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January 20, 2006

VIA FACSIMILE & REGULAR MAIL
PERSONAL & CONFIDENTIAL

Charles E. James, Sr.
Deputy Assistant Secretary
U.S. Department of Labor
Employment Standards Administration
Office of Federal Contract Compliance Programs
200 Constitution Ave. NW Suite C3325
Washington, DC 20210

Re: NILG Request for Grace Period Regarding Implementation of the Final Rule Concerning the Obligation to Solicit Race and Gender Data for Agency Enforcement Purposes (the "Internet Applicant" Regulation)

Dear Deputy Assistant Secretary James:

The National Industry Liaison Group (NILG) hereby offers its observations and a recommendation on behalf of its constituency to the Office of Federal Contract Compliance Programs (OFCCP) regarding the time-frame for implementation of the new "Internet Applicant" regulation.

NILG RECOMMENDS THAT OFCCP PERMIT A SIX MONTH "GRACE PERIOD" BEYOND FEBRUARY 6, 2006 FOR CONTRACTORS THAT NEED ADDITIONAL TIME TO COMPLY

NILG hereby provides: 1. observations regarding the burden certain contractors are experiencing in connection with attempting to comply with the new regulation; and, 2. a recommendation that OFCCP permit a six month "grace period" for contractors to comply with the new regulation.

Many Contractors are Experiencing Substantial Difficulty Modifying Existing Applicant Tracking and Record Retention Systems to Timely Comply with the New Regulation While Other Contractors Are Prepared to Comply by February 6, 2006

As you know, the new regulation significantly changes contractors' existing applicant tracking and record retention obligations. While certain aspects of



National Industry Liaison

GROUP TM

the new regulation clearly reduce the compliance burden, other elements substantially change and at times increase compliance obligations. For example, the contractors' ability to limit applicant tracking to only those individuals who possess "basic qualifications" (assuming other elements of the Internet Applicant definition are satisfied) generally will reduce applicant tracking obligations. However, the new detailed record retention requirements relating to internal and external database searches requires that many contractors substantially alter the way they track such searches.

We have surveyed our ILG membership around the country, a substantial number of whom have responded, providing NILG with insights into the differing burdens that the new regulation will impose on different contractors. For many contractors, the modifications required by the new regulation will necessitate substantial investments of time, resources, technical expertise, training, etc. For these contractors, completing the systems and process modifications necessary to be in compliance by February 6, 2006 imposes an extraordinary burden upon them and these contractors would benefit significantly from additional time to complete the changes needed to comply. Other contractors, however, need to incorporate relatively minor modifications to their existing applicant tracking systems and record retention processes in order to comply and gain the benefit of the new regulation. These contractors wish to implement the processes permitted by the new regulation by February 6, 2006.

In view of the differing burdens imposed on the contractor community by the new regulation, and in order to advocate on behalf of NILG's constituency, we respectfully request that the OFCCP consider the following recommendation.

NILG Recommends that the OFCCP Provide a Six Month "Grace Period" for Those Contractors that Need Additional Time to Comply but Permit Contractors Ready to Comply to Implement the New Regulation on February 6, 2006

After reviewing the information provided by NILG's constituents as part of the recent survey we conducted, NILG respectfully requests that OFCCP allow a "grace period" of six months beyond February 6, 2006, to August 6, 2006, for those contractors that need additional time to make necessary systems and process modifications to comply. However, we ask that those contractors prepared to comply by February 6, 2006, be permitted to do so in order to gain the benefit of the new regulation. We believe this approach is fair to the contractor community as a whole while still permitting the OFCCP to begin enforcing the new regulation as it deems appropriate.



National Industry Liaison

GROUP TM

We would like to thank the OFCCP for its consideration of our observations and recommendation and look forward to the OFCCP's response. In addition, if there are any questions, we would be happy to discuss this letter with the OFCCP. Please contact Mickey Silberman, NILG Board Counsel, to discuss at (631) 247-0404 or silbermm@jacksonlewis.com.

Respectfully submitted,

The National Industry Liaison Group (NILG)



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