



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2021-O0001

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FEILD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—Combating Race and Sex Stereotyping

Effective immediately, except for contracts exempted from the requirements of Executive Order (E.O.) 11246 of September 24, 1965 (Equal Employment Opportunity), as amended (see Federal Acquisition Regulation (FAR) 22.807 and E.O. 13950, Combating Race and Sex Stereotyping), contracting officers shall:

(a) Include the clause provided in the Attachment in solicitations issued on or after November 20, 2020, and in any resultant contracts that will include the clause at FAR 52.222-26, Equal Opportunity.

(b) Amend solicitations issued prior to November 20, 2020, to include the clause provided in the Attachment and in any resultant contract award expected to occur on or after November 20, 2020, if the contract is contemplated to include the clause at FAR 52.222-26, Equal Opportunity.

This class deviation implements Section 4 of E.O. 13950, Combating Race and Sex Stereotyping (85 FR 60683, September 28, 2020). The E.O. seeks to promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat race and sex stereotyping and scapegoating. Section 4 requires agencies to include a clause in new solicitations and resultant contracts that prohibits contractors from using any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating. Section 4 provides an exception for contracts exempted under E.O. 11246. FAR 22.807 includes a list of these exemptions and instructions for requesting the exemptions described at FAR 22.807(a)(2) and (b)(5).

Class Deviation 2021-O0001
Combating Race and Sex Stereotyping

This class deviation remains in effect until it is incorporated in the FAR or otherwise rescinded. My point of contact is Mr. Michael Pelkey, who is available by telephone at (703) 614-1253 or by email at michael.f.pelkey.civ@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachments:
As stated

252.222-7999 Combating Race and Sex Stereotyping (DEVIATION 2021-O0001)

Use this clause in solicitations and contracts, when a contract is contemplated that will include the clause at Federal Acquisition Regulation (FAR) [52.222-26](#), Equal Opportunity or its *Alternate I*.

COMBATING RACE AND SEX STEREOTYPING
(DEVIATION 2021-O0001) (NOV 2020)

(a) *Definitions.* As used in this clause—

“Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

“Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

(b) *Exemptions.* The exemptions that apply to Executive Order (E.O.) 11246 (see FAR 22.807) also apply to E.O. 13950 and the requirements of this clause.

(c) *Compliance with E.O. 13950, Combating Race and Sex Stereotyping.* Unless exempted under paragraph (b) of this clause, the Contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that—

- (1) One race or sex is inherently superior to another race or sex;
- (2) An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- (3) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- (4) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- (5) An individual’s moral character is necessarily determined by his or her race or sex;
- (6) An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(7) Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or

(8) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

(d) *Notice.* The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice provided below advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

NOTICE
E.O. 13950, Combating Race and Sex Stereotyping
Employers Holding Federal Contracts or Subcontracts

Contractors shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the following concepts that—

- (1) One race or sex is inherently superior to another race or sex;
- (2) An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- (3) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- (4) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- (5) An individual's moral character is necessarily determined by his or her race or sex;
- (6) An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- (7) Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or
- (8) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

For use in this notice—

“Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex; and

“Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under this notice should immediately contact the Office of Federal Contract Compliance Programs (OFCCP) Complaint Hotline to Combat Race and Sex Stereotyping at 202-343-2008 or via email at OFCCPComplaintHotline@dol.gov.

(End of notice)

(e) *Noncompliance.* In the event it is determined that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in E.O. 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in E.O. 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(f) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that exceed \$10,000 and are not exempted by the rules, regulations, or orders of the Secretary of Labor issued under E.O. 11246, as amended, so that these terms and conditions will be binding upon each subcontractor.

(2) The Contractor shall take such action with respect to any subcontract as the Director of OFCCP may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(End of clause)