

## Part I Chapter 20 Nondiscrimination

- A. Nondiscrimination as a Contract Requirement.** Every agency contract shall contain the [Nondiscrimination/Sexual Harassment Clause](#) (Nondiscrimination & Sexual Harassment Clause), barring discrimination in employment as required by [Management Directive 215.16, Contract Compliance Program](#). The Nondiscrimination/Sexual Harassment clause includes the Act 57 required contract provisions prohibiting discrimination found at *62 Pa.C.S. Section 3701*.
- B. Nondiscrimination as a Responsibility Factor.**
- 1. The Competitive Sealed Bidding Method of Awarding Contracts for Construction.** In accordance with DGS construction policy and procedures, purchasing agencies shall, when using the Competitive Sealed Bidding method of awarding contracts for construction include a determination of contractor responsibility in regard to nondiscrimination with respect to the contractor's proposed use of MBEs and WBEs in the performance of the contract.
- C. Exemptions.** The Nondiscrimination requirements do not apply to the following:
1. Contracts awarded to agencies for persons with disabilities pursuant to Act 57, § 520.
  2. Licenses.
  3. Contracts with political subdivisions of the Commonwealth including county and municipal governments.
  4. Contracts awarded to licensed medical professionals when subcontracting opportunities are not available and where the work is performed at Commonwealth facilities.
  5. Where application would jeopardize the receipt of federal funds.
- D. Agency Responsibilities.** Agencies shall, in accordance with [Management Directive 215.16, Contract Compliance Program](#):
1. Ensure the agency's compliance with the DGS Contract Compliance Program.
  2. Consult with DGS prior to issuing sanctions against contractors for non-compliance.

---

### References:

1. [Nondiscrimination & Sexual Harassment Clause](#) (MD 215.16, page 10)
2. [Management Directive 215.16, Contract Compliance Program](#)