

§ 13.3

to the domestic violence, sexual assault, or stalking, including, but not limited to, family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay-away order proceedings, and other similar matters; and criminal justice investigations, prosecutions, and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy.

Secretary means the Secretary of Labor and includes any official of the U.S. Department of Labor authorized to perform any of the functions of the Secretary of Labor under this part.

Service Contract Act (SCA) means the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.*, and its implementing regulations.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Solicitation means any request to submit offers, bids, or quotations to the Federal Government.

Spouse means the other person with whom an individual entered into marriage as defined or recognized under State law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a common law marriage that was entered into in a State that recognizes such marriages or, if entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

United States means the United States and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States, including corporations of which all or substantially all of the stock is owned by the United

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States, by the foregoing departments, establishments, agencies, and instrumentalities, including nonappropriated fund instrumentalities. When used in a geographic sense, the *United States* means the 50 States and the District of Columbia.

Victim services organization means a nonprofit, nongovernmental, or tribal organization or rape crisis center, including a State or tribal coalition, that assists or advocates for victims of domestic violence, sexual assault, or stalking, including domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, sexual assault, or stalking.

Violence Against Women Act (VAWA) means the Violence Against Women Act of 1994, 42 U.S.C. 13925 *et seq.*, and its implementing regulations.

Wage and Hour Division means the Wage and Hour Division, U.S. Department of Labor.

§ 13.3 Coverage.

(a) This part applies to any new contract with the Federal Government, unless excluded by §13.4, provided that:

(1)(i) It is a procurement contract for construction covered by the Davis-Bacon Act;

(ii) It is a contract for services covered by the Service Contract Act;

(iii) It is a contract for concessions, including any concessions contract excluded from coverage under the Service Contract Act by Department of Labor regulations at §4.133(b); or

(iv) It is a contract in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(2) The wages of employees performing on or in connection with such contract are governed by the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act, including employees who qualify for an exemption from the Fair Labor Standards Act's minimum wage and overtime provisions.

(b) For contracts covered by the Service Contract Act or the Davis-Bacon Act, this part applies to prime

contracts only at the thresholds specified in those statutes. For procurement contracts where employees' wages are governed by the Fair Labor Standards Act, this part applies when the prime contract exceeds the micro-purchase threshold, as defined in 41 U.S.C. 1902(a). For all other prime contracts covered by Executive Order 13706 and this part and for all subcontracts awarded under prime contracts covered by Executive Order 13706 and this part, this part applies regardless of the value of the contract.

(c) This part only applies to contracts with the Federal Government requiring performance in whole or in part within the United States. If a contract with the Federal Government is to be performed in part within and in part outside the United States and is otherwise covered by the Executive Order and this part, the requirements of the Order and this part would apply with respect to that part of the contract that is performed within the United States.

(d) This part does not apply to contracts for the manufacturing or furnishing of materials, supplies, articles, or equipment to the Federal Government, including those that are subject to the Walsh-Healey Public Contracts Act, 41 U.S.C. 6501 *et seq.*

§ 13.4 Exclusions.

(a) *Grants.* The requirements of this part do not apply to grants within the meaning of the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C. 6301 *et seq.*

(b) *Contracts and agreements with and grants to Indian Tribes.* This part does not apply to contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act, as amended, 25 U.S.C. 450 *et seq.*

(c) *Procurement contracts for construction that are excluded from coverage of the Davis-Bacon Act.* Procurement contracts for construction that are not covered by the Davis-Bacon Act are not subject to this part.

(d) *Contracts for services that are exempted from coverage under the Service Contract Act.* Service contracts, except for those expressly covered by § 13.3(a)(1)(iii) or (iv), that are exempt

from coverage of the Service Contract Act pursuant to its statutory language at 41 U.S.C. 6702(b) or its implementing regulations, including those at § 4.115 through 4.122 and § 4.123(d) and (e), are not subject to this part.

(e) *Employees performing in connection with covered contracts for less than 20 percent of their work hours in a given workweek.* The accrual requirements of this part do not apply to employees performing in connection with covered contracts, *i.e.*, those employees who perform work duties necessary to the performance of the contract but who are not directly engaged in performing the specific work called for by the contract, who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts. This exclusion is inapplicable to employees performing on covered contracts, *i.e.*, those employees directly engaged in performing the specific work called for by the contract, at any point during the workweek. This exclusion is also inapplicable to employees performing in connection with covered contracts with respect to any workweek in which the employees spend 20 percent or more of their hours worked performing in connection with a covered contract.

(f) *Employees whose covered work is governed by a collective bargaining agreement that already provides 56 hours of paid sick time.* If a collective bargaining agreement ratified before September 30, 2016 applies to an employee's work performed on or in connection with a covered contract and provides the employee with at least 56 hours (or 7 days, if the agreement refers to days rather than hours) of paid sick time (or paid time off that may be used for reasons related to sickness or health care) each year, the requirements of the Executive Order and this part do not apply to the employee until the earlier of the date the agreement terminates or January 1, 2020. If a collective bargaining agreement ratified before September 30, 2016 applies to an employee's work performed on or in connection with a covered contract and provides the employee with paid sick time (or paid time off that may be used for reasons related to sickness or health care) each