



U.S. COMMODITY FUTURES TRADING COMMISSION

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TO: Heath Tarbert, Chairman
Brian Quintenz, Commissioner
Rostin Behnam, Commissioner
Dawn Stump, Commissioner
Dan Berkovitz, Commissioner

FROM: Judith A. Ringle, Deputy Inspector General/Chief Counsel

DATE: January 4, 2021

SUBJECT: Inspection and Evaluation of CFTC's Compliance with E.O. 13950, *Combating Race and Sex Stereotyping* (September 22, 2020) (CFTC OIG 2021-IE-1)

Introduction and Executive Summary

Executive Order (EO) [13950](#) *Combating Race and Sex Stereotyping* (September 22, 2020)(the EO), at section 6(c)(ii) required each agency head to request the Inspector General each year to thoroughly review and assess agency compliance with the requirements of the EO in the form of a report submitted to the Office of Management and Budget (OMB), with a current deadline of December 31, 2020. On November 9, 2020, we received the required request through Summer Mersinger, acting as the senior political appointee assigned responsibility for ensuring compliance with the EO (required at EO section 6), which we verbally confirmed with the Chairman.

This report presents our findings. The CFTC is compliant.

Objective

Review and assess agency compliance with the requirements of the EO.

Criteria

- The EO
- OMB M-20-34, Training in Federal Government, September 4, 2020
- OMB M-20-37, Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All, September 28, 2020
- Office of Personnel Management (OPM) Guidance on Mandatory Review of Employee Training under E.O. 13950 September 22, 2020, October 2, 2020

Standards

We completed our evaluation as an Inspection and Evaluation (I&E) in accordance with the Counsel of Inspectors General on Integrity and Efficiency (CIGIE) [*Quality Standards for Inspections and Evaluations*](#) (2012) (I&E Standards).

In addition, the CIGIE issued draft guidelines for planning and reporting evaluations conducted under the EO (CIGIE draft guidelines). We followed the CIGIE draft guidelines as applicable to CFTC (see below).

Scope

Agency actions under the EO from September 23, 2020, through December 21, 2020. We determined that certain requirements in the EO did not apply to CFTC, and we did not evaluate compliance with those requirements. Specifically, the requirements at Section 5, pertaining to Federal Grant program requirements, did not apply to CFTC.

Methodology

In order to complete this I&E, we requested the following items:

- I. All contracts entered into on or after November 21, 2020.
- II. All diversity and inclusion trainings approved after September 23, 2020, to include all documentation submitted for approval and all responses and related correspondence.
- III. The spending report issued to OMB under section 7 of the EO.

We also questioned CFTC employees to gain an understanding of the actions taken by the agency to prevent training on, and promotion of, divisive concepts. Specifically, we inquired regarding potential actions including:

- IV. Changes to public facing documentation or announcements
- V. Internal directives or orders on diversity and inclusion training
- VI. Standard operating procedures on approval requests for diversity and inclusion training
- VII. Changes to standard provision language in contracts
- VIII. Directives related to contract language and requirements changed to incorporate the EO

Findings

I. All contracts entered into on or after November 21, 2020.

With regard to item I, above, there were no contracts entered into by the agency on or after November 21, 2020, through December 21, 2020.

II. All diversity and inclusion trainings approved after September 23, 2020, to include all documentation submitted for approval and all responses and related correspondence.

With regard to item II, CFTC submitted the following trainings for OPM review and approval:

