**CONTRACTOR AFFIRMATIVE ACTION PROGRAM**

**1. GENERAL**

**a.** The Contractor shall cooperate with the Maryland Department of Transportation in carrying out its equal opportunity obligations and in the Department's review of the Contractor's activities performed under this contractual agreement.

**b.** All contractors shall comply with the Governor's Code of Fair Practices, Promulgated July, 1976. The Contractor shall include these requirements in every subcontract with such modifications of language as is necessary to make these provisions binding on the subcontractor.

**c.** All contractors shall comply with Maryland Department of Transportation Minority Business Enterprise Program requirements.

**2. APPLICABILITY**

**a.** The Maryland Department of Transportation Contractor Affirmative Action/Equal Employment Opportunity Program requirements are applicable to all contractors doing business with the Maryland Department of Transportation.

**b.** The Maryland Department of Transportation Minority Business Enterprise Program requirements are applicable to construction contracts in excess of $100,000.

**3. DEFINITIONS**

**a.** Affirmative Actions - The efforts exerted toward achieving equal employment opportunity through positive, aggressive and continuous results-oriented measures to correct past and present discriminating practices and their effects on the conditions and privileges of employment.

**b.** Contractor/Subcontractor - The individual, partnerships, firm or corporation undertaking the execution of work under the terms of a contract and acting directly or through his agents or employees.

**c.** Corrective Action - A contractor's written and signed commitment outlining specific actions to be taken with time limits, goals, etc., to correct a violation of applicable EEO regulations.

**d.** Discrimination - A distinction in treatment, whether intentional or unintentional, based on political or religious opinion or affiliation, race, color, creed or national origin or sex, physical or mental handicap or age, except where sex, handicap or age involves a bona fide job requirement.

**e.** Equal Employment Opportunity Officer - A designated employee of the Contractor whose responsibility it shall be to implement and maintain the Affirmative Action Plan.

**f.** "Good Faith Effort" - A results-oriented positive action designed to achieve Affirmative Action objectives or goals.

**g.** Personnel Actions - All decisions respecting employment including, but not limited to hiring, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training to include apprenticeship, pre-apprenticeship or on-the-job training.

**4. LEGAL MANDATES**

**a.** Title VI, Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in all programs and activities which receive Federal Financial Aid. Employment discrimination is prohibited if a primary purpose of Federal assistance is a provision of employment, e.g., apprenticeship, training, work study, or similar programs. Revised guidelines in 1973 prohibit discriminatory employment practices in all programs if such practices cause discrimination in services provided to beneficiaries of the program.

**b.** Title VII, Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972). Title VII prohibits discrimination because of race, color, religion, sex or national origin, in any term, condition, or privilege of employment.

**c.** Executive Order 11246 (as amended). This order, issued by the President in 1965, requires Equal Employment Opportunity/Affirmative Action Programs by all Federal contractors and subcontractors. It also requires that firms with contracts over $50,000.00 and 50 or more employees develop and implement written programs, which are to be monitored by the Federal Office of Contract Compliance. Specific requirements for such result oriented programs are identified in the Revised Order # 4 issued by the Federal Office of Contract Compliance, U.S. Department of Labor. These requirements include identifying areas of minority and female under-utilization, numerical promotional and hiring goals, and other actions to increase minority employment in classifications where they are currently under-utilized.

**d.** The Age Discrimination Act of 1967 prohibits employers of 25 or more persons from discriminating against persons 40-65 years of age in any area of employment due to their age.

**e.** National Labor Relations Act of 1935. Discrimination on the basis of race, religion, sex, or national origin constitutes an unfair labor practice. It shall be unlawful under this Act for employers to participate with unions in the commission of any discriminatory practices or to practice discrimination in a manner which gives rise to racial, or other division, amongst employees to the detriment of organized union activity. It shall be unlawful for unions to exclude individuals discriminatorily from union memberships, thereby causing them to lose job opportunities, to discriminate in the representation of union members or non-members in collective bargaining, in the processing of grievance, or in any other respect which may cause or attempt to cause employers to enter into discriminatory agreements, or otherwise discriminate against members and non-members.

**f.** Governor's Code of Fair Practices for the State of Maryland (Amended). The Governor of Maryland issued a revised Code of Fair Practices which was promulgated March 3, 1988, in recognition of the State's responsibility to root out the evils of discrimination on the basis of race, color, creed, national origin, sex and age. This Code was amended so as to be in compliance with Federal mandates regulating laws pertinent to Equal Employment Opportunity/Affirmative Action.

