

CFPB Contractor Good Faith Effort Documentation

Frequently Asked Questions

Office of Minority and Women Inclusion | FY 2020

The bottom of the slide features a decorative graphic consisting of several overlapping, semi-transparent green shapes. These shapes are primarily triangles and quadrilaterals, creating a layered, abstract effect. The colors range from a light, pale green to a vibrant, medium green. The shapes are positioned in the lower half of the page, extending from the left edge towards the right.

Section 1:

Documentation Requirements

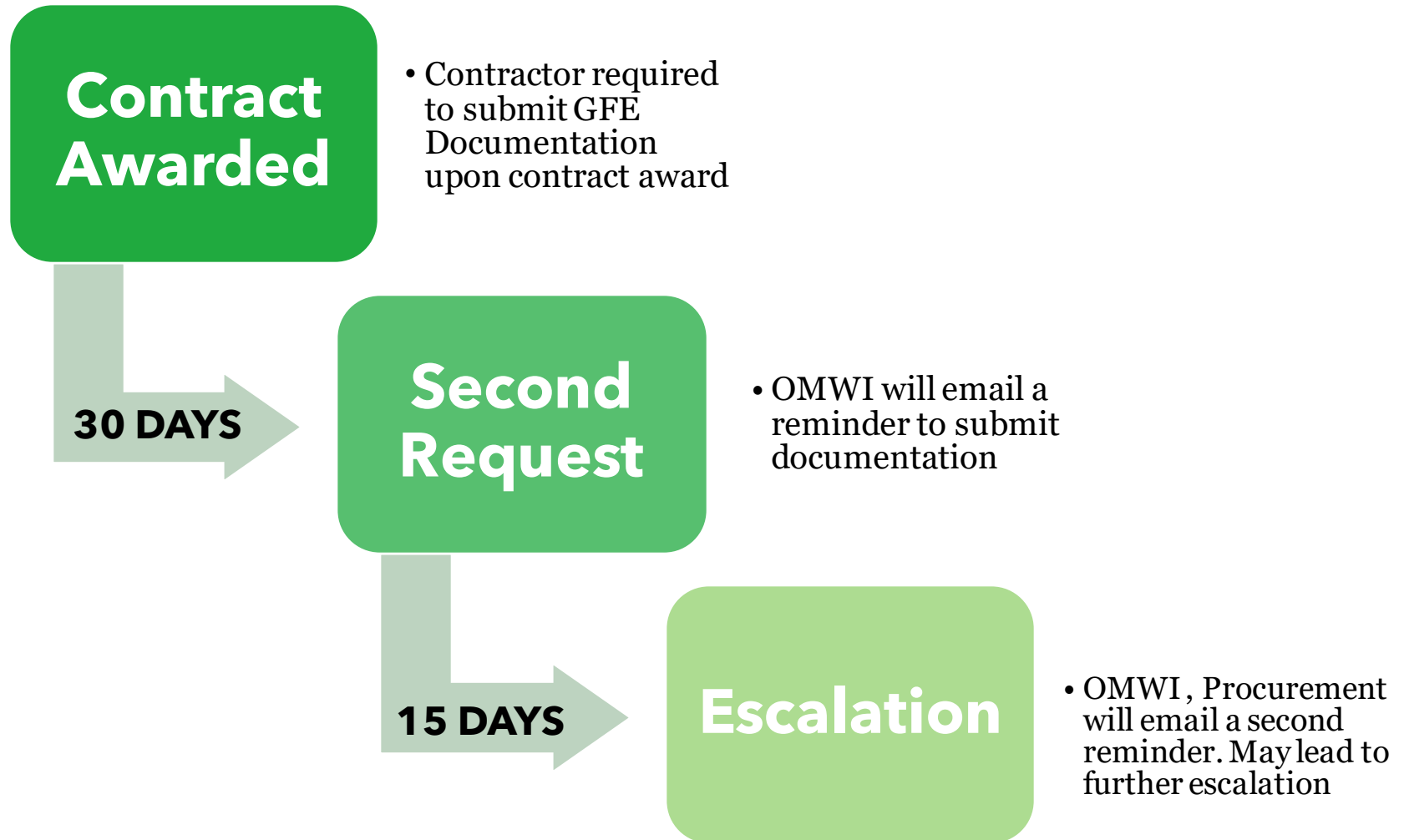
How do I submit my data to the CFPB?

