



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-403

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SCOPE: The purpose of this policy is to establish requirements and procedure for the administration of the Wisconsin Contract Compliance Law.

POLICY: The Wisconsin Contract Compliance Law refers to a collection of legal requirements in place to ensure state contracts and other agreements are only held by entities that agree not to discriminate under certain circumstances and that affirmative actions are taken, all as prescribed herein.

Agencies and entities as defined in s. 16.756, Wis. Stats. (“agencies”) cannot contract with suppliers that do not comply with applicable Wisconsin Contract Compliance Law and have responsibility to assist in the administration of Wisconsin’s Contract Compliance Program (Program).

The State Bureau of Procurement (Bureau) manages the administration of the Program, which offers support to entities and contractors. Questions can be directed to the [Contract Compliance Program](#).

Non-Discrimination

Entities receiving state contracts, subcontracts, grants, leases or other agreements from agencies must agree to hire only on the basis of merit and not discriminate against fifteen (15) covered classes as prescribed by s. 16.756, Wis. Stats. and 2019 Wisconsin Executive Order 1. See PRO-101, Procurement Definitions and Thresholds for covered classes.

Non-discrimination requirements apply to contracts of all dollar values.

Affirmative Action and Affirmative Action Plans (AAP)

Universities, other states, and local governments, except those of the State of Wisconsin, and all contractors, who receive state contracts over the Contract Compliance threshold must submit affirmative action plans (AAP) and comply with other responsibilities as prescribed herein. See PRO-101, Procurement Definitions and Thresholds.

The recipient of a grant or lease is not exempt from contract compliance requirements because a contractual agreement results.



Legal Authority

Wis. Stats. 16.75(10p); 16.765

Wis. Adm. Code Chapter Adm 50

Agencies Affected: All, plus state authorities listed under applicable statutes

Authorized:

Sara Redford, Director
State Bureau of Procurement



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AAP Exemptions

A contractor is exempt from submitting an AAP when the contractor:

1. Receives a state contract valued at or below the Contract Compliance threshold.
2. Has fewer than fifty (50) employees.
3. Is a foreign company with a work force of less than fifty (50) employees in the United States.
4. Is a federal government agency or a Wisconsin municipality.
5. Has a balanced work force as defined in PRO-101, Procurement Definitions and Thresholds
6. Demonstrates that the U.S. Office of Federal Contract Compliance (OFCC) has audited the contractor's affirmative action program within the last year.

Under rare, special and emergency circumstances, exemptions may be requested of and approved by the Department.

Prohibited Boycotts

Pursuant to s. 16.75(10p), Wis. Stats., contractors must agree not to engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate a contract with a company that is not compliant. See PRO-419, Prohibited Boycotts in State Contracting.

PROCEDURE:

- I. Contractor Responsibilities
 - A. Every contractor who receives a state contract of any dollar amount must agree to hire on the basis of merit and not discriminate against any covered classes.
 - B. Every contractor who receives a state contract over the Contract Compliance threshold must also:



Legal Authority

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Wis. Adm. Code Chapter Adm 50
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1. Agree to equal employment and affirmative action policies and practices in its employment programs.
 2. Post a notice concerning "Wisconsin's Contract Compliance Law" in a conspicuous place for employees and applicants for employment to read.
 3. Submit an AAP (form DOA-3021P, Instructions for Contractors Affirmative Action Requirements Booklet, which includes forms DOA-3784, 3022, 3023 and 3024; see Reference section below) unless the contractor is exempt. All AAPs must comply with the affirmative action requirements of the state as listed on the AAP Review Guide (form DOA-3724). The plan is due to the agency within fifteen (15) working days of the award date of the contract.
- B. If the contractor is exempt from submitting an AAP because it has a balanced work force, the contractor must submit:
- Contractor Request for Exemption from Submitting AAP (form DOA-3024)
 - Contractor Work Force Analysis (form DOA-3022)
 - Contractor's Subcontractor List (form DOA-3023)
 - Supporting labor market information
 - Affirmative action policy statement or a letter to confirm they comply with s. 16.765, Wis. Stats.
- C. When a contractor is exempt due to an audit by the U.S. Office of Federal Contract Compliance within the last year, the contractor must send the agency:
- A copy of OFCC's Acceptance/Compliance Letter



Legal Authority

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- The contractor's equal opportunity/affirmative action policy statement or a letter to confirm they comply with s. 16.765, Wis. Stats. The contractor's policy statement must satisfy s. 16.765, Wis. Stats., and Adm 50, Wisconsin Administrative Code (Wis. Adm. Code)
 - Completed form DOA-3023
- D. For any other exemption requests, the contractor must submit completed forms DOA-3024 and DOA-3023.
- E. Every contractor who receives a state contract over the Prohibited Boycott threshold must agree not to participate in an economic boycott against the State of Israel.

