

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 76-9

EQUAL OPPORTUNITY

WHEREAS, the Government of Guam is committed to the principle of fair and impartial treatment of all the people of Guam with proper regard for their civil rights as defined in the Constitution, Organic Act of Guam, Federal and Territorial law and in the concept of justice intrinsic to our form of government; and

WHEREAS, this Administration is committed to fair and impartial treatment of all in the services provided by the Government of Guam and in its programs and activities; and

WHEREAS, this Administration is committed to equal employment opportunity and practices based on merit and individual fitness of the person in relation to specific jobs without discrimination on non-merit factors for employment within the Government of Guam and its contractors, grantees and suppliers; and

WHEREAS, it is the policy of this Administration to reaffirm these equal rights for all the people of Guam including women and minorities* and to implement a plan of action to actuate this commitment by authority vested in me by the Organic Act of Guam;

NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and in reaffirmation of the Section 5 (n), Bill of Rights of the Organic Act and Section 4013 of the Government Code, do hereby order as follows:

SECTION I. NON-DISCRIMINATION

WHEREAS, in compliance with Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972; the Equal Pay Act of 1963; the Age Discrimination in Employment Act

* on the basis of equal employment opportunity and not on the basis of population.

of 1967, as amended; Federal Executive Order 11246 and 11375; the Federal Standards for a Merit System of Personnel Administration, the Organic Act of Guam and related Federal or Territorial Laws, it is the intent of the Government of Guam, herein referred to as the GOVERNMENT:

- A. To provide equal employment opportunity for all applicants and employees to compete and be considered for jobs solely on the basis of individual merit and fitness related to specific jobs and to prohibit discrimination in any aspect, term, condition, or privilege of employment on the basis of race, religion, creed, color, sex, national origin, age, handicap, marital status, political affiliation or other non-merit consideration.* Such discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration is prohibited.
- B. To carry out all government programs and activities in compliance with applicable Federal and Territorial laws and in such a manner that no person shall, on the basis of race, religion, creed, color, sex, national origin, age, handicap, marital status, political affiliation or other non-merit factor be excluded from participation in, be denied the benefits of, or be subjected to discrimination with respect to any program or activities.

SECTION II. AFFIRMATIVE ACTION PROGRAM

WHEREAS, it is the Government's policy to provide equal opportunity in employment and to assure non-discrimination in its program and activities;

*except where specific age, sex or physical requirements constitute a bona fide occupational qualification or in the case of specially funded programs to facilitate employment of disadvantaged persons, but only with the prior approval of the Equal Opportunity Administrator.

THEREFORE, an Equal Opportunity Affirmative Action Program is hereby established as follows:

1. Departmental Responsibility

It shall be the responsibility of the head of each executive department or agency to develop an affirmative action plan in accordance with the guidelines provided by the Equal Opportunity Administrator.

Departmental Affirmative Action Plans will include:

a) An analysis of the ethnic and sex composition of the department's workforce by occupational group and level and a comparison with the labor market to determine areas of underrepresentation.

b) The establishment of goals, actions and timetables to correct any underrepresentation based on anticipated vacancies and the availability of qualified women and minorities in the labor market.

c) The development of specific action steps, timetables and assignment of responsibility for the analysis and upgrading of personnel systems and practices which may be potential artificial barriers to job-related personnel administration and may be factors in such underrepresentation, i.e., special recruitment efforts, test validation, review of eligibility and selection standards for discriminatory impact, job restructuring, upward mobility programs, rules and regulations, training programs, classification, performance evaluation systems, etc.

d) The establishment of EEO counseling and procedures for the informal and formal handling of discrimination complaints with ultimate appeal to the Equal Opportunity Review Board for a binding decision.

e) Written documentation that departmental contractors, grantees, and suppliers are aware of Governmental equal employment opportunity requirements.

f) The development of a women's program.

g) The designation of departmental Equal Opportunity and Women's Program Coordinators. Such duties will normally be in addition to regular duties of these employees.

h) The establishment of monitoring and evaluation procedures to measure progress in meeting the goals of the affirmative action program within the projected timeframes and the updating of the plan based on such evaluation.

