



OFFICE OF THE GOVERNOR
HAGÁTÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 2006-16

EQUAL OPPORTUNITY

WHEREAS, the Government of Guam is committed to the principle of fair 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 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

WHEREAS, it is the policy of this Administration to uphold and to implement a plan of action to effectuate this commitment;

NOW, THEREFORE, I, FELIX P. CAMACHO, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order as follows:

SECTION 1. NON-DISCRIMINATION

WHEREAS, in compliance with the 14th Amendment to the Constitution, Section 5 (Bill of Rights) and 9(a) (Merit System), and federal laws; Titles VI and VII of the Civil Rights Act; the Civil Rights Act of 1991; Title I of the Americans with Disabilities Act; the Equal Pay Act; the Age Discrimination in Employment Act; Section 504 of the Vocational Rehabilitation Act; Title IX of the Education Amendments of 1972; other pertinent federal laws and Guam laws; Title 4 of the Guam Code Annotated; Title 17, Chapter 2 of the Guam Code Annotated; Public Law 14-28, Section 5; Public Law 15-17; Public Law 28-68; Public Law 28-112 and other pertinent laws, it is the intent of the Government of Guam, hereinafter the Government:

- A. To provide equal employment opportunity for all applicants and employees to compete and be considered for jobs on the basis of merit and ability to perform, and to prohibit discrimination in any aspect, term, condition, or privilege of employment on the basis of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status,



or political affiliation and retaliation. *Such discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration is prohibited.

** except where specific factors legally 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.*

- 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, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status, or political affiliation and retaliation 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 employment opportunity and to assure non-discrimination in its programs and activities;

THEREFORE, an Equal Employment Opportunity (EEO) Affirmative Action Program is hereby established as follows:

1. **Departmental Responsibility**

The head of a department, agency, instrumentality, authority or corporation, shall serve as the responsible official for the overall EEO program. It shall be the responsibility of the head of each executive department, agency, instrumentality, authority or corporation, 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 to determine under-representation based on the local labor force data produced by the Department of Labor.
- b) The identification of goals, actions and timetables to remove or minimize under-representation and the identification and removal of barriers which adversely restricts the hiring and promotion of minorities, women and persons with disabilities.



- 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, 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 system, etc.
- d) Written documentation that Government contractors, grantees, and suppliers are aware of equal employment opportunity requirements.
- e) The development of a women's program and programs for persons with disabilities.
- f) The designation of departmental Equal Opportunity Coordinator and Women's Program Coordinators. Such assignments shall be served as a collateral basis, which will normally be in addition to regular duties of the designated employees.
- g) The establishment of procedures to monitor and evaluate the progress of the hiring and promotion of minorities, women and persons with disabilities within the projected timeframes and the updating of the plan based on such evaluation.

Time frames shall generally be for five years in length. Progress will be evaluated at least annually by the department with the establishment of new goals and action items, as appropriate. Affirmative Action Plans shall be updated annually, as appropriate, and submitted to the Equal Opportunity Administrator for review.

- h) 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.

2. **Equal Opportunity Administrator**

The Director of the Department of Administration is designated as the Equal Opportunity Administrator for the Executive Branch. 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.
- c) Coordination of the review and upgrading of personnel system and procedures to remove potential artificial barriers to job-related personnel programs.
- 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.
- e) The establishment of discrimination complaints procedures, including counseling at the informal stage and formal handling of discrimination complaints with ultimate appeal to the designated Administrative Law Judge (ALJ) for a binding decision.

3. **Administrative Law Judge (ALJ)**

The Administrative Law Judge is designated the Government's Equal Opportunity authority to rule on EEO complaints. The ALJ shall hear cases on appeal relating to alleged discrimination from applicants and from employees. The ALJ will have the authority to rectify any determined discrimination in an appropriate manner in order to comply with the intent of this Executive Order.

The decision of the ALJ shall be final except in the case of unclassified employees. For unclassified employees, the ALJ 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, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status, or political affiliation and retaliation.
- c) Communicate complaints pursuant to procedures established by the Department of Labor.

SIGNED AND PROMULGATED at Hagåtña, Guam this 19 day of June, 2006.

A handwritten signature in black ink, appearing to read "Felix P. Camacho".

FELIX P. CAMACHO
I Maga' Låhen Guåhan
Governor of Guam