 - At least once a year, contractor must review EEO policies and affirmative action obligations (under these specifications) with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions. These EEO policies and affirmative action obligations must be specifically reviewed with on-site supervisory personnel such as superintendents, general foremen, etc., prior to starting construction work at any job site. Contractor's personnel must maintain records that identify the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

8 - Contractor must disseminate EEO policies externally by including them in any advertising in the news media (including minority and female news media). Contractor must also provide written notification to and discuss EEO policies with other contractors and subcontractors with whom the contractor does or anticipates doing business.

9 - Contractors must direct recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Contractors must send notice to its recruitment sources for women and minorities announcing acceptance of applications for apprenticeship or other training. This notice must be sent no later than one month before publication of apprenticeship and training announcements. Notices must describe the openings, screening procedures and tests to be used in the selection process.

10 - Contractor must encourage current minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both at the work site and in other areas of the contractor's work force.

11 - Contractor must validate all tests and other selection requirements where there is an obligation to do so.

12 - At least once a year, contractor must inventory and evaluate all minority and female personnel for promotional opportunities. Contractor must encourage these employees to seek or prepare for, through appropriate training, etc., promotional opportunities.

13 - Contractors must 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 EEO policies and contractors' obligations under the contract specifications are being carried out.

14 - Contractor must ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities designed to assure privacy between the sexes shall be provided. The term "facilities" refers to waiting rooms, work areas, eating areas, time clocks, rest rooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or transportation, and housing facilities provided for employees.

15 - Contractor must document and maintain records of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including

circulation of solicitations to minority and female contractor associations and other business associations.

16 - At least once a year, contractor must conduct a review of all supervisors' adherence to and performance under the Clayco's EEO policies and affirmative action obligations.

CONTRACT CLAUSES - Depending on the dollar amounts, Contractor with Federal construction contracts or subcontracts must include or reference the following clauses:

- Executive Order 11246 contract specifications clause.
- VEVRAA equal opportunity clause.
- Section 503 equal opportunity clause.

Depending on dollar amounts, federally assisted construction contracts or subcontracts must include or reference the following clauses:

- Executive Order 11246 equal opportunity clause.
- Executive Order 11246 contract specifications clause.

NOTIFICATION OF AWARD - Contractor must notify OFCCP in writing within 10 working days of the award of any construction subcontract in excess of \$10,000 that is made under a covered Federal or federally assisted construction contract.

RECORDKEEPING - Contractor must keep records about their entire on-site construction trade workforce within each covered area in which they perform any construction work (both Federal and non-Federal).

EEO-1 REPORT - Contractor with 50 or more employees and with a covered contract or subcontract of \$50,000 or more must submit an annual EEO-1 Report.

503 AND VEVRAA – Contractor must comply with the nondiscrimination and AA requirements of Section 503 and VEVRAA. Contractor holding a Federal contract of at least \$50,000 and having 50 or more employees must prepare a written AA program for qualified individuals with disabilities. Contractors and subcontractors holding a Federal contract of at least \$100,000 and having 50 or more employees must prepare a written AA program for covered veterans.

VETS 100 AND VETS 100A REPORTS - Once a year, Contractor must compile a report of the numbers of disabled and other covered veterans in their work force by job category and hiring location. Contractor must also collect data indicating the total number of employees and the number of disabled veterans, Armed Forces service medal veterans, recently separated veterans, and other covered veterans hired during the reporting period.

I-9 FORMS - Under the Immigration Reform and Control Act of 1986 (IRCA), Contractor must maintain I-9 forms to verify that their employees are legally authorized to work in the United States.

Define, Develop, Implement and Demonstrate Good Faith Efforts in Meeting the Requirements:

Step 1:

- Distribute policy statements prohibiting harassment to all employees.
- Post EEO policy statements at all construction sites.
- Provide all personnel written instructions addressing the need to maintain a work environment free of harassment, intimidation, and coercion.
- Hold meetings to inform supervisory personnel of their duty to carry out the obligation to maintain a workplace free of harassment, intimidation, or coercion.
- Attempt to assign more than one woman to each construction project.

- Develop a formal procedure to handle complaints of harassment.
- Prepare and retain reports of specific efforts made to monitor the work environment for the presence of any forms of harassment, intimidation, or coercion.
- Provide harassment awareness training.

Step 2:

- Recruitment sources should include the state employment offices serving the recruitment areas for Clayco's construction projects.
- Maintain files of letters to minority and female recruitment sources announcing the employment opportunities and application procedures.
- Maintain an applicant flow log to identify employment solicitations and referrals, and to track the results of the applications.

Step 3:

- Establish files that show the names, addresses, telephone numbers and trades of each minority and female applicant and referral.
- Note on the actual employment application forms what action was taken with respect to each applicant and the reason for non-hire.
- Where an applicant has been referred to the union for referral back document this action and its results or any follow-up contacts made with the applicant or the union.

Step 4:

- Retain copies of all letters to and from the unions, minutes of meetings, etc., related to claims that the union has impeded efforts to comply with its obligations.
- Retain copies of any letters sent to the OFCCP that contain claims of non-referral or claims that a union has impeded efforts to comply with EEO obligations.

