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AUTHORITY: Sec. 17, Pub. L. 94-586, 15 U.S.C. 719 (1976).

SOURCE: 45 FR 31104, May 12, 1980, unless otherwise noted.

§ 34.1 Statement of purpose.

The purpose of these regulations is to implement both section 17 of the ANGTA and Condition 11 of the President's *Decision*.

§ 34.2 Applicability.

These regulations apply to all activities including, but not limited to, contracting for goods and services, employment, and any other benefits that flow from activities conducted under permits, rights-of-way, public land orders, and other Federal authorizations granted or issued pursuant to ANGTA, by recipients of those authorizations, their agents, contractors, and subcontractors, including labor unions or other persons.

§ 34.3 Definitions.

(a) As used in this part, the term, *ANGTA* means the Alaska Natural Gas Transportation Act of 1976, Public Law 94-586, 15 U.S.C. 719.

(b) *ANGTS* means the Alaska Natural Gas Transportation System as designated and described in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, September 1977, pursuant to section 7(a) of ANGTA, S.J. Res. 82, 91 Stat. 1268 (1977).

(c) The term *affirmative action plan* means a statement of those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal opportunity in employment, procurement, and the provision of services, financial aid or other benefits, and includes goals for achieving equal opportunity and a description of specific result-oriented procedures to which the recipient, contractor or subcontractor commits itself

to apply a good faith effort in order to achieve the goals.

(d) The term *applicant* means a person who has applied for and is seeking Federal authorization under ANGTA to construct and operate the ANGTS, but has not received or been denied the authorization sought.

(e) The term *contract* means any agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a recipient or an applicant and any person for the furnishing of supplies or services to a recipient or applicant, or for the use of real or personal property including lease arrangements by a recipient or applicant. The term contract also includes any agreement or arrangement, whether oral or written, express or implied, between two persons and which is related in any way to the activities conducted under any certificate, permit, right-of-way, lease or other Federal authorization granted or issued pursuant to ANGTA, or in any way connected with ANGTS.

(f) The term *contractor* means a person who is a party to a contract with a recipient or an applicant.

(g) The term *discrimination* means an action or a failure to act which has the effect or would tend to have the effect of excluding a person from participation, denying a person benefits, subjecting a person to unequal treatment, or harassing a person because of and on the basis of race, creed, color, national origin or sex.

(h) The term *Federal Inspector* means the official appointed by the President pursuant to section 7(a)(5) of ANGTA to coordinate governmental actions with respect to ANGTS, including the monitoring and enforcement of the terms and conditions attached to government authorizations issued under ANGTA. The term also includes authorized representatives of the Federal Inspector.

(i) The term *female business enterprise* (FBE) means a sole proprietorship, partnership, unincorporated association, joint venture or corporation that is owned and controlled by women. To qualify as an enterprise owned and controlled by women, 51% of the beneficial ownership interests and 51% of the voting interests must be held and actually

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voted by women. Further, the enterprise must in fact be controlled and managed by women.

(j) The terms *minority* and *minority groups* include:

(1) Black, all persons having origins in any of the Black African racial groups not of Hispanic origin;

(2) Hispanic, all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race;

(3) Asian and Pacific Islander, all persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands including persons having origin, for example, in China, India, Japan, Korea, the Philippine Islands, Samoa; and

(4) American Indian or Alaskan Native, all persons having origins in any of the original people of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

(k) The term *minority business enterprise* (MBE) means a sole proprietorship, partnership, unincorporated association, joint venture or corporation that is owned and controlled by minorities. To qualify as an enterprise owned and controlled by minorities, 51% of the beneficial ownership interest and 51% of the voting interests must be held and actually voted by minority people. Further, the enterprise must in fact be controlled and managed by minority people.

(l) The term *person* includes recipients, contractors, subcontractors, governmental agencies, corporations, associations, firms, partnerships, joint stock companies, labor unions, employment agencies, and individuals.

(m) The term *President's Decision* means the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, September 1977, pursuant to section 7(a) of ANGTA, approved and adopted S.J. Res. 82, 91 Stat. 1268 (1977).

(n) The term *procurement* means the acquisition (and directly related matters) of personal property and nonpersonal services (including construction) by such means as purchasing, renting, leasing, (including real property) con-

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tracting, or bartering, but not by condemnation or donation.

(o) The term *procurement practice* means any course of conduct or activity taken to effect procurement.

(p) The term *recipient* means any corporation association, joint stock company, partnership, firm, agency or individual who receives a certificate, permit, right-of-way, lease, or other Federal authorization granted or issued under ANGTA to construct and operate the ANGTS, whether directly or through another recipient including any successor, assignee or transferee thereof.

(q) The term *subcontract* means any agreement or arrangement between a contractor and any person, regardless of tier, (in which the parties do not stand in the relationship of employer and employee) in any way related to the performance of any one or more contracts as defined above.

(r) The term *vendor* means a person who sells or provides goods or services for the construction and operation of ANGTS. A vendor may be a contractor or subcontractor.

§34.4 Discrimination prohibited.

(a) *General.* No person shall, on the grounds of race, creed, color, national origin, or sex, be discriminated against or excluded from receiving any benefit from or participating in any activity conducted under any certificates, permits, rights-of-way, leases, and other Federal authorizations to which this part applies.

(b) *Specific actions in which discrimination is prohibited.* No person shall directly or through contractual or other arrangements, discriminate in any activity to which this part applies, including the following:

(1)(i) Employment policies and practices of employers, including advertising, hiring or firing, up-grading, promotion, or demotion, transfer, layoff, or termination, rates of pay, and other forms of compensation or benefits, or other terms and conditions of employment;

(ii) Employment policies and practices of labor unions, including, acceptance of applications for membership,