1. Hispanic Heritage Month. Her discussion is titled “Covid-19 Among Hispanic/Latinos from a Social Epidemiology’s Perspective.” The event also will include opening remarks by the CFTC Chairman.
2. Disability 101: Promoting Access and Inclusion. This training educates attendees about the definition of disability, models for thinking about disabilities, and ways to promote access and inclusion. It includes case studies for discussion.
3. EEO Complaint Process Overview. This training provides an overview of the federal Equal Employment Opportunity (EEO) Complaint Process. It reviews topics such as EEO laws, bases and issues of complaints, and best practices. The plan is to work with the CFTC’s Learning Officer in the Human Resources Branch to convert these Power Point slides into a storybook-style online training. The training will be mandatory for supervisors and managers.
4. MD-715 Briefing. This is the briefing that the CFTC’s Office of Minority and Women Inclusion (OMWI) staff provides to the Chairman, senior leaders, labor union, and the Diversity Council on the EEOC’s mandatory MD-715 report. It includes information on EEO complaints as well as the demographics of the CFTC. It is updated and edited on a yearly basis.
5. 2021 Black History Month. A panel discussion of Georgetown University Professor, Chris Brummer’s working paper: What do the Data Reveal about (the Absence of Black) Financial Regulators? The purpose of this panel is to discuss the preliminary findings of Professor Brummer’s paper and to discuss diversity at financial regulators, including the CFTC.
6. Fireside Chat with De’ Ana Dow. De’ Ana Dow is a prominent CFTC alum, Partner and General Counsel at Capital Counsel, and Chair of the network of Financial Services Professionals (“FSP”). The chat will cover:
 - a. Background discussion of De’ Ana’s career trajectory; experience at the CFTC; experience as a prominent derivatives lawyer and chair of the FSP;
 - b. Mentoring discussion of advice De’ Ana has for AAA members on professional development; mentorship; navigating your careers at the CFTC; book/resource recommendations;
 - c. Discussion of the FSP and how interested AAA members can get involved; and
 - d. Question and Answer Session.
7. 2021 Women’s History Month Program. Current and former CFTC Commissioners will discuss their time at the Commission and the evolution of markets as part of a panel “Women in Derivatives – Reflections from CFTC Commissioners.” Potential speakers include: Comm. Dawn Stump, Sharon Y. Bowen, Jill E. Sommers, Sharon Brown-Hruska, Barbara Holum, Brooksley E. Born, Mary L. Schapiro, Shelia C. Bair, Wendy L. Gramm, Susan M. Philips.

8. Women @ Work Coffee Hours. A regular series of informal conversations with women leaders regarding their careers, mentorship, networking, and other topics of interest to CFTC employees.

On December 1, 2020, OPM conveyed the results of their review of the CFTC package of diversity or inclusion training modules. OPM concluded, without further discussion, that all CFTC submissions were compliant.

III. The spending report issued to OMB under section 7 of the EO.

With regard to item III, CFTC was required to report all spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors. CFTC's report was required, in addition to providing aggregate totals, to delineate awards to each individual contractor. CFTC submitted the required spending report to OMB on its due date of December 21, 2020. CFTC reported one contract:

Training Title: Leadership Skills and Techniques
Provider: Management Concepts
Cost: \$9,999

IV. Changes to public facing documentation or announcements

With regard to item 4, at CFTC the only relevant public facing documentation or announcements are the Management Directive [715](#), the Form 462 [Report](#), and the NoFear [Report](#). For these items, the CFTC follows templates that are provided by the Equal Employment Opportunity Commission. None of these reports were impacted by the EO and thus none of these documents changed.

V. Internal directives or orders on diversity and inclusion training

OMWI emailed Affinity Group leaders the EO and related guidance to inform them of its requirements. In addition, OMWI emailed all Affinity Group leaders to ensure that they checked in with both OMWI and the CFTC Legal Division before planning any diversity related trainings or events to ensure compliance with the EO. The CFTC Legal Division issued ethics guidance directly to Affinity group leaders regarding compliance with the EO (Attachment 1).

VI. Standard operating procedures on approval requests for diversity and inclusion training

Currently, the only standard operating procedure that is in place for approval requests for all training is required completion of the SF-182 (which is standard throughout the federal government). Once the supervisor approves, it is sent to the CFTC Training Office in the

Division of Administration, Human Resources Branch (HRB). This process is executed through the online Learning Management System (LMS). LMS is managed through HRB as well. As CFTC is a small agency with a small training program, it has not created separate internal directives or standard operating procedures on approval requests for diversity and inclusion training.

