

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 minorities¹ and women in the contractor's workforces 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 workforces. The FDIC may request the contractor to provide support documentation that demonstrates their good faith effort to include minorities and women in their workforces. (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:

- Make a good faith effort to include minorities and women in their workforces;
- Insert the substance of the clause in all subcontracts valued over \$100,000;
- Provide an annual written certification to the Contracting Officer on commitment to equal employment by the effective award anniversary date; and
- Provide support documentation of actions undertaken, planned or ongoing that demonstrate good faith efforts to include minorities and women in their workforces.

Good Faith Effort

Good faith effort includes actions undertaken by the contractor that are intended to identify and, if present, remove barriers to minority and women employment or expand employment opportunities within its workforces.

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).

Documentation of Good Faith Effort	Contractors with awards made on September 1, 2011 or after, and valued over \$100,000, upon request must provide support documentation, satisfactory to the FDIC that demonstrates good faith effort.
FDIC Assessment of Compliance	The assessment 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 to ensure the fair inclusion of minorities and women in the workforces or other support documentation. After review, the FDIC may contact the contractor to further discuss their good faith effort or request additional support documentation.
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.
Authority with respect to Civil Rights Laws	Dodd-Frank Section 342 (c) does <i>“not include enforcement of statutes, regulations, or executive orders pertaining to civil rights.”</i> 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, <i>“without any additional consideration required from the FDIC.”</i>
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 workforces, a recommendation may be made to the FDIC Director, Division of Administration, 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.
Contact Information	For more information about the Fair Inclusion of Minorities and Women or the assessment of the good faith effort, please contact Victor Christiansen, FDIC, Office of Minority and Women Inclusion, Minority and Women Business Diversity and Inclusion, Section342@fdic.gov, (703)562-2623, or visit www.fdic.gov/about/diversity .