**g.** Rehabilitation Act of 1973 (Public Law 93-112). This law provides a statutory basis for the Rehabilitation Services Administration and to authorize programs to promote and expand employment opportunities in the public and private sectors for handicapped individuals.

**h.** Article 78A, Section 7A, Annotated Code of Maryland provides for nondiscrimination in State construction contracts and subcontracts. This provision obligates the Contractor not to discriminate in any manner against any employee or applicant for employment because of race, creed, color, or national origin and obligates subcontractors to the same.

**i.** Other Laws. Employment discrimination has also been ruled by courts to be prohibited by the Civil Rights Acts of 1866 and 1870, the equal protection clause of the Fourteenth Amendment of the Constitution of the United States, and the Equal Pay Act of 1963. Action under these laws on behalf of individuals or groups may be taken by individuals, private organizations, trade unions, or other groups.

**5. ASSIGNMENT OF RESPONSIBILITIES**

**a.** The Contractor will designate an Equal Employment Opportunity Officer. He/she will have the responsibility of implementing our Affirmative Action Plan. He/she will coordinate, advise and assist management and other key officials. He/she will render periodic reports to the responsible executives relative to the state of progress and make appropriate recommendations along these lines to the executives relative to the state of progress and make appropriate recommendations along these lines to the executives of this project.

**b.** The name of the EEO Officer, telephone number and address where he/she can be reached concerning any acts or alleged acts of discrimination, will be posted on the bulletin board at the home office as well as on the bulletin boards on all job sites.

**6. DISSEMINATION OF POLICY**

**a.** The Contractor will take appropriate steps to insure that all employees are advised of its policy of nondiscrimination of its interest in actively and affirmatively providing equal employment opportunity for all citizens. The steps include:

**(1)** Periodic meetings of supervisory and personnel office employees to be conducted at least every six months so that our EEO policy and plan may be revised and explained.

**(2)** All new supervisory and personnel office employees to be made aware of our EEO policy and plan as soon as practicable, but certainly within thirty (30) days following the date the first reporting for duty.

**(3)** Making our EEO policy known to all employees, prospective employees, and potential sources of employees, through schools, employment agencies, labor unions, college placement officers, etc., by taking the following actions:

**(a)** Notices and posters setting forth our EEO policy will be placed in areas readily accessible to employees and applicants for employment.

**(b)** Our EEO policy and the procedure for implementing the EEO policy will be brought to the attention of employees through meetings, employee handbooks, or other appropriate means.

**7. RECRUITMENT**

**a.** The Contractor will include in all advertising the following notation: "An Equal Opportunity Employer." We will insert all such advertisements in newspapers or other publications having large circulation among minorities and females in the area from which the project work is derived.

**b.** We will, unless precluded by a valid collective bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority and female applicants, including, but not limited to, State employment agencies, school, college, and minority/female organizations, i.e., the Urban League, NAACP, etc. To meet this requirement, we shall identify sources of potential minority/female employees and establish with such sources procedures whereby minority/female applicants may be referred to us for employment consideration.

**c.** We will develop procedures for promoting the employment of minority/female youth on an after-school, summer and vacation basis.

**d.** We will encourage our employees to refer minority/female applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority/female applicants will be discussed with employees.

**8. PERSONNEL ACTIONS**

**a.** To avoid discrimination in any of our personnel actions, the following procedures will be followed:

**(1)** We will conduct periodic inspections of projects sites to insure that working conditions and employee facilities do not indicate discriminatory practices.

**(2)** We will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

**(3)** We will periodically review personnel actions in depth to determine whether there is any evidence of discrimination. Where evidence is found, we will promptly take corrective action.

**(4)** We will investigate all complaints of alleged discrimination and shall attempt to resolve such complaints. Additionally, if the investigation indicates that the discrimination may affect persons other than the complainant, appropriate corrective actions will include other persons. Upon completion of each investigation, we will inform every complainant of all avenues of appeal.

**9. TRAINING AND PROMOTION**

**a.** To eliminate any discrimination in training and promotion, the following actions will be taken:

**(1)** We will assist in locating, qualifying, and increasing the skills of minority/female employees and applicants for employment.