VII. Changes to standard provision language in contracts

With regard to item VII, CFTC employees provided new standard contract provision language that quotes the EO and implements section 4 of the EO (Requirements for Government Contractors). The new language is:

##. 52.222-99 COMBATING RACE AND SEX STEREOTYPING (DEVIATION CFTC-21-01) (NOV 2020)

(a) Definitions. As used in this clause—

“Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

“Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

(b) Exemptions. The exemptions that apply to Executive Order (E.O.) 11246 also apply to E.O. 13950. See FAR 22.807.

(c) Compliance with E. O. 13950, Combating Race and Sex Stereotyping. Unless exempted under paragraph (b) of this clause, the Contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that—

(1) One race or sex is inherently superior to another race or sex;

(2) An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;

(4) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;

(5) An individual's moral character is necessarily determined by his or her race or sex;

(6) An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(7) Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or

(8) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

(d) Notice. The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice provided below advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

NOTICE

E.O. 13950, Combating Race and Sex Stereotyping Employers Holding Federal Contracts or Subcontracts

Contractors shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the following concepts that—

(1) One race or sex is inherently superior to another race or sex;

(2) An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;

(4) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;

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(7) Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or

(8) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

For use in this notice, the terms—

“Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex; and

“Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under this notice should immediately contact the Office of Federal Contract Compliance Programs (OFCCP) Complaint Hotline to Combat Race and Sex Stereotyping at 202-343-2008 or via email at OFCCPComplaintHotline@dol.gov.

(End of notice)

(e) *Noncompliance.* If the Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in E. O. 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in E. O. 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(f) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that exceed \$10,000 and are not exempted by the rules, regulations, or orders of the Secretary of Labor issued under E.O. 11246 and E.O. 13950, as amended, so that these terms and conditions of this clause will be binding upon each subcontractor.

(2) The Contractor shall take such action with respect to any subcontract as the Director of OFCCP may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

VIII. Directives related to contract language and requirements changed to incorporate the EO

With regard to item VIII., on November 23, 2020, all CFTC Contracting Officers and Purchasing Agents were provided new directives that quote the EO and implement section 4 of the EO (Requirements for Government Contractors). The directive is attached (Attachment 2).

Management Draft

The I&E Standards recommend but do not require that agency management be given the opportunity to comment on I&E reports prior to issuance. The CIGIE draft guidelines for this project state that the agency should have the opportunity to review and comment on the draft report; however, “[g]iven the required, limited timeframe, the normal commenting period may need to be shortened to expedite the process.” CIGIE also recognizes that any evaluation of agency compliance with the December 21, 2020, deadline to submit a spending report to OMB (EO section 7) may present some timing issues. We submitted our management draft to Summer Mersinger, the designated “Senior political appointee” under section 2(d) of the EO, on December 29, 2020. Management responded with their approval and agreement by email on January 4, 2021.

Reporting

The final report is being furnished to the Commission and to OMB. As with all Inspection/Evaluation reports, the Inspector General Act of 1978, as amended, will require its publication to the OIG webpage (5 USC Appx. § 8M).

Conclusion

CFTC is in compliance with the EO.

Cc: Jaime Klima, Chief of Staff
Peter Kals, Special Counsel
David Gillers, Chief of Staff
Daniel J. Bucsa, Chief of Staff
Erik F. Remmler, Chief of Staff
Anthony C. Thompson, Executive Director and Chief Administrative Officer
Dan Davis, General Counsel
A. Roy Lavik, Inspector General

