

Federal Acquisition Regulation

22.1308

verify@vets100.com. for confirmation, if the proposed contractor represents that it has submitted the VETS-100 Report and is not listed in the database.

[66 FR 53488, Oct. 22, 2001, as amended at 71 FR 67779, Nov. 22, 2006; 75 FR 60251, Sept. 29, 2010; 77 FR 204, Jan. 3, 2012]

22.1305 Waivers.

(a) The Director, Office of Federal Contract Compliance Programs, Department of Labor, may waive any or all of the terms of the clause at 52.222-35, Equal Opportunity for Veterans, for—

(1) Any contract if a waiver is in the national interest; or

(2) Groups or categories of contracts if a waiver is in the national interest and it is—

(i) Impracticable to act on each request individually; and

(ii) Determined that the waiver will substantially contribute to convenience in administering the Act.

(b) The head of the agency may waive any requirement in this subpart when it is determined that the contract is essential to the national security, and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency must notify the Deputy Assistant Secretary of Labor in writing within 30 days.

(c) The contracting officer must submit requests for waivers in accordance with agency procedures.

(d) The Deputy Assistant Secretary of Labor may withdraw an approved waiver for a specific contract or group of contracts to be awarded, when in the Deputy's judgment such action is necessary to achieve the purposes of the Act. The withdrawal does not apply to awarded contracts. For procurements entered into by sealed bidding, such withdrawal does not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of bids.

[66 FR 53488, Oct. 22, 2001, as amended at 75 FR 60251, Sept. 29, 2010]

22.1306 Department of Labor notices and reports.

(a) The contracting officer must furnish to the contractor appropriate no-

tices for posting when they are prescribed by the Deputy Assistant Secretary of Labor (see <http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm>).

(b) The Act requires contractors and subcontractors to submit a report at least annually to the Secretary of Labor regarding employment of disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans, unless all of the terms of the clause at 52.222-35, Equal Opportunity for Veterans, have been waived (see 22.1305). The contractor and subcontractor must use form VETS-100A, Federal Contractor Veterans' Employment Report, to submit the required reports (see <https://webapps.dol.gov/vets100>).

[75 FR 60251, Sept. 29, 2010, as amended at 77 FR 204, Jan. 3, 2012]

22.1307 Collective bargaining agreements.

If performance under the clause at 52.222-35, Equal Opportunity for Veterans, may necessitate a revision of a collective bargaining agreement, the contracting officer must advise the affected labor unions that the Department of Labor will give them appropriate opportunity to present their views. However, neither the contracting officer nor any representative of the contracting officer may discuss with the contractor or any labor representative any aspect of the collective bargaining agreement.

[66 FR 53488, Oct. 22, 2001, as amended at 75 FR 60251, Sept. 29, 2010]

22.1308 Complaint procedures.

Following agency procedures, the contracting office must forward any complaints received about the administration of the Act to the Veterans' Employment and Training Service of the Department of Labor, or to the Director, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., Washington, DC 20210, or to any OFCCP regional, district, or area office or through the local Veterans' Employment Representative or designee, at the local State employment office. The Director, Office of Federal

22.1309

Contract Compliance Programs, is responsible for investigating complaints.

[75 FR 60251, Sept. 29, 2010]

22.1309 Actions because of noncompliance.

The contracting officer must take necessary action as soon as possible upon notification by the appropriate agency official to implement any sanctions imposed on a contractor by the Department of Labor for violations of the clause at 52.222-35, Equal Opportunity for Veterans. These sanctions (see 41 CFR 60-300.66) may include—

- (a) Withholding progress payments;
- (b) Termination or suspension of the contract; or
- (c) Debarment of the contractor.

[66 FR 53488, Oct. 22, 2001, as amended at 75 FR 60252, Sept. 29, 2010]

22.1310 Solicitation provision and contract clauses.

(a)(1) Insert the clause at 52.222-35, Equal Opportunity for Veterans, in solicitations and contracts if the expected value is \$100,000 or more, except when—

(i) Work is performed outside the United States by employees recruited outside the United States; or

(ii) The Director, Office of Federal Contract Compliance Programs, has waived, in accordance with 22.1305(a) or the head of the agency has waived, in accordance with 22.1305(b) all of the terms of the clause.

(2) If the Director, Office of Federal Contract Compliance Programs, or the head of the agency waives one or more (but not all) of the terms of the clause, use the basic clause with its Alternate I.

(b) Insert the clause at 52.222-37, Employment Reports on Veterans, in solicitations and contracts containing the clause at 52.222-35, Equal Opportunity for Veterans.

(c) Insert the provision at 52.222-38, Compliance with Veterans' Employment Reporting Requirements, in solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the

48 CFR Ch. 1 (10-1-12 Edition)

contract is not for acquisition of commercial items.

[66 FR 53488, Oct. 22, 2001, as amended at 71 FR 57368, Sept. 28, 2006; 75 FR 60252, Sept. 29, 2010]

Subpart 22.14—Employment of Workers with Disabilities

22.1400 Scope of subpart.

This subpart prescribes policies and procedures for implementing Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793) (the Act); Executive Order 11758, January 15, 1974; and the regulations of the Secretary of Labor (41 CFR part 60-741). In this subpart, the terms *contract* and *contractor* include *subcontract* and *subcontractor*.

22.1401 Policy.

Government contractors, when entering into contracts subject to the Act, are required to take affirmative action to employ, and advance in employment, qualified individuals with disabilities, without discrimination based on their physical or mental disability.

[63 FR 34074, June 22, 1998]

22.1402 Applicability.

(a) Section 503 of the Act applies to all Government contracts in excess of \$15,000 for supplies and services (including construction) except as waived by the Secretary of Labor. The clause at 52.222-36, Affirmative Action for Workers with Disabilities, implements the Act.

(b) The requirements of the clause at 52.222-36, Affirmative Action for Workers with Disabilities, in any contract with a State or local government (or any agency, instrumentality, or subdivision) shall not apply to any agency, instrumentality, or subdivision of that government that does not participate in work on or under the contract.

[63 FR 34074, June 22, 1998, as amended at 75 FR 53133, Aug. 30, 2010]

22.1403 Waivers.

(a) The agency head, with the concurrence of the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary), may