

Affirmative action in procurement

[Government](#)



The Government imposes a variety of socio-economic programs on its contractors as part of long-standing federal efforts to further affirmative action through federal contracting. Affirmative action regulations apply not only to minorities and women but to handicapped individuals, special disabled veterans, and veterans of the Vietnam era (FAR 52. 22-35 and -36). For almost fifty years Former President Lyndon B. Johnson's answer to "balance the opportunities" for minorities and women, affirmative action has attempted to eradicate America's historical discrimination against minorities, women and individuals with disabilities.

Affirmative action began as a plan to enable the disadvantaged and the disenfranchised (minorities, women and disabled individuals) with the same opportunities given to their white male counterparts with regard to education, employment and contracting. Executive Order 11246 was conceived during the civil rights era, born as the civil rights act of 1964, and the Equal Protection Clause of the 14th Amendment to the US Constitution.

Affirmative action and procurement will be discussed as separates before demonstrating the symbiotic relationship of these two entities via the organization which administers and enforces the federally mandated contracting and affirmative action policy. Therefore, the intent of this paper is to provide information regarding affirmative action, its role in the procurement process and illustrate how the federal government enforces affirmative action through procurement/contracting. Several definitions will usher our entrance into this discussion and ensure ease of comprehension as affirmative action in procurement is examined.

Please note the theme will be reiterated repeatedly throughout this document in an attempt to ensure a thorough understanding by the reader as two very complex topics are merged. I'll begin with my personal definition of affirmative action; legislature passed that attempts to established fair representation for minorities and women in employment and education.

According to Webster's New World College Dictionary, 4th edition affirmative action is defined as a policy or program for correcting the effects of discrimination in the employment or education of members of certain groups. [www. dictionary. om](http://www.dictionary.com) offers the following cultural and legal definitions of affirmative action: Cultural definition: A term referring to various government policies that aim to increase the proportion of African-Americans, women, and other minorities in jobs and educational institutions historically dominated by white men. The policies usually require employers and institutions to set goals for hiring or admitting minorities. Legal definition: an active effort (as through legislation) to improve the employment or educational opportunities of members of minority groups or educational opportunities of members of minority groups or women.

Procurement is the process of acquiring goods, services and equipment from another organization in a legal and ethical manner. Simply, procurement is professional purchasing and addresses five rights: purchase of the right item or service, in the right quality, in the right quantity, at the right price and at the right time. A brief history of affirmative action introduced the paper, now we'll focus briefly on legislature which was established almost twenty years earlier than affirmative action. Procurement's history rests solidly on the following three acts.

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The Armed Services Procurement Act of 1947 (ASPA), codified at 10 U. S. C. §§ 2301-2314, the Federal Property and Administrative Services Act of 1949 (FPASA), codified at 40 U. S. C. §§ 471-514 and 41 U. S. C. §§ 251-260, and the Competition in Contracting Act (CICA), codified in scattered sections of 10, 31, 40, and 41 U. S. C. , represent the three statutory foundations of government contract law and the federal acquisition process. The ASPA, FPASA, and CICA determined two basic methods of obtaining " full and open competition": (a) sealed bidding and (b) competitive negotiation.

A sealed bidding acquisition requires an agency to award to the responsible bidder who submits the lowest responsive bid. Strict adherence to formal procedures characterizes sealed bidding which attempts to provide a " level playing field" or as a multitude of references point out equal footing to all bidders who compete for a contract. Competitive negotiation is a more flexible process that enables the agency to conduct discussions, evaluate offers, and award the contract using price and other factors.

The Federal Acquisition Regulation (FAR), whose origins can be traced back to the ASPA of 1947 was codified at Title 48 of the Code of Federal Regulations and became effective 1 April 1984. The FAR contains the uniform policies and procedures for acquisitions by all federal agencies to date. It addresses nearly every procurement related statute or executive policy; and subsequently encompasses every stage of the acquisition process. In a nutshell, FAR appears to have modernized and thus enveloped the aforementioned three acts.

At this point in the discussion, the information provided should enable any/all reader(s), to formulate a purpose or justification for. Regardless of the <https://assignbuster.com/affirmative-action-in-procurement/>

verbiage, the apparent purpose of affirmative action in procurement is to address existing discrimination or compensate for past discrimination by promoting and insuring all governmental/educational programs to include procurement allow for the fair and equitable representation of the disadvantaged and disenfranchised (minorities, women and the disabled).

The agency charged with fulfilling the purpose of affirmative action in procurement - The U. S. Department of Labor's Office of Federal Contract Compliance Programs. The U. S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) administers and enforces Executive Order 11246 as amended; FAR 52. 222-26. Executive Order 11246 prohibits federal contractors and federally assisted construction contractors and subcontractors from discriminating in employment decisions based on race, color, religion, sex, or national origin.

These federal contractors/subcontractors must do over \$10, 000 in Government business and must insure that equal opportunity is provided in all aspects of their employment. Additionally, Government contractors with fifty or more employees and \$50, 000 or more in government contracts must develop an AAP; affirmative action program. An affirmative action program is a written policy established to assist the contractor identifying and analyzing potential problems in the participation and utilization of women and minorities in the contractor's workforce.

This policy will provide potential solution sets/ plan of action/ procedures to follow in the event an issue or problem is found as well as the good faith efforts it will make to provide equal employment opportunity. Good faith efforts assist members of the protected groups compete for jobs In order to <https://assignbuster.com/affirmative-action-in-procurement/>

gain equal footing with other applicants and employees. Such efforts include and are not limited to outreach, recruitment, and training.

Also, through company seminars, training programs held in conjunction with industry liaison groups, and one-on-one consultations on affirmative action practices and procedures; OFCCP staff offers guidance to contractors on how to develop an affirmative action program. This is a win-win situation for all parties involved; OFCCP provides technical assistance while contractors understand their contractual obligations for EEO and affirmative action. OFCCP recommends corrective action and suggest ways to achieve equal employment opportunity, if problems are discovered during a compliance audit.