

Reclamation Manual

Directives and Standards

Subject:	Reclamation Standard Water-Related Contract Articles, Standard Article 24: Equal Employment Opportunity (Federally Assisted Construction)
Purpose:	To provide the text of and requirements for the application of Standard Article 24: Equal Employment Opportunity (Federally Assisted Construction) (Standard Article 24), for the benefit of supporting general policy and specific requirements set forth in Reclamation Manual Policy, <i>Reclamation Standard Water-Related Contract Articles</i> (PEC P10).
Authority:	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory and supplementary thereto; Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352, Title VII; 78 Stat. 253; 42 U.S.C. § 2000e); and Executive Order No. 11246 of September 24, 1965; 41 C.F.R. §§ 60-1.1 and 60-1.3 – 60-1.5. ¹
Approving Official:	Director, Policy and Administration
Contact:	Reclamation Law Administration Division (84-55000)

1. **Introduction.** There are two versions of Standard Article 24 - Versions A and B. Both versions confirm the contractor's obligation to comply with applicable Equal Employment Opportunity requirements and to include similar language in any non-exempt subcontracts. Version A is required in contracts as indicated under Paragraph 4.B. of PEC P10, except where it conflicts with subsections 701(b)(1)² and 703(i)³ of Title VII of the Civil Rights Act of 1964. Version B provides alternative language for and is required in contracts under which Indian employment is a condition pursuant to subsection 703(i).
2. **Applicability.** This Directive and Standard applies to Bureau of Reclamation staff and officials involved in the contracting process, as defined at Paragraph 5.A. of PEC P10.
3. **Requirements and responsibilities.** Reclamation staff and officials involved in the contracting process will include the appropriate text below in all contracts requiring Standard Article 24 under Paragraph 4.B. of PEC P10.

¹Use of the Equal Employment Opportunity provisions set forth in 41 C.F.R. § 60-1.4 is directed by Executive Order No. 11246 of September 24, 1965.

²Subsection 701(b)(1) defines the term "employer" to exclude the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined at 5 U.S.C. § 2102).

³Subsection 703(i) states: "Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation."

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A. Version A.

(Federally Assisted Construction)

EQUAL EMPLOYMENT OPPORTUNITY⁴

(a) The following language is required by Executive Order No. 11246 of September 24, 1965, in all government contracts unless and until it is superseded or amended.

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, sex identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, sex identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, sex identity, or national origin.

⁴Approved 02/79; Reviewed 11/84; Revised 01/02; 04/10.

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(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and

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orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include this clause (a), including all provisions of paragraphs (1) through (8), in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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(b) The Contractor hereby agrees to incorporate, or cause to be incorporated, clause (a) as it appears above, including paragraphs numbered (1) through (8), into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R., Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to grant, contract, loan, insurance, or guarantee or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

(c) The Contractor will be bound by clause (a) with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the Contractor so participating is a state or local government, clause (a) is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

(d) The Contractor will assist and cooperate actively with the Contracting Officer and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with this article **(insert article number)** and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Contracting Officer and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Contracting Officer in the discharge of his or her primary responsibility for securing compliance.

(e) The Contractor will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Executive Order No. 11246 of September 24, 1965, and will

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carry out such sanctions and penalties for violation of this article (**insert article number**) as may be imposed upon contractors and subcontractors by the Contracting Officer or the Secretary of Labor pursuant to Part II, Subpart D, of Executive Order No. 11246 of September 24, 1965. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, the Contracting Officer may take any or all of the following actions: cancel, terminate, or suspend, in whole or in part, this contract; refrain from extending any further assistance to the Contractor under the program with respect to which its failure or refusal occurred until satisfactory assurance of future compliance has been received from the contractor; refer the case to the Department of Justice for appropriate legal proceedings.

B. Version B.

INDIAN EMPLOYMENT – EQUAL EMPLOYMENT OPPORTUNITY

(a) In accordance with 42 U.S.C. § 2000e-2(i), the Contractor will give preference in employment to Indian residents of the _____ Indian Reservation. The Bureau of Indian Affairs Office of Employment Assistance will be notified of employment opportunities 48 hours before any positions are advertised to the general public.

(b) The following language is required by Executive Order No. 11246 of September 24, 1965, in all government contracts unless and until it is superseded or amended.

Except as provided by clause (a), during the performance of this contract the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, sex identity, or national origin. The Contractor will take affirmative action to ensure that applicants are

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employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, sex identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, sex identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an

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investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order

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No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include this clause (b), including all provisions of paragraphs (1) through (8), in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(c) The Contractor hereby agrees to incorporate, or cause to be incorporated, clause (b) as it appears above, including paragraphs numbered (1) through (8), into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R., Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to grant, contract, loan, insurance, or guarantee or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

(d) The Contractor will be bound by clause (b) with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the

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Contractor so participating is a state or local government, clause (b) is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

(e) The Contractor will assist and cooperate actively with the Contracting Officer and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with this article **(insert article number)** and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Contracting Officer and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Contracting Officer in the discharge of his or her primary responsibility for securing compliance.

(f) The Contractor will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Executive Order No. 11246 of September 24, 1965, and will carry out such sanctions and penalties for violation of this article **(insert article number)** as may be imposed upon contractors and subcontractors by the Contracting Officer or the Secretary of Labor pursuant to Part II, Subpart D, of Executive Order No. 11246 of September 24, 1965. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, the Contracting Officer may take any or all of the following actions: cancel, terminate, or suspend, in whole or in part, this contract; refrain from extending any further assistance to the Contractor under the program with respect to which its failure or refusal occurred until satisfactory assurance of future compliance has been received from the contractor; refer the case to the Department of Justice for appropriate legal proceedings.

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4. **Definitions.** See Paragraph 5 of PEC P10 and 41 C.F.R. § 60-1.3.
5. **Review Period.** The originating office will review this release every 4 years.