**(2)** Consistent with our employment requirements and as permissible under State regulations, we will make full use of training programs, i.e., preapprenticeship, apprenticeship, and on-the-job training programs for the geographical area of contract performance.

**(3)** We will advise employees and applicants for employment of available training programs and entrance requirements for the programs.

**(4)** We will periodically review the training and promotional potential of minority/female employees and shall encourage eligible employees to apply for such training and promotions.

**10. UTILIZATION OF UNIONS**

**a.** In carrying out our Affirmative Action Plan, we will use good faith efforts to obtain the cooperation from unions we rely on, in whole or part, as a source of employees to increase opportunities for minority/female groups. We, either directly or through a contractor's association acting as our agent, will include the procedures set forth below:

**(1)** Use good faith efforts to develop, in cooperation with the unions, joint training programs aimed at qualifying more minorities/females for membership in the unions and increasing their skills so they may qualify for higher paying employment.

**(2)** Incorporate an Equal Employment Opportunity clause into all union agreements so that they shall be contractually obligated not to discriminate in the referral of job applicants.

**11. UTILIZATION OF SUBCONTRACTORS**

**a.** We will use good faith efforts to employ subcontractors whose employees reflect minority/female groups approximately equal to the number available in the current labor pool population, or owned by minority/female.

**b.** We will use good faith efforts to assure that all subcontractors comply with equal employment obligations as defined in the amended Code of Fair Practices.

**12. RECORDS AND REPORTS**

**a.** In accordance with the Governor's Code, Article III, Section A and C (2), we will keep such records as are necessary to determine compliance with our equal opportunity obligations. The records kept shall be designed to indicate:

**(1)** The number of minority/female and other persons employed in each work classification of the project.

**(2)** The progress and efforts being made in cooperation with unions, if any, to increase minority/female employment opportunities.

**(3)** The progress and efforts being made in locating, hiring, training, qualifying and upgrading minority/female employees.

**(4)** The progress and efforts being made in securing the services of minority/female subcontractors.

**b.** All such records will be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Department of Transportation.

**c.** We will submit to the Administration a monthly report for the first three months after construction begins and, thereafter, upon request for the duration of the project. This report shall indicate the number of minority/female employees currently engaged in each work classification.

**3. MONITORING**

**a.** We will periodically evaluate our Affirmative Action Plan and the results achieved to insure that the plan is in compliance with our commitments.

**SUGGESTED GOALS FOR TIMETABLES**

**FOR**

**MINORITY WORKHOUR UTILIZATION**

For all trades, the following goals and timetables, as appropriate, for minority-workhour utilization shall be applicable:

**(1)** Baltimore Metropolitan SMSA - this area (Region 1) includes Anne Arundel, Baltimore, Carroll, Harford, Howard Counties and Baltimore City. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980 23.5% - 27.5%

After October 3, 1980 23.0%

FEMALES

From August 16, 1979 to August 15, 1980 6.9%

After August 16, 1980 6.9%

**(2)** Eastern Shore Maryland NON-SMSA - this area (Region II) includes Caroline, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980 21% - 24%

After October 3, 1980 23.8%

FEMALES

From August 16, 1979 to August 15, 1980 6.9%

From August 16, 1980 6.9% (3)

**(3)** Southern Maryland NON-SMSA - this area (Region III) includes Calvert, Frederick, Washington and St. Mary’s Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980 25%

After October 3, 1980 25.2%

FEMALES

From August 16, 1979 to August 15, 1980 6.9%

After August 16, 1980 6.9%

**(4)** Washington, D.C. Metropolitan SMSA - this area (Region IV) includes Charles, Montgomery and Prince Georges Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

After October 3, 1980 28.0%

FEMALES

From August 16, 1979 to August 15, 1980 6.9%

After August 16, 1980 6.9%

**(5)** Western Maryland NON-SMSA - this area (Region V) includes Allegany and Garrett Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MIN0RITIES

From January 1, 1980 to October 3, 1980 3.0%

After October 3, 1980 4.8%

FEMALES

From August 16, 1979 to August 15, 1980 6.9%

After August 16, 1980 6.9%

**(6)** Wilmington Delaware SMSA - this area (Region VI) includes Cecil County only. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1978 thru October 3, 1980 15% - 18.5%

After October 3, 1980 12.3%

FEMALES

From August 16, 1979 to August 15, 1980 6.9%

After August 16, 1980 6.9%