Time frames shall generally be short term, one year or less in length supplemented by long range goals as they are meaningful. Progress will be evaluated at least semi-annually by the department with the establishment of new goals and action items as appropriate. Affirmative Action Plans shall be submitted annually to the Equal Opportunity Administrator for review.

i) Communication to managers and employees including:

- The responsibility of all managers, supervisors and employees for the implementation of affirmative action goals within their sphere of influence.
- The legal liability of managers and supervisors for discrimination.
- Employees found guilty of discrimination will be disciplined.
- The availability of EEO counseling and the provisions of the grievance procedure.
- The goals of the affirmative action plan.

j) All affirmative action plans will be submitted to the Equal Opportunity Administrator for initial review and comment by May 30, 1976. Initial analysis of workforce utilization statistics will be submitted by April 30, 1976.

2. Equal Opportunity Administrator

The Executive Director of the Civil Service Commission is designated as the Equal Opportunity Administrator for Government employment. The Equal Opportunity Administrator will be provided with necessary staff support. The authority and responsibilities of the Administrator will include:

- a) Preparing guidelines for the development of departmental affirmative action plan and providing technical assistance to departments.
- b) Review and approval of affirmative action plans at least annually.

c) Coordination of the review and upgrading of personnel systems and procedures to remove potential artificial barriers to job-related personnel administration.

d) Identification of programs available to assist the economically and educationally disadvantaged, promote awareness of the problems of the disadvantaged, and coordinate departmental efforts to remove artificial barriers to their access to equal employment opportunity.

3. Equal Opportunity Review Board

The Civil Service Commission is designated the Government's Equal Opportunity Review Board. The Board shall hear cases relating to alleged discrimination from applicants and from employees. The Board will have the authority to rectify any determined discrimination in any manner it deems appropriate in order to comply with the intent of this Executive Order.

The decision of the Board shall be final except in the case of unclassified employees. For unclassified employees, the Board will make a recommendation to the Governor who will render the final decision.

4. Equal Opportunity Compliance Officer

The position of Compliance Officer shall be established within the Department of Labor to monitor and enforce grantee, contractor and supplier compliance within the private sector. The Department of Labor will develop guidelines as needed for the equal opportunity program within the private sector, including the hearing and resolution of complaints, compliance review and enforcement procedures and appropriate sanctions and penalties.

In accordance with the provisions of Title VI of the Civil Rights Act of 1964, and Presidential Executive Order 11246, as amended by E.O. 11375 and other relevant Federal and Territorial requirements, contractors, grantees and suppliers of the Government shall meet the following requirements:

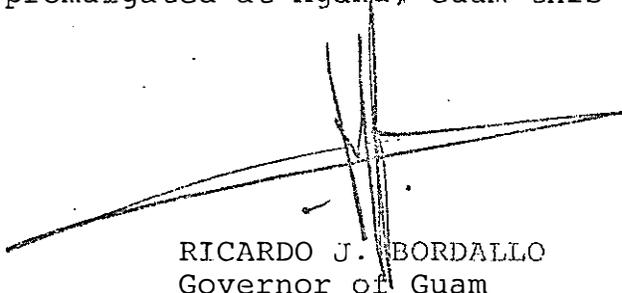
a) Those receiving ten thousand (\$10,000) dollars or those with fifty (50) or more employees, shall

develop an equal opportunity affirmative action plan, utilizing standard guidelines established by the Department of Labor, within 60 days after the awarding of a contract or grant. Furthermore, within 90 days of the award and annually thereafter for the duration of the contract or grant, the Contractor, Grantee, or Supplier under this section shall submit an affirmative action report to the Department of Labor.

b) Those with contracts or grants less than ten thousand dollars (\$10,000), or those with less than fifty (50) employees, shall not be required to develop an equal opportunity affirmative action plan, except however, they be strictly prohibited from discriminating on the basis of race, religion, creed, color, sex, national origin, age, handicap, marital status, political affiliation or other non-merit factor.

c) Communicate complaints pursuant to procedures established by the Department of Labor.

Signed and promulgated at Agana, Guam this 25th day of March, 1976.



RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:



RUDOLPH G. SABLAN
Lieutenant Governor