

FREDERIC G. ANTOUN, JR.

ATTORNEY AT LAW

247 LINCOLN WAY EAST  
CHAMBERSBURG PA 17201-2295

717-261-0998

Fax: 717-263-7328

website: <http://www.printlaw.com>

email: [antoun@printlaw.com](mailto:antoun@printlaw.com)

August 11, 2000

TO: GPO Printers  
FROM: Fred Antoun  
RE: Equal Opportunity Survey and Enforcement Procedures May Result in GPO Printers Being Denied Contracts and/or Cited for Non-Compliance with Federal Affirmative Action Regulations

In April of this year, the Office of Federal Contract Compliance Programs (OFCCP) stepped up its surveys of federal contractors and subcontractors. Although one of the stated purposes of the new survey system is to streamline OFCCP compliance processes, another goal of the survey was to increase awareness of affirmative action programs in the federal contracting community, and to identify compliance problems.

While affirmative action programs have come under successful challenge in the private sector, they are still very much alive, well, and enforceable for contractors who choose to do business with the federal government – like GPO printers.

**GPO Contract Terms, Contract Clause 33 requires contractors awarded more than \$10,000 during a year to comply with Executive Order 11246, as amended, and the Rules, Regulations, and Orders of the Secretary of Labor with regard to equal opportunity affirmative action programs. In addition, contractors are required to complete Labor Department Standard Form 100 (EEO-1) annually by September 30.**

GPO Contract Terms also imposes a requirement for an affirmative action plan for workers with disabilities (Clause 35) and for veterans (Clause 36).

By signing a bid, GPO contractors are certifying that they are in compliance with these and other requirements imposed by Contract Terms.

**The penalties for non-compliance with affirmative action plan requirements are severe:** GPO may declare a contractor ineligible for a contract and further government contracts if it is found not to be in compliance; and/or GPO can cancel, terminate or suspend an existing contract where the contractor is not in compliance with either GPO Contract Clause 33 “or any rule, regulation or order of the Secretary of Labor.”

It is well known that many GPO printers do not comply with affirmative action program requirements. Yet, there have only been a few enforcement procedures against printers. Why? In the past, OFCCP has ignored GPO contracts in its enforcement procedures, apparently because GPO was outside the Executive Branch.

However, based on the recent experience of several printers, **it seems OFCCP and the Department of Labor have finally figured out that there are several thousand GPO printers who are subject to affirmative action plan and reporting requirements, many of which are not in compliance.** If you are thinking that this would be a regulator's dream, you are correct.

Worse yet, because of the GPO's high degree of competition, those GPO vendors that are in compliance with the affirmative action requirements and filings will undoubtedly, now that the know enforcement is coming to the printing industry, turn in any of their competitors who are not in compliance. The likely scenario under which this would occur would be where a printer in compliance is the #2 bidder, and it knows or believes that the #1 printer is not in compliance. Since one of the penalties for non-compliance is to refuse to award a job to the non-complying printer, it could be disqualified, making the #2 bidder the winner. If you find it difficult to believe that printers would take this type of action, consider the fact that the majority of complaints that a printer is not using a required recycled paper have come from other printers.

In the old days, printers simply could have hoped for a Republican victory in the White House and/or in Congress, and assumed that affirmative action programs would either go away or not be enforced. However, the new "compassionate conservative" Republicans have made it clear by their actions and platform that they are the party of inclusion, and that they will do everything that they can to help blacks, Hispanics and other minorities share in the current economic prosperity. So complying with affirmative action requirements will be necessary whether George W. Bush or Vice President Gore is the next President.

If you would like to learn what you have to do to comply with the affirmative action programs applicable to GPO printers and avoid the possibility of being denied award on a contract, or being prevented from receiving future contracts, **call Meg at (717) 261-0998 and ask for an affirmative action information package.**