

Contractors' Workforces

FAIR INCLUSION

FEDERAL DEPOSIT INSURANCE CORPORATION | OFFICE OF MINORITY AND WOMEN INCLUSION



Key Facts

Section 342(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 requires contractors of the Federal Deposit Insurance Corporation (FDIC) to ensure, to the maximum extent possible, the fair inclusion of minorities and women¹ in the contractor's workforce and, as applicable, subcontractors. To this end, solicitations for FDIC contract awards over \$100,000 will contain a provision for prospective contractors to certify that it is committed to equal opportunity in employment; and that it has made and will continue to make or will make during the course of the contract, a good faith effort to ensure the fair inclusion of minorities and women in its workforce. The FDIC may request the contractor to provide support documentation that demonstrates their good faith effort to include minorities and women in their workforce. (Provision 7.3.2-53, Certification Regarding Fair Inclusion of Minorities and Women and Clause 7.6.4-4, Fair Inclusion of Minorities and Women).

FDIC Contracts subject to the Provision and Clause

FDIC contracts for goods or services valued over \$100,000 will include the Fair Inclusion provision and clause.

Compliance Requirements

The Fair Inclusion clause requires FDIC contractors to:

- Certify commitment to equal opportunity in employment and contracting;
- Insert the substance of the clause in all subcontracts valued over \$100,000; and
- Provide support documentation of actions, planned or ongoing that demonstrate good faith effort to include minorities and women in their workforce.

Good Faith Effort

Good faith effort includes actions by the contractor that are intended to identify and, if present, remove barriers to minority and women.

Documentation of Good Faith Effort

Contractors with awards made on September 1, 2011 or after, and valued over \$100,000, upon written request must provide support documentation, satisfactory to the FDIC that demonstrates good faith effort.

¹ The term "minority" as defined in Dodd-Frank 342(g), has the same meaning as in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Black, Hispanic, Asian, and Native American).

FDIC Review of Compliance	The review is initiated when the contractor receives a written request from the Contracting Officer for support documentation. The contractor may provide a copy of their plan or other support documentation that minorities and women have appropriate opportunities to enter and advance within its workforce, including outreach efforts.
Submission of Plan to Demonstrate Good Faith Effort	A contractor may leverage an existing plan (e.g., Affirmative Action, Diversity, or Talent Management Plan) to demonstrate good faith effort to identify and if present remove barriers to minority and women employment.
Good Faith Effort Clarification	The FDIC may contact the contractor to further discuss their good faith efforts. Contractors seeking guidance or clarification should contact the Office of Minority and Women Inclusion.
Authority with respect to Civil Rights Laws	Dodd-Frank Section 342(c) does “not include enforcement of statutes, regulations, or executive orders pertaining to civil rights.” The focus of the provision is the utilization of minorities, women, minority-owned, and women-owned businesses in all business activities of the agency to the maximum extent possible.
Good Faith Effort impact on Terms and Conditions of the Contract	The good faith documentation request does not alter the terms or conditions of the contract. Per the Fair Inclusion clause, the contractor shall provide the support documentation upon request, “without any additional consideration required from the FDIC.”
Effect of a Determination	Upon a determination by the Director, Office of Minority and Women Inclusion, that a contractor has failed to make a good faith effort to include minorities and women in its workforce, a recommendation may be made to the FDIC Deputy to the Chairman & Chief Operating Officer, in consultation with the Legal Division and the Acquisition Services Branch, to terminate the contract, make a referral to the Office of Federal Contract Compliance Program, or take other appropriate action.
Report Review Results	The review results are only reported in aggregate in the annual Section 342, DFA Report to Congress or other venue. No information will be attributed to an individual contractor unless written permission is granted.
Contact Information	For more information about the Fair Inclusion of Minorities and Women requirements or review of our contractors good faith effort, please contact Claire Lam, Chief, Office of Minority and Women Inclusion, Diversity and Business Inclusion Branch, Section342@fdic.gov , (703) 562-2623, or visit www.fdic.gov/about/diversity/fairinclusion .