

(3) The provision of services, financial aid and other benefits provided in whole or in part, under any Federal authorization to which this part applies, more specifically including actions that result in the:

(i) Denial to an individual or establishment of any service, financial aid, or other benefits;

(ii) Provision of any service, financial aid, or other benefit to an individual, or establishment which is different, or is provided in a different manner, from that provided to others;

(iii) Subjection of an individual to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefits;

(iv) Restriction of an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit;

(v) Treatment of an individual that is different from others in the determination of any admission, enrollment, eligibility, membership requirements or other conditions which individuals must meet in order to be provided any service, financial aid, or other benefit;

(vi) Denial to an individual of an opportunity to participate in any activity that is different from that afforded others;

(vii) Denial to an individual of the opportunity to participate as a member of any planning or advisory body that participates in the provision of any service, financial aid, or other benefit;

(viii) Use of criteria or methods of administration which have the effect of subjecting individuals or establishments to discrimination in the determination of the types of services, financial aid, or other benefits, or the facilities that will be provided; or the class of individuals or establishments to which, or the situation in which, such services, financial aids, other benefits, or facilities will be provided; or the class of individuals or establishments to be provided an opportunity to participate in any activity; and

(ix) Selection of a site or location for facilities for the provision of services, financial aid, or other benefits, with the purpose or effect of substantially impairing the objectives of section 17,

the President's *Decision*, and implementing rules, regulations, and orders.

(c) *Scope of prohibited discrimination.*

(1) The enumeration of specific forms of prohibited discrimination in paragraph (b) of this section does not limit the general prohibition in paragraph (b) of this section.

(2) Action taken in compliance with an affirmative action plan developed pursuant to these regulations shall not be deemed a violation of this section.

§ 34.5 Assurances.

Every application for a certificate, permit, right-of-way, lease, public land order, or other Federal authorization to which this part applies, filed after the effective date of these regulations, and every contract covered hereunder to provide goods, services, or facilities in the amount of \$10,000 or more to a recipient, contractor, or subcontractor to which this Part applies, must contain an assurance that the recipient, contractor, or subcontractor does not and will not maintain any segregated facilities, and that all requirements imposed by or pursuant to section 17, Condition 11 of the President's *Decision* and implementing rules, regulations, and orders shall be met, and that it will require a similar assurance in every subcontract of \$10,000 or more.

§ 34.6 Equal opportunity clause.

Each certificate, permit, right-of-way, lease, or other Federal authorization to which this part applies, shall include the following Equal Opportunity Clause:

(a) The recipient, contractor, or subcontractor hereby agrees that it will not discriminate directly or indirectly against any individual or establishment in offering or providing procurements, employment, services, financial aid, other benefits, or other activities to which these regulations apply. The recipient, contractor, or subcontractor will take affirmative action to utilize business enterprises owned and controlled by minorities and/or women in its procurement practices; to assure that applicants for employment are employed, and that employees are treated during employment, without discrimination on the basis of race, creed, color, national origin, or sex;

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and to assure that individuals and establishments are offered and provided services, financial aid, and other benefits without discrimination on the basis of race, creed, color, national origin, or sex. The recipient, contractor, or subcontractor agrees to post in conspicuous places available to contractors, subcontractors, employees, and other interested individuals, notices which set forth these equal opportunity terms; and to notify interested individuals, such as bidders, contractors, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements, of its obligations under section 17, Condition 11 of the President's *Decision*, and the implementing rules, regulations, and orders thereunder;

(b) The recipient, contractor, or subcontractor will comply with all rules, regulations, and orders which implement section 17 and Condition 11 of the President's *Decision*;

(c) The recipient, contractor, or subcontractor will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 17 and Condition 11 of the President's *Decision*, and will permit access to its facilities, books, records, and accounts by the Federal Inspector for purposes of ascertaining compliance with such rules, regulations, and orders;

(d) In the event of a recipient's, contractor's, or subcontractor's non-compliance with these equal opportunity terms, compliance may be effected through procedures authorized by ANGTA and set forth in implementing rules, regulations, and orders, or by any other means authorized by law;

(e) The recipient, contractor, or subcontractor will include the provisions of paragraphs (a) to (e) of this section in all agreements to assign authorizations, all contracts over \$10,000, and all contracts of indefinite quantity, unless there is reason to believe that the amount to be ordered in any year under the contract will not exceed \$10,000. The recipient, contractor, or subcontractor will take such action with respect to any contract or purchase order that the Federal Inspector may direct as a means of enforcing

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such provisions, including sanctions for noncompliance: *Provided, however*, That in the event the recipient, contractor, or subcontractor becomes involved in or is threatened with litigation with a subcontractor or vendor, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(f) Any project labor agreement which may be entered into between the applicants and any union must be consistent with the provisions of these regulations and must contain an Equal Opportunity Clause.

§ 34.7 Incorporation by operation of law.

(a) The Equal Opportunity Clause shall be deemed incorporated into every Federal authorization, agreement to assign an authorization, contract and subcontract where § 34.6(e) of these regulations requires the inclusion of such a clause whether or not the clause is physically incorporated in such Federal authorization, agreement to assign authorization, contract or subcontract, and whether or not the agreement or contract is written.

(b) The affirmative action plans prepared pursuant to this part shall be deemed incorporated into the Federal authorizations, contracts, and subcontracts to which these regulations apply.

§ 34.8 Affirmative action plans.

(a)(1) Within one hundred and twenty (120) days after the effective date of this part, applicants or recipients shall have an acceptable affirmative action plan which has been approved by the Federal Inspector pursuant to paragraph (d) of this section and which conforms to the requirements of paragraph (c) of this section. The affirmative action plan must set forth overall goals and timetables for the employment of minorities and women and the utilization of MBE's and FBE's in the construction and operation of the applicant's or recipient's segment of the Alaska Natural Gas Transportation System. The approved goals and timetables shall be published in accordance with paragraph (d)(4) of this section