II. Agency Responsibilities

- A. Include contractual provisions for non-discrimination, affirmative action and prohibited boycotts substantially in line with those prescribed by the Department. See PRO-404, Standard Terms and Conditions.
- B. In awarding a contract, the agency will review the Contractor Directory as published by the Program to determine whether the contractor has compliance eligibility. See s. VII below.
- C. If the contractor has eligibility, the agency need not require anything further but will update the contractor file with the date of eligibility expiration.
- D. The agency will refer any written complaint concerning allegations of violations of Wisconsin's Contract Compliance Law to the Program Coordinator.

III. AAP Timetable

If the contractor does not have current eligibility, the agency does the following to obtain an AAP:



Legal Authority

Wis. Stats. 16.75(10p); 16.765
Wis. Adm. Code Chapter Adm 50
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- A. On the contract award date, the agency must request that an AAP or exemption statement be provided within fifteen (15) working days of the commencement date.
- B. If the agency has not received a response within 15 days, the contractor will be informed of the possibility of being added to the ineligible contractor directory, resulting in possible contract termination.
- C. If the contractor does not provide an AAP or exemption request after 30 days of notification, the agency will recommend identifying the contractor as "ineligible" by sending the following to Program staff:

- Form DOA-3001: Contractor Directory Recommendation

Copies of:

- Correspondence with the contractor
- Purchase order
- Unacceptable AAP and review guide, if submitted

IV. Review of AAP

- A. The agency reviews AAPs using form DOA-3724. If the AAP is acceptable, the agency will notify the Program using form DOA-3001 and send an acceptance letter to the contractor.
- B. If the plan is not acceptable, the agency will notify the person responsible for submitting the AAP specifying the information necessary for an acceptable plan and a due date within fifteen (15) working days of date of notification.

If the contractor does not provide an acceptable AAP, the agency will follow the procedures of III, C.

V. Public Record Access/Confidentiality



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- A. A contractor's AAP is available for public review in accordance with Wisconsin Statutes Subchapter II, Public Records and Property, and Wis. Adm. Code Chapter 50.07.
- B. If a contractor asserts that all or part of its AAP is confidential, the contractor must identify any confidential information in the form of a letter to the agency and on each page that the contractor affirms contains confidential information.
- C. Access to AAP records will follow applicable requirements of PRO-105, Procurement Record Retention and Access.

VI. Use of Subcontractors

The agency reviews any subcontractors identified on the Contractor's Subcontractor List and for a subcontract(s) over the Contract Compliance threshold, the subcontractor will be held to the same requirements and the agency has the same responsibilities as those applied to the contractor.

VII. Eligibility Directories

The Program updates these directories based on form DOA-3001 received from agencies:

A. Eligible contractor directory

An eligible contractor remains in the Contractor Directory, i.e., has compliance eligibility, until the Department, on its own initiative, undertakes a compliance review or receives a complaint which demonstrates the contractor is no longer following applicable Contract Compliance Law.

B. Ineligible contractor directory

- 1. Following receipt of an agency's recommendation, the Program Coordinator makes an additional contact with the contractor to attempt to obtain an acceptable AAP. The Coordinator reviews the information, determines



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the status of the contractor, and notifies both the contractor and the agency of the determination.

2. Designation as an "ineligible contractor" in the Contractor Directory means that:
 - a. The agency may terminate the contract. The agency may not extend a contract with an ineligible contractor.
 - b. The contractor may not participate in any State of Wisconsin bidding, either directly or as a subcontractor or subrecipient.
3. An ineligible contractor remains on the directory indefinitely until they submit an acceptable AAP to the Program Coordinator which satisfies state requirements.

VIII. Complaints and Investigations

- A. Any complaint authorized by s. [16.765 \(6\)](#), Wis. Stats., shall be filed with the Program Coordinator. The complaint shall be in writing and state the basis for the complaint. The Program will assist the complainant in drafting the complaint and will provide notice and resolution per s. [16.765\(7\)](#), Wis. Stats. and Wis. Adm. Code Chapter Adm 50.

REFERENCE: Booklet—Instructions for Contractors Affirmative Action Requirements (form DOA-3021P)
 Wisconsin Affirmative Action Plan Contractor Data (form DOA-3784)
 Contractor Work Force Analysis (form DOA-3022)
 Contractor's Subcontractor List (form DOA-3023)
 Contractor Request for Exemption from Submitting Affirmative Action Plan (form DOA-3024)
 Wisconsin's Contract Compliance Law poster (form DOA-3031P)
 Affirmative Action Plan Review Guide (form DOA-3724)
 Contractor Directory Recommendation (form DOA-3001)



Legal Authority

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