**ATTACHMENT 1
AFFINITY GROUP ETHICS GUIDANCE**

CFTC Employee Affinity Groups
Summary: Employee affinity groups (“affinity groups”) are organizations that are other than “labor organizations” and that provide information, views, and services which contribute to improved Commission operations, personnel management, and employee effectiveness. ¹ Assuming an affinity group meets basic regulatory requirements, ² the CFTC can provide the affinity group with support in a variety of ways, as set forth in detail below. CFTC employees who attend affinity group functions while they are: (1) in a duty status; (2) in CFTC facilities; or (3) while using CFTC equipment must remember that they are subject to Commission policy and guidance.
Allowable Activity
Use of CFTC Resources. The CFTC may provide affinity groups with support, such as the temporary use of Government office space, agency bulletin boards, internal agency mail distribution systems, electronic bulletin boards, and other means of informing agency employees about affinity group meetings and activities. ³
Use of Duty Time. CFTC employees may reasonably participate in affinity group activity while they are in a duty status, subject to supervisory disapproval for workload, staffing issues, or other reasonable business reasons. As discussed above, Commission employees remain subject to CFTC policy and guidance while they engage in affinity group activity, and their participation in affinity group activities must not impair the execution of their assigned duties.
Representing the Organization. Because CFTC affinity groups are created as working groups in the agency, employees can generally engage with leadership on behalf of the affinity group.
Prohibited Activity
Endorsements. CFTC employees cannot take any action that would appear to constitute an endorsement by the Commission or any other part of the federal government. ⁴ Consequently, employees in the affinity group must ensure they do not take any action that would appear to endorse an outside person, group, or establishment. As such, affinity groups are strongly encouraged to seek ethics advice prior to booking speakers or similar.
Partisan Political Activity. Employees generally cannot engage in any partisan political activity while they are in a duty status, utilizing Commission information systems, or physically within Commission office space. ⁵ Consequently, employees cannot engage in partisan political activity with an affinity group if the activity: (1) takes place in CFTC space; (2) is held via a CFTC call-in line (telephonic or video); or (3) while in a duty or non-duty status. In addition, any other partisan political activity that would otherwise violate law or regulation is unauthorized and may be subject to discipline (up to and including removal, fines, or criminal sanctions). If an affinity group is contemplating any activity that could possibly be construed as partisan political activity, then the group should seek ethics advice to ensure compliance with relevant limitations.
Activity in Violation of Law or Executive Order. Employee affinity group activity must accord with federal law, presidential Executive Orders, and Commission policy and guidance. For example, employees attending an affinity group event cannot assist in a work stoppage or slowdown ⁶ and cannot advocate for the overthrow of the government. ⁷ This general framework of compliance with federal authority applies to Executive Order 13950, which prohibits affinity groups from providing any training on race or sex scapegoating or stereotyping. ⁸ “Training” in this context has been defined very broadly. “Training” includes training that is conducted or led by Government employees; training that

¹ See 5 C.F.R. § 251.103(a).
² See 5 C.F.R. § 251.102.
³ See 5 C.F.R. § 251.202(b).
⁴ See 5 C.F.R. § 2635.702(b).
⁵ 5 U.S.C. § 7324(a).
⁶ See 5 C.F.R. § 251.102(c).
⁷ See 5 C.F.R. § 251.102(d).
⁸ See Exec. Order No. 13,950, (Sep. 22, 2020).

ATTACHMENT 1
AFFINITY GROUP ETHICS GUIDANCE

is conducted or led by contractors or others; live training sessions conducted in person or by any electronic means; materials posted on any Federal agency websites; and written or video materials or other content that federal employees are permitted to read or view. Given the expansive nature of the prohibition set forth in the Executive Order and the potentially serious consequences that could result from violating it, affinity groups and employees who participate in affinity group activities should take appropriate steps to avoid engaging in any activities that could reasonably be construed as prohibited “training” under the Executive Order.

This notification cannot be read to authorize or approve any activity that violates any of the above, including Executive Order 13950. Employees are responsible for conducting themselves consistent with these authorities and any perceived inconsistency in this notification should be read to be consistent with the authorities noted.

