

## §471.14

OFCCP or the Director of OLMS as a means of enforcing compliance with the provisions of this part.

(vi) A subcontractor's refusal to adhere to requirements of this part regarding employee notice or inclusion of the contract clause in its subcontracts.

(2) If a determination is made by the Director of OFCCP that the Executive Order or the regulations in this part have been violated, and the violation has not been corrected through conciliation, he or she will refer the matter to the Director of OLMS for enforcement consideration. The Director of OLMS may refer the matter to the Solicitor of Labor to begin administrative enforcement proceedings.

(b) *Administrative enforcement proceedings.* (1) Administrative enforcement proceedings will be conducted under the control and supervision of the Solicitor of Labor, under the hearing procedures in 29 CFR part 18, Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.

(2) The administrative law judge will certify his or her recommended decision issued under 29 CFR 18.57 to the Administrative Review Board. The decision will be served on all parties and *amicus curiae*.

(3) Within 25 days (10 days if the proceeding is expedited) after receipt of the administrative law judge's recommended decision, either party may file exceptions to the decision. Exceptions may be responded to by the other parties within 25 days (7 days if the proceeding is expedited) after receipt. All exceptions and responses must be filed with the Administrative Review Board.

(4) After the expiration of time for filing exceptions, the Administrative Review Board may issue a final administrative order, or may otherwise appropriately dispose of the matter. In an expedited proceeding, unless the Administrative Review Board issues a final administrative order within 30 days after the expiration of time for filing exceptions, the administrative law judge's recommended decision will become the final administrative order. If the Administrative Review Board determines that the contractor has violated the Executive Order or the regu-

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lations in this part, the final administrative order will order the contractor to cease and desist from the violations, require the contractor to provide appropriate remedies, or, subject to the procedures in §471.14, impose appropriate sanctions and penalties, or any combination thereof.

### **§471.14 What sanctions and penalties may be imposed for noncompliance, and what procedures will the Department follow in imposing such sanctions and penalties?**

(a) After a final decision on the merits has issued and before imposing the sanctions and penalties described in paragraph (d) of this section, the Director of OLMS will consult with the affected contracting agencies, and provide the heads of those agencies the opportunity to respond and provide written objections.

(b) If the contracting agency provides written objections, those objections must include a complete statement of reasons for the objections, which must include a finding that, as applicable, the completion of the contract, or further contracts or extensions or modifications of existing contracts, is essential to the agency's mission.

(c) The sanctions and penalties described in this section will not be imposed if:

(1) The head of the contracting agency, or his or her designee, continues to object to the imposition of such sanctions and penalties, or

(2) The contractor has not been given an opportunity for a hearing.

(d) In enforcing the Executive Order and this part, the Director of OLMS may take any of the following actions:

(1) Direct a contracting agency to cancel, terminate, suspend, or cause to be canceled, terminated or suspended, any contract or any portions thereof, for failure to comply with its contractual provisions required by Section 7(a) of the Executive Order and the regulations in this part. Contracts may be canceled, terminated, or suspended absolutely, or continuance of contracts may be conditioned upon compliance.

(2) Issue an order of debarment under Section 7(b) of the Executive Order providing that one or more contracting agencies must refrain from entering into further contracts, or extensions or

other modification of existing contracts, with any non-complying contractor.

(3) Issue an order of debarment under Section 7(b) of the Executive Order providing that no contracting agency may enter into a contract with any non-complying subcontractor.

(e) Whenever the Director of OLMS exercises the authority in this section, the contracting agency must report the actions it has taken to the Director of OLMS within such time as the Director of OLMS will specify.

(f) Periodically, the Director of OLMS will publish and distribute to all executive agencies a list of the names of contractors and subcontractors that have, in the judgment of the Director of OLMS, failed to comply with the provisions of the Executive Order and this part, or of related rules, regulations, and orders of the Secretary of Labor, and as a result have been declared ineligible for future contracts under the Executive Order and the regulations in this part.

**§ 471.15 Under what circumstances must a contractor be provided the opportunity for a hearing?**

Before the Director of OLMS takes either of the following actions, a contractor or subcontractor must be given the opportunity for a hearing:

(a) Issues an order for cancellation, termination, or suspension of any contract or debarment of any contractor from further Government contracts under Sections 7(a) or (b) of the Executive Order and § 471.14(d)(1) or (2) of this part; or

(b) Includes the contractor on a published list of non-complying contractors under Section 7(c) of the Executive Order and § 471.14(f) of this part.

**§ 471.16 Under what circumstances may a contractor be reinstated?**

Any contractor or subcontractor debarred from or declared ineligible for further contracts under the Executive Order and this part may request reinstatement in a letter to the Director of OLMS. In connection with a request for reinstatement, debarred contractors and subcontractors shall be required to show that they have established and will carry out policies and practices in

compliance with the Executive Order and implementing regulations. Before reaching a decision, the Director of OLMS may request that a compliance evaluation of the contractor or subcontractor be conducted, and may require the contractor or subcontractor to supply additional information regarding the request for reinstatement. If the Director of OLMS finds that the contractor or subcontractor has come into compliance with the Executive Order and this part and has shown that it will carry out the Executive Order and this part, the contractor or subcontractor may be reinstated. The Director of OLMS shall issue a written decision on the request.

**Subpart C—Ancillary Matters**

**§ 471.20 What authority under this part or Executive Order 13496 may the Secretary delegate, and under what circumstances?**

Section 11 of the Executive Order grants the Secretary the right to delegate any functions or duties under the Order to any officer in the Department of Labor or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

**§ 471.21 Who will make rulings and interpretations under Executive Order 13496 and this part?**

The Director of OLMS and the Director of OFCCP will make rulings under or interpretations of the Executive Order or the regulations contained in this part in accordance with their respective responsibilities under the regulations. Requests for a ruling or interpretation must be submitted to the Director of OLMS, who will consult with the Director of OFCCP to the extent necessary and appropriate to issue such ruling or interpretation.

**§ 471.22 What actions may the Director of OLMS take in the case of intimidation and interference?**

The Director of OLMS may impose the sanctions and penalties contained in § 471.14 of this part against any contractor or subcontractor who does not take all necessary steps to ensure that