

or as required by any other applicable Federal law; or

(3) Necessary to conduct an investigation of the alleged reprisal.

(e) The legal burden of proof specified at paragraph (e) of 5 U.S.C. 1221 (Individual Right of Action in Certain Reprisal Cases) shall be controlling for the purposes of an investigation conducted by the NASA Inspector General, decision by the head of the Agency, or judicial or administrative proceeding to determine whether prohibited discrimination has occurred.

1803.906 Remedies.

(a) Not later than 30 days after receiving a NASA Inspector General report in accordance with 1803.905, the head of the Agency shall determine whether sufficient basis exists to conclude that the contractor has subjected the complainant to a reprisal as prohibited by 1803.903 and shall either issue an order denying relief or shall take one or more of the following actions:

(1) Order the contractor to take affirmative action to abate the reprisal.

(2) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(3) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the Agency.

(b) If the head of the Agency issues an order denying relief or has not issued an order within 210 days after the submission of the complaint or within 30 days after the expiration of an extension of time granted in accordance with 1803.905(3)(ii), and there is no showing that such delay is due to the bad faith of the complainant—

(1) The complainant shall be deemed to have exhausted all administrative

remedies with respect to the complaint; and

(2) The complainant may bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under 10 U.S.C. 2409 in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this authority may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

(c) Whenever a contractor fails to comply with an order issued by the head of agency in accordance with 10 U.S.C. 2409, the head of the Agency or designee shall request the Department of Justice to file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and reasonable attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency.

(d) Any person adversely affected or aggrieved by an order issued by the head of the Agency in accordance with 10 U.S.C. 2409 may obtain judicial review of the order's conformance with the law, and the implementing regulation, in the United States Court of Appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency or designee. Review shall conform to chapter 7 of title 5, United States Code. Filing such an appeal shall not act to stay the enforcement of the order by the head of an agency, unless a stay is specifically entered by the court.

(e) The rights and remedies provided for in this subpart may not be waived

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by any agreement, policy, form, or condition of employment.

[79 FR 43959, July 29, 2014, as amended at 83 FR 28386, June 19, 2018]

1803.907 Classified information.

Nothing in this subpart provides any rights to disclose classified information not otherwise provided by law.

1803.970 Contract clause.

Use the clause at 1852.203-71, Requirement to Inform Employees of Whistleblower Rights, in all solicitations and contracts.

Subpart 1803.70—IG Hotline Posters

1803.7000 Policy.

NASA requires contractors to display NASA hotline posters prepared by the NASA Office of Inspector General on those contracts specified in 1803.7001, so that employees of the contractor having knowledge of waste, fraud, or abuse, can readily identify a means to contact NASA's IG.

[66 FR 29727, June 1, 2001]

1803.7001 Contract clause.

Contracting officers must insert the clause at 1852.203-70, Display of Inspector General Hotline Posters, in solicitations and contracts expected to exceed \$5,000,000 and performed at contractor facilities in the United States.

[66 FR 29727, June 1, 2001]

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.1—Contract Executive

Sec.

1804.170 Contract effective date.

Subpart 1804.4—Safeguarding Classified Information Within Industry

1804.404-70 Contract clause.

1804.470 Security requirements for unclassified information technology (IT) resources.

1804.470-1 Scope.

1804.470-2 Policy.

1804.470-3 IT security requirements.

1804.470-4 Contract clauses.

AUTHORITY: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

SOURCE: 61 FR 40539, Aug. 5, 1996, unless otherwise noted.

Subpart 1804.1—Contract Execution

1804.170 Contract effective date.

“Contract effective date” means the date agreed upon by the parties for beginning the period of performance under the contract. In no case shall the effective date precede the date on which the contracting officer or designated higher approval authority signs the document. Costs incurred before the contract effective date are unallowable unless they qualify as precontract costs (see FAR 31.205-32) and the clause prescribed at 1831.205-70 is used.

[83 FR 28386, June 19, 2018]

Subpart 1804.4—Safeguarding Classified Information Within Industry

1804.404-70 Contract clause.

The contracting officer shall insert the clause at 1852.204-75, Security Classification Requirements, in solicitations and contracts if work is to be performed will require security clearances. This clause may be modified to add instructions for obtaining security clearances and access to security areas that are applicable to the particular acquisition and installation.

1804.470 Security requirements for unclassified information technology (IT) resources.

1804.470-1 Scope.

This section implements NASA's acquisition requirements pertaining to Federal policies for the security of unclassified information and information systems. Federal policies include the Federal Information System Management Act (FISMA) of 2002, Homeland Security Presidential Directive (HSPD) 12, Clinger-Cohen Act of 1996 (40 U.S.C. 1401 *et seq.*), OMB Circular A-130, Management of Federal Information Resources, and the National Institute of