ATTACHMENT 2
THE DIRECTIVE



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5180

Division of Administration

CLASS DEVIATION – COMBATING RACE AND SEX STEREOTYPING

TO: CFTC Contracting Officers and Purchasing Agents

WILLIAM
ROBERSON

Digitally signed by WILLIAM
ROBERSON
Date: 2020.11.23 13:55:35
-05'00'

FROM: William M. Roberson, Senior Procurement Executive

DATE: November 23, 2020

SUBJECT: Implementing Contract-Related Requirements of E.O. 13950

1. **Purpose:** To provide a class deviation from the FAR to implement Section 4 of Executive Order (E.O.) 13950, Combating Race and Sex Stereotyping ([85 FR 60683, September 28, 2020](#)).
2. **Guidance:** E.O. 13950 seeks to promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat race and sex stereotyping and scapegoating. Section 4 of the E.O. requires agencies to include a clause in new solicitations and resultant contracts that prohibits contractors from using any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating. Sections 4 and 9 specify that the clause is required in all contracts entered into beginning November 21, 2020, except those exempted in the manner provided by section 204 of E.O. 11246 of September 24, 1965 (Equal Employment Opportunity), as amended.
3. **Action Required by Contracting Officers:** Effective immediately, except in contracts exempted in the manner provided by section 204 of Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity) (see FAR 22.807), contracting officers shall—
 - Include the attached clause in all solicitations issued on or after November 21, 2020 and in any resultant contracts that will include the clause at FAR 52.222-26, Equal Opportunity, or its Alternate I. This includes solicitations below the simplified acquisition threshold and solicitations for the acquisition of commercial items under FAR part 12.

ATTACHMENT 2
THE DIRECTIVE

- Amend solicitations issued prior to November 21, 2020 where the resultant contract award is expected to occur on or after November 21, 2020 to include the attached clause, if the contract is contemplated to include the clause at FAR 52.222-26, Equal Opportunity, or its Alternate I. This includes solicitations below the simplified acquisition threshold and solicitations for the acquisition of commercial items under FAR part 12.
4. **Effective Date:** This class deviation is effective as dated and shall remain in effect until it is incorporated into the FAR or until this class deviation is otherwise rescinded or extended.
5. **Attachment:** FAR clause 52.222-99 (DEVIATION CFTC-21-01).

ATTACHMENT 2
THE DIRECTIVE

Changes indicated in **[bold text]** for additions or by ~~strike through~~ for deletions.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

52.222-99 Combating Race and Sex Stereotyping. [(DEVIATION CFTC-21-01)]

Use this clause in solicitations and contracts, when a contract is contemplated that will include the clause at Federal Acquisition Regulation (FAR) 52.222-26, Equal Opportunity or its Alternate I.

**COMBATING RACE AND SEX STEREOTYPING
(DEVIATION CFTC-21-01) (NOV 2020)**

(a) *Definitions.* As used in this clause—

“*Race or sex scapegoating*” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

“*Race or sex stereotyping*” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

(b) *Exemptions.* The exemptions that apply to Executive Order (E.O.) 11246 also apply to E.O. 13950. See FAR 22.807.

(c) *Compliance with E. O. 13950, Combating Race and Sex Stereotyping.* Unless exempted under paragraph (b) of this clause, the Contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that—

- (1) One race or sex is inherently superior to another race or sex;
- (2) An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- (3) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- (4) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;

ATTACHMENT 2
THE DIRECTIVE

(5) An individual's moral character is necessarily determined by his or her race or sex;

(6) An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(7) Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or

(8) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

(d) *Notice.* The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice provided below advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

NOTICE
E.O. 13950, Combating Race and Sex Stereotyping
Employers Holding Federal Contracts or Subcontracts

Contractors shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the following concepts that—

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ATTACHMENT 2
THE DIRECTIVE

(8) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

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Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under this notice should immediately contact the Office of Federal Contract Compliance Programs (OFCCP) Complaint Hotline to Combat Race and Sex Stereotyping at 202-343-2008 or via email at OFCCPComplaintHotline@dol.gov.

(End of notice)

(e) Noncompliance. If the Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in E. O. 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in E. O. 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(f) Subcontracts. (1) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that exceed \$10,000 and are not exempted by the rules, regulations, or orders of the Secretary of Labor issued under E.O. 11246 and E.O. 13950, as amended, so that these terms and conditions of this clause will be binding upon each subcontractor.

(2) The Contractor shall take such action with respect to any subcontract as the Director of OFCCP may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(End of clause)