- CFPB Diversity Profile is submitted electronically via [CFPB Contractor Diversity Profile](#) web-ready link
- Please submit all other documents via email to your Contracting Officer and to the OMWI Supplier Diversity and Inclusion Program Analyst at OMWI_GFE@CFPB.gov
- Subject Line should include:
 - Good Faith Effort documentation for Contract # (*Insert Referenced Contract Number and DUNS*)
- Body of the email should include:
 - Company Information, Company Name, Contact Name, Title, Phone Number, Email Address, Mailing Address, Website and DUNS Number

When am I required to submit GFE documentation?

- Contractors are required to submit information within **30 business days** of award in conjunction with the onboarding process
 - Those who do not submit within 30 days are notified of noncompliance via email and asked to submit within 15 additional business days
 - If no documents are received, the Bureau will escalate the issue out a Contracting Officer (CO) warning, after which time the Contractor will be considered to be noncompliant and may be subject to penalty
- The Bureau is authorized to request additional GFE documentation **at any time** after a contract is awarded
- Help us help you– if you have compliance questions or submission issues, please email OMWI_GFE@cfpb.gov **as soon as possible** to ensure you are not considered to be noncompliant

Contractor Submission Process



What documents are accepted for GFE submission?

CFPB Diversity Profile

- **Preferred document**, draws from relevant parts of EEO-1 and AAP to present a comprehensive picture of the company's diversity practices
- Recommended, especially for employers with under 50 employees due to flexibility and reduced compliance burden
- Available online and reported directly to the Bureau via Qualtrics
- Opportunity for company to submit supporting documents/explanations of diversity practices

OR

Alternative Submission Option

- Applicable for employers with over 50 employees
- Submit both the **Affirmative Action Plan** for Women and Minorities (see next slide) as well as the **EEO-1 form** from the same year, as well as the **Contractor Diversity Profile Outreach Section** (Questions 10 & 11)
- Compliance burden reduced because both documents should already be prepared, less of profile is required
- Must be submitted via email

Which parts of the written Affirmative Action Plan (AAP) do I need to submit to the Bureau?

- The Bureau assesses AAP using the following sections of the document:
 - Written EEO/AA Policy
 - Placement of Incumbents in Job Groups (§ 60-2.13)
 - Comparing Incumbency to Availability (§ 60-2.15)
 - Annual Placement Goals (§ 60-2.16)
 - Designation of Responsibility (§ 60-2.17)
 - Problem area analysis (§ 60-2.17 (a)(b))
 - Action Oriented Programs (§ 60-2.17 (c))

Why does the Bureau require both the AAP and EEO-1 to be submitted together as an alternative?

- The Bureau conducts a holistic scoring process that evaluates companies' diversity practices, written policies, hiring and succession, and outreach
 - See assessment criteria on slide 16 for further information
- The EEO-1 form only provides information about a company's diversity outcomes, not its policies
- Likewise, the AAP provides qualitative information about diversity policies and goals, but not quantitative data about diversity outcomes
 - Together, both of these forms create a holistic picture of an employer's diversity and inclusion practices for women and minorities that allows the CFPB to conduct a fair scoring process

Why do I need to include the Outreach section for the Alternative Submission?

