

extended by the Director for good cause shown.

(b) *Referral to contractor.* When a complaint is filed by an employee of a contractor and the contractor has an applicable internal review procedure, the complaint shall be referred to the contractor for processing under that procedure. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If there has not been a resolution of the complaint under that procedure satisfactory to the complainant within 60 days of the referral, the LVER will refer the complaint to the Department of Labor which will proceed as provided in this section.

(c) *Contents of complaints.* Complaints must be signed by the complainants or their authorized representatives and must contain the following information: (1) Name and address (including telephone number) of the complainant, (2) name and address of the contractor or subcontractor who committed the alleged violation, (3) a description of the act or acts considered to be a violation, (4) a copy of the veteran's form DD-214, and, where applicable, VAL-5 or similar VA certification indicating the percent of disability, updated within 1 year prior to the date the complaint is filed, and (5) other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted.

(d) *Incomplete information.* Where a complaint contains incomplete information, the Director shall seek the needed information from the complainant. If the information is not furnished to the agency or the Director within 60 days of the date of such request, the case may be closed.

(e) *Investigations.* The Department of Labor shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record. A complete case record consists of the following: (1) Name and address of each person interviewed, (2) a summary of his or her statement, (3) copies or summaries of pertinent documents, (4) a narrative summary of the evidence disclosed in the investigation as it related to each

charge, and (5) recommended findings and resolution.

(f) [Reserved]

(g) *Resolution of matters.* (1) If the complaint investigation shows no violation of the Act or regulations in this part, or if the Director decides not to initiate administrative or legal proceedings against the contractor, the complainant shall be so notified. Within 30 days, the complainant may request review by the Director of such a finding or decision.

(2) Where an investigation indicates that the contractor has not complied with the requirements of the Act or this part, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment, in writing, to take corrective action to meet the requirements of the Act and this part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the Director, the contractor may be considered in compliance on condition that the commitments are kept.

(3) Where the complaint investigation indicates a violation of the Act or regulations in this part (and the complaint has not been resolved by informal means), the Director shall afford the contractor an opportunity for a hearing in accordance with § 60-250.29.

[43 FR 49268, Oct. 20, 1978; 43 FR 51402, Nov. 3, 1978]

§ 60-250.27 Noncompliance with the affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the affirmative action clause is a ground for taking appropriate action for noncompliance as set forth in § 60-250.28 by the Director, prime contractor, or subcontractor.

§ 60-250.28 Actions for noncompliance.

(a) *General.* In every case where any complaint investigation indicates the existence of a violation of the affirmative action clause or these regulations,

the matter should be resolved by informal means, including conciliation, and persuasion, whenever possible. This will also include establishing a corrective action program in accordance with § 60-250.26(g)(2). Where the apparent violation is not resolved by informal means, the Director shall proceed in accordance with the enforcement procedures contained in this part.

(b) *Judicial enforcement.* In addition to the administrative remedies set forth herein, the Director may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60-250.4 including appropriate injunctive relief.

(c) *Withholding progress payments.* With the prior approval of the Director so much of the accrued payment due on the contract or any other contract between the Government prime contractor and the Federal Government may be withheld as necessary to correct any violations of the provisions of the affirmative action clause.

(d) *Termination.* A contract or subcontract may be canceled or terminated, in whole or in part, for failure to comply with the provisions of the affirmative action clause.

(e) *Debarment.* A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the affirmative action clause.

§ 60-250.29 Formal hearings.

(a) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the Director in any of the following circumstances:

(1) An apparent violation of the affirmative action clause by a contractor or subcontractor, as shown by any investigation, is not resolved by informal means and a hearing is requested; or

(2) The Director proposes to cancel or terminate the contract or withhold progress payments, or cause the contract to be canceled or terminated or progress payments to be withheld, in whole or in part, on a contract or contracts, or to require cancellation or

termination of a contract or subcontract or withholding of progress payments; or

(3) The Director proposes to declare a prime contractor or subcontractor ineligible for further contracts or subcontracts under the Act.

(b) *Hearing practice and procedure.* (1) All hearings conducted under section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 and the regulations in this part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR part 60-30. Complaints may be issued by the Solicitor, Associate Solicitor for Labor Relations and Civil Rights, Regional Solicitors and the Regional Attorney.

(2) For the purposes of hearings pursuant to this part 60-250, references in 41 CFR part 60-30 to "Executive Order 11246" shall mean section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974; to "equal opportunity clause" shall mean the affirmative action clause published at 41 CFR 60-250.4; and to "regulations" shall mean the regulations contained in this part.

[43 FR 49268, Oct. 20, 1978; 43 FR 51402, Nov. 3, 1978, as amended at 44 FR 49691, Aug. 24, 1979; 61 FR 19989, May 3, 1996]

§ 60-250.30 Notification of agencies.

The Director shall notify the heads of all agencies of any action for non-compliance taken against any contractor after such actions have been taken. No agency may issue a waiver under § 60-250.3(b)(1) to any contractor subject to such action without prior approval of the Director.

§ 60-250.31 Contractor ineligibility list.

The Director shall distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this part and the Act.

§ 60-250.32 Disputed matters related to the affirmative action program.

The procedures set forth in the regulations in this part govern all disputes relative to a contractor's compliance