Step 5:

- Maintain records of employees' participation in training programs.
- Document contributions provided in support of training.
- Inform minority/female recruitment sources and schools of programs in writing.

Step 6:

- Include EEO policies in all policy manuals and employee handbooks.
- Document employee discussions about EEO policies.
- Retain copies of letters and notices to unions and training programs providing notice of requirements and requests for assistance in meeting those obligations.
- Retain newsletters and annual reports containing descriptions of EEO policies.

Step 7:

- Maintain records that identify the time and place of meetings, persons attending, subject matter discussed and disposition of the subject matter.

Step 8:

- Retain copies of any employment advertisements or job announcements specifically including the EEO "tagline" which should appear in all advertisements.
- Retain copies of correspondence with subcontractors that notify them of EEO contractual obligations and the contractor's commitment to compliance.
- Document meetings with construction industry associations and organizations where the Federal EEO and affirmative action contract obligations and methods for facilitating compliance have been discussed or acted upon.

Step 9:

- Retain records of contacts (such as written communications, telephone calls or personal meetings) with minority and female community organizations, recruitment sources, schools and training organizations.
- Document contacts with employment services, schools and training programs.
- Obtain from unions the referrals for those accepted into training programs.

- Maintain contract records to recruitment sources announcing training and apprenticeship opportunities.
 - Recruitment sources must be notified one month before the company begins accepting applications.

Step 10:

- Encourage present minority and female employees to recruit minority persons and women.
- Retain copies of logs or memos indicating contacts with minority and female employees requesting their assistance in recruiting other minorities and women, and records of the results.
- Supervisors and crew leaders should keep a log of worker referrals from minority or female employees or recruitment sources.
- Employ minorities and women in all types of positions including part-time, internships, after-school and summer/vacation.

Step 11:

- Contractors with 100 or fewer employees who are not required to file an EEO-1 Report should collect data to help determine if the test or selection requirement has a possible adverse impact on any race, sex, or ethnic group.
- Contractors with more than 100 employees should maintain the records for each job that show whether the total selection process for each job has an adverse impact on either gender or on any race and ethnic groups specified in the OFCCP regulations.

Step 12:

- Maintain written records (memoranda, letters, personnel files, etc.) showing promotional opportunities for women and minorities are reviewed annually.
- Maintain records documenting that the participation of women and minorities in promotional opportunities is encouraged.

Step 13:

- Use data collected under #11 to determine if any practices, job classifications or work assignments have an adverse impact on women and minorities.
- Audit existing personnel practices periodically when developing new personnel practices to ensure that EEO obligations are being adequately addressed.
- Review of policies on a regular basis to identify factors that are not equally applied.

Step 14:

- Offer adequate toilet and changing facilities to all employees to guarantee privacy between the sexes.
- Maintain flyers, posters, e-mails of company sponsored events reflecting equal dissemination of information to all employees.

Step 15:

- Retain copies of letters or solicitations for subcontracts from minority or female contractors with a record of the specific responses and any follow-up activities done to obtain price quotations.
- Maintain a list of subcontracts awarded to minority or female contractors or suppliers, showing the dollar amounts involved.
- Retain copies of solicitations sent to minority and women's contractor associations or other business associations and state or local governmental agencies.

Step 16:

- Retain copies performance evaluations, memoranda, letters, reports, and minutes of meetings or interviews with supervisors and management personnel related to employment practices, EEO policy and affirmative action obligations.
- Compile written evidence of notices to supervisors and managers when employment practices have adversely or positively affected the company's EEO and affirmative action posture.

Ensure Employment Policies and Practices are Free of Discriminatory Intent or Impact; Evaluate the Process to Ensure Efforts are Complete and Effective:

CCO or a designated representative(s) will review, evaluate and address the following to ensure non-discriminatory actions:

- EEO policy and AA obligations (annually).
- Personnel practices.
- Hiring patterns.
- Announcements for hiring or potential job opportunities.
- 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 obligations under any government contract are being carried out.
- Training of employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions on the EEO policy and AA obligations (annually).
- EEO-1 Form.
- EEO posted notices.
- Veteran Reporting Forms.
- Notices sent to unions or state employment offices (bi-annually).
- Rules, regulations, and relevant orders of the Secretary of Labor (annually)
- Submittals of information and reports required by the Executive Order and the rules, regulations, and orders of the Secretary of Labor (annually).

CCO, management or designated representative(s) will:

- Provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority.
- Establish a single goal for minorities and a separate single goal for women.
- Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out.
- Submit reports as may be required by the Government and the CCO.
- Conduct an inventory and evaluation at least of all minority and female personnel for promotional opportunities (at least annually).
- Encourage minority and female employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.
- Conduct a review of all supervisors' adherence to and performance under the EEO policy and AA obligations.
 - This will be a rating factor in each supervisors performance review.
- Conduct reviews of this AAP with all on-site supervisory personnel before initiating construction work at a job site.
- Train of employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions on the EEO policy and AA obligations (annually).
- Review subcontracts for inclusion of all required language (annually).
- Reports generated related to the AAP requirements.
- Ensure that the qualifications of known protected veterans or individuals with disabilities are given proper consideration for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available.