- AAP and EEO-1 documents do not include any information on external communications/diversity and inclusion outreach efforts from a company
- Questions 10 and 11 of the Contractor Diversity Profile ask for information regarding these practices, which is one of the components for evaluation (see Slide 16)
- To access the Outreach section, download the hard copy of the Contractor Diversity profile on the CFPB website and fill out the Contractor Information and Questions 10 and 11 (Outreach section)
- Submit a hard copy of this section along with **all other documents** via email

What if I cannot complete all sections on the CFPB Diversity Profile?

- The Bureau understands that all sections of the Diversity Profile may not be applicable to all businesses, which is why N/A options and opportunities to provide supporting documentation are included in the profile
 - This is discussed in the context of small business on the next slide
- If you feel a section does not apply to your business, please indicate N/A if available **and** provide an explanation as to why
 - Without an explanation, that criteria may be scored as incomplete
- If the Bureau needs additional information on a given section, we will reach out in a timely manner with a request for further explanation using the contact information provided by the company

I run a small business— what if I do not have documentation of formal diversity policies?

- The Bureau understands that small business Contractors (particularly those with under 50 employees) have different types of policies and procedures in place for ensuring diversity, and take business size into account during the review process
- We recommend small businesses complete the CFPB Diversity Profile, which includes more opportunity for explanation of informal diversity practices
 - For sections that do not apply to your business, please check N/A **and** provide a brief explanation. If no explanation is submitted, that section may be marked incomplete
- If you have any questions, we are happy to help you find a way to document GFE without substantial burden. Please email OMWI_GFE@cfpb.gov for further instructions.

Section 2:

Good Faith Effort Mandate

Why am I required to submit documentation of a Good Faith Effort to include women and minorities?

- Section 342(c)(3) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), 12 U.S.C. 5452(c)(3) requires all Contractors (and where applicable, subcontractors) to provide documentation in support of the contractor's commitment to make a "good faith effort" to include minorities and women in their workforce
- The Bureau conducts regular analysis of Contractors to ensure statutory compliance with this requirement
 - Contracts above the Simplified Acquisition Threshold (SAT) awarded through the CFPB Office of Procurement have included a GFE clause since 2018.

Why am is the demonstration of a Good Faith Effort to include women and minorities important to the CFPB?

- The Bureau, in accordance with federal regulations as well as the Dodd-Frank Wall Street Reform and Consumer Protection Act, strives to be a model for employing services of companies that value and actively promote diversity
- This requirement is not meant to be a large compliance burden on Contractors – rather, the Bureau and OMWI office view it as an opportunity to “**check in**” and help our Contractors achieve the goal of a diverse and inclusive workforce
- The Bureau, wherever possible, has attempted to allow companies to provide information from pre-existing sources regarding diversity policy (EEO and OFCCP Affirmative Action Plans)

What criteria does the CFPB use to assess GFE?

- A holistic evaluation process is used to deem whether Contractors have made a “good faith effort” to include women and minorities in their workforce
- Analysts score on 6 criteria where applicable, shown on the next slide
 - Sometimes criteria do not apply to companies– i.e. if a Contractor does not use subcontractors– in that case, the analyst will score that category as an N/A and eliminate it
- This scoring process attempts to capture both **intentions** and **outcomes** of a Contractor’s efforts to hire women and minorities.
 - We also take into account the particular nuances of different industries and business models (small business vs. multinational corporation) when reviewing GFE

DIVERSITY & INCLUSION SCORING RUBRIC

Diversity Strategy

The overarching construct that encourages commitment and creates alignment across the entire organization to incorporate diversity and inclusion initiatives

Diversity Policies

The documenting of the structural means for implementing the organization's diversity strategy.

Recruitment

The documenting of the actions and activities undertaken to attract diverse candidates for employment within the organization.

Succession Planning

The documenting of the actions and activities involved in fostering diversity and inclusion in organizational advancement.

Outreach

The documenting external communication planning to promote organizational-wide diversity and inclusion.

