

AUTHORITY: 29 U.S.C. 793; 38 U.S.C. 4211 and 4212; Executive Order 11758 (3 CFR, 1971-1975 Comp., p. 841).

SOURCE: 43 FR 49268, Oct. 20, 1978, unless otherwise noted.

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 60-250.1 Purpose and application.

The purpose of the regulations in this part is to assure compliance with section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The regulations in this part apply to all government contracts and subcontracts for the furnishing of supplies or services or for the use of real or personal property (including construction) for \$10,000 or more.

§ 60-250.2 Definitions.

Act means the Vietnam Era Veterans Readjustment Assistance Act of 1974, Pub. L. 93-508, as it amends 38 U.S.C. 2012, the Vietnam Era Veterans Readjustment Assistance Act of 1972.

Affirmative action clause means the contract provisions set forth in § 60-250.4.

Agency means any contracting agency of the government.

Assistant Secretary means the Assistant Secretary of Labor for Employment Standards or his or her designee.

Construction means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Contract means any government contract.

Contracting agency means any department, agency, establishment or instrumentality of the United States, including any wholly owned Government corporation, which enters into contracts.

Contractor means, unless otherwise indicated, a prime contractor or subcontractor.

Director means the Director of the Office of Federal Contract Compliance Programs of the United States Department of Labor or his/her designee.

Disabled veteran means a person entitled to disability compensation under laws administered by the Veterans Administration for disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

Government means the Government of the United States of America.

Government contract means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The term "government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted contracts.

Modification means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

Person means any natural person, corporation, partnership or joint venture, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

Prime contractor means any person holding a contract, and, for the purposes of Subpart B of this part, includes any person who has held a contract subject to the Act.

Qualified disabled veteran means a disabled veteran as defined in § 60-250.2 who is capable of performing a particular job, with reasonable accommodation to his or her disability.

Recruiting and training agency means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship

or training for employment by any contractor or subcontractor.

Rules, regulations, and relevant orders of the Secretary of Labor as used in paragraph (i) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his or her designee issued pursuant to the Act.

Secretary means the Secretary of Labor, U.S. Department of Labor.

Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

Subcontractor means any person holding a subcontract and, for the purpose of Subpart B of this part, any person who has held a subcontract subject to the Act.

United States as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

Veteran of the Vietnam era means a person who:

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

[43 FR 49268, Oct. 20, 1978; 43 FR 51402, Nov. 3, 1978; as amended at 45 FR 9272, Feb. 12, 1980; 60 FR 1987, Jan. 5, 1995]

§ 60-250.3 Coverage and waivers.

(a) *General.* (1) Transactions for less than \$10,000. Contracts and subcontracts for less than \$10,000 are not

covered by the act. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid the applicability of the affirmative action clause.

(2) Contracts and subcontracts for indefinite quantities. With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than \$10,000. The applicability of the affirmative action clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order is \$10,000 or more. Once the affirmative action clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) Work outside the United States. The requirements of the affirmative action clause are waived with respect to contracts and subcontracts with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) Contracts with State or local governments. The requirements of the affirmative action clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(5) Facilities not connected with contracts. The Director may waive the requirements of the affirmative action clause with respect to any of a prime contractor's or subcontractor's facilities which he or she finds to be in all