Project Manager (PM) and Superintendents will:

- Assure that no discrimination is allowed to take place on a construction site.
- Provide a monthly report on a breakout of minorities on the specific job site.

Provide Reasonable Accommodation to Qualified Individuals with Disabilities:

Contractor will review all mental and physical job requirements used in selection processes and in determining medical standards, information and qualifications.

- Examples of mental and physical job requirements include job descriptions containing phrases such as “must be able to lift 50 pounds,” or “carry heavy mail bags to and from the accounting department,” or “must be able to tolerate heights.” Other examples may include policy statements about desired weight, height, physical condition, vision, etc. of the employee.
- Except in the following circumstances, it is unlawful for contractors to require a medical examination of an applicant or employee, or to make inquiries as to whether an applicant or employee is an individual with a disability or as to the nature or severity of such disability.

§ The contractor may make pre-employment inquiries into the abilities of an applicant to perform job-related tasks, or may ask the applicant to describe or demonstrate how, with or without reasonable accommodation, they will be able to perform job-related functions.

§ The contractor may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

§ Post-employment, the contractor may only make a disability-related inquiry of an employee, or require that an employee have or submit to a medical test or examination, if the inquiry, test, or examination is job related and consistent with business necessity.

Contractor to provide reasonable accommodation to the known physical and/or mental limitations of applicants and employees with disabilities or disabled veterans, unless the contractor can demonstrate that the needed accommodation would impose an undue hardship on the operation of its business.

Reasonable accommodation means:

- Adjustments to a job application process that enable a qualified applicant who is an individual with a disability or a disabled veteran to be considered for the position.
- Adjustments to the work environment or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability or disabled veteran to perform the essential functions of that position.
- Adjustments that enable the employee who is an individual with a disability or a disabled veteran to enjoy equal benefits and privileges of employment as are enjoyed by the contractor’s other similarly situated employees who are not individuals with disabilities or disabled veterans.

Reasonable accommodation may include but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by individuals with disabilities and disabled veterans.
- Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities or disabled veterans.

Contractor will undertake appropriate outreach and recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, qualified disabled veterans, and other protected veterans.

- Develop a system of internal company communications that fosters acceptance and support of the affirmative action program within their company.
- Develop a system of checks and audits to ensure that affirmative action measures are being fully implemented.
- Actively recruit applicants who are individuals with disabilities and protected veterans through schools and training institutions, consumer groups, veterans' employment representatives at state employment services, vocational training programs and any other sources that can provide support and assistance (e.g., a state vocational rehabilitation agency).
- Include individuals with disabilities in consumer, promotional or recruitment advertising.
- Secure the cooperation and understanding of subcontractors, unions and suppliers.
- Review employees' records to see if their abilities are being fully used.
- Review employees' records to determine who is eligible for promotion or transfer.

Determine How to Remedy Any Discriminatory Practices or Regulatory Violations:

Contractor will:

- Enforce the standard that failure to comply shall not be a defense for noncompliance.
- Permit access to books, records, and accounts for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- In the event of noncompliance, any contract or subcontract may be cancelled, terminated, or suspended in whole or in part and the contractor or subcontractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order.
- Sanctions, penalties and remedies by rule, regulation or otherwise for non-compliance will be imposed.
- Reject any contract or subcontract with any person or firm debarred from Government contracts under the Executive Order.

Maintain and Retain Records:

Contractor will maintain and retain written records which include, but are not necessarily limited to, records pertaining to hiring, assignment, promotion, demotion, transfer, layoffs, terminations, rates of pay or other terms of compensation, selection for training and apprenticeship, results of physical examinations (kept in a confidential medical file), job postings, job advertisements, applications, resumes, tests, test results, and job interview notes.

Records should include:

- Applicants.
 - Pre-Employment review and testing.
 - Specific job opening for consideration.
- Employee.
 - Name
 - Address
 - Telephone number
 - Construction trade
 - Union affiliation (if any)
 - Employee identification number
 - Social security number
 - Race
 - Sex
 - Status (e.g., mechanic, apprentice, trainee, helper, or laborer)
 - Dates of changes in status
 - Hours worked per week in the indicated trade

- Rate of pay
- Locations at which work was performed
- Meetings.
 - Time and place.
 - Persons attending.
 - Subject matter discussed.
 - Disposition.

Maintain records of every opening for which a minority, female, an individual with a disability or protected veteran had been considered. If placement occurs and it is not with an applicant who is a minority, female, or an individual with a disability or a protected veteran, contractor should provide a comparison of the qualifications of the person selected. Records should also indicate what accommodations (if any) were considered to enable the worker to perform the job.

With respect to protected veterans, contractors may only use those portions of a person's military record that are job-related.

Records shall be maintained in an easily understandable and retrievable form; *however*, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

Contractor may transfer their original paper records to an electronic recordkeeping system, if the medium used accurately reproduces the paper original and would constitute a duplicate or substitute copy of the original paper record under Federal law.