Supplier

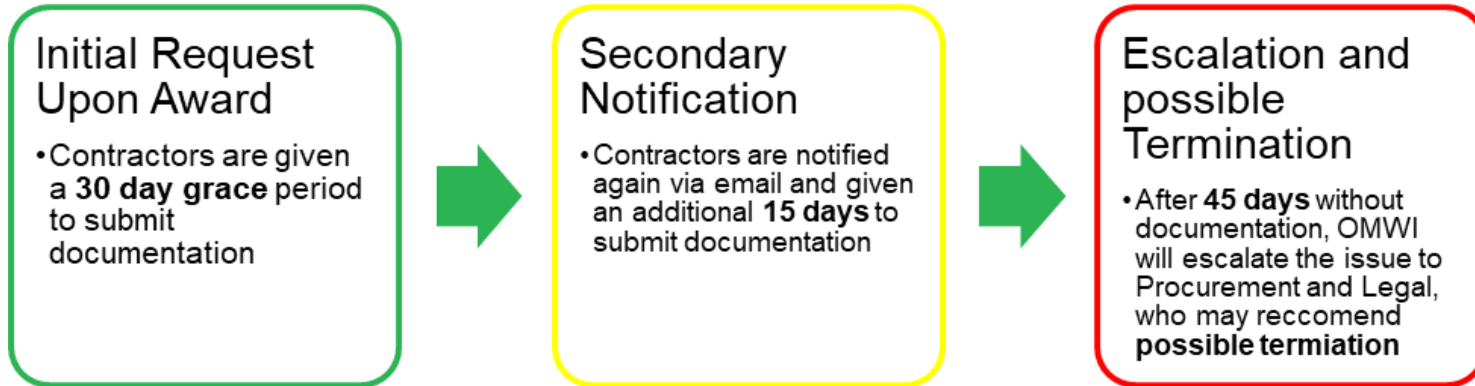
Subcontractor diversity and compliance with GFE

What happens if I do not submit GFE documentation?

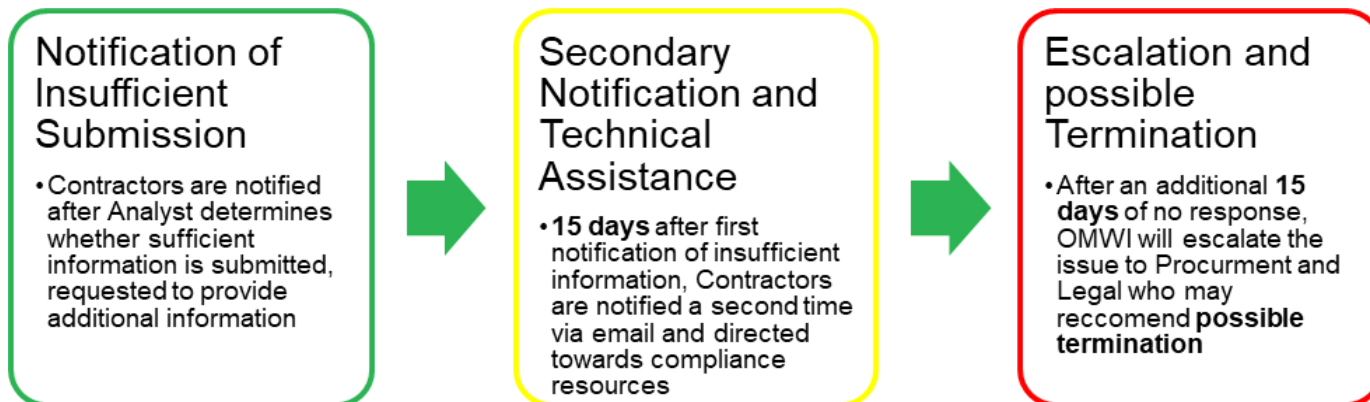
- Because GFE compliance is statutorily required, the Bureau takes this issue very seriously
- The Bureau will make multiple efforts to contact companies in the instance that we do not receive a submission in a timely manner
- In the event that a submission is not received after these efforts, the company will be considered **noncompliant**, and may be subject to action including:
 - Involvement of CFPB Procurement and Legal divisions, and possible Cure Notices or Show Cause Letters
 - Negative recommendation to the OMWI director
 - Recommendation of possible termination of CFPB contracts
- **These requirements are not meant to be a burden – if you are having problems, please contact the OMWI office and we will assist you**

When can the Bureau recommend contract termination?

■ Scenario 1: Contractor submits no documentation for GFE



■ Scenario 2: Contractor submits only insufficient documentation for GFE, does not provide additional documentation



What does the CFPB do with my data?

- Analysts at the Bureau use submitted data to determine whether Contractors are in compliance with the GFE clause of their contracts, and where Contractors are not in compliance, recommend steps to be taken to enhance diversity and inclusion
- The CFPB conducts both qualitative and quantitative analysis of diversity policy and practices in a holistic review process
- The Bureau **does not** share confidential EEO-1 demographic data, trade secret data, or any other sensitive information with outside parties
 - CFPB will keep the reports confidential as permitted by law and in accordance with the CFPB's confidentiality regulations, 12 CFR Part 1070. This means the information will be treated as confidential and may be exempt from disclosure under the Freedom of Information Act pursuant to 5 U.S.C. 552(b).

What will happen if a FOIA request of the information is made?

- If a FOIA request is made regarding a Contractor's information, CFPB's FOIA personnel will follow the process described in the CFPB's regulations, 12 CFR Part 1070, which includes informing the Contractor of the request and giving the entity the opportunity to explain that the material should be withheld.

What if I have already demonstrated GFE compliance with another agency?

- If within the last **two years**, you've submitted information summarizing the actions you (and, as applicable, your subcontractors) have undertaken reflecting your good faith effort to comply with Section 342 of the Act, to the CFPB or to another agency subject to the Act or to a voting member of the Financial Stability Oversight Council (FSOC), you are **not required** to submit additional information
 - Other covered agencies include: Department of the Treasury, SEC, FDIC, FHFA, NCUA, OCC, and the Federal Reserve
- Please submit a copy of a dated receipt of submission from the CFPB or other agency to OMWI_GFE@cfpb.gov to fulfill compliance requirements

Section 3:

Requirements for Subcontractors

What are my GFE requirements regarding my subcontractors?

- If your business is required to maintain a subcontracting plan for this CFPB award, you are required to **notify** subcontractors of their requirement to comply with GFE requirements
 - Notification can be documented by providing copies of correspondence with subcontractors
 - If you do not employ subcontractors, mark N/A and add explanation that you do not use subcontractors
- You will not be held responsible for whether or not your subcontractors successfully submit documentation, but you are required to demonstrate an effort to notify and ensure compliance
- Dissemination of company EEO or Affirmative Action policies to subcontractors does **not** fulfill this requirement

When am I obligated to notify my subcontractors of their GFE requirements?

- **If indicated in the Federal Acquisitions contract**, you are required to notify subcontractors of GFE requirement and direct them to submit documentation fulfilling this requirement
 - Only subcontractors working on the contract in question with the Bureau are required to comply with the GFE mandate
- OMWI analysts will provide technical assistance to subcontractors where necessary, and can also answer any questions you may have regarding this requirement
 - Email questions to OMWI_GFE@cfpb.gov

Section 4: Taking action

What are guidelines on improving our diversity and inclusion practices?

- OMWI has created a Best Practices for Diversity and Inclusion Guide, available online which covers some policies and suggestions for Contractors to make their companies more diverse and inclusive
 - This resource also includes a reading list of articles, TED talks, and books for further research
- Culture Plus Consulting has also created a list of 8 meaningful metrics to measure to help assess the current state of diversity and inclusion at your company, which is available [here](#)
- Consider drafting policies and recommendations through a Diversity Council, a group made up of employees, including senior leadership, who help the company to jumpstart and manage the diversity and inclusion process
 - More information on Diversity Councils can be found [here](#)