

**Department of Defense**

**222.1303**

**Subpart 222.8—Equal Employment Opportunity**

**222.804 Affirmative action programs.**

**222.804-2 Construction.**

(b) Contracting officers forward requests for instructions directly to the servicing Office of Federal Contract Compliance Programs (OFCCP) regional office (see FAR 22.609).

**222.805 Procedures.**

(a)(2) See FAR 22.609 for a list of OFCCP regional offices.

**222.806 Inquiries.**

(b) Refer inquiries through the labor advisor.

**222.807 Exemptions.**

(c) Submit the request for exemption with a justification through contracting channels to the labor advisor who will forward them to the agency head. If the request is submitted under FAR 22.807(a)(1), the agency head shall act on the request. If the exemption is granted, the agency head shall notify the Director, OFCCP of such action within 30 days. If the request is submitted under FAR 22.807(a)(2) or (b)(5), the agency head will forward it to the Director, OFCCP for action.

**Subpart 222.10—Service Contract Act of 1965, as Amended**

**222.1003 Applicability.**

**222.1003-1 General.**

For contracts having a substantial amount of construction, alteration, renovation, painting, or repair work, see 222.402-70.

**222.1003-7 Questions concerning applicability of the Act.**

Contracting officers may contact the labor advisor by telephone for informal advice. Submit requests for formal determinations as to the Act's applicability to the labor advisor in writing through appropriate channels.

**222.1008 Procedures for preparing and submitting Notice (SF 98/98a).**

**222.1008-2 Preparation of SF 98a.**

(b)(1) The contracting officer shall secure the assistance of cognizant customer/technical personnel to ensure maximum use of the Service Contract Act Directory of Occupations (Directory) and incorporation of all service employee classes (Directory and non-directory) expected to be utilized.

(2)(A) When the statement of work job title, for which there is a Directory equivalent, differs from the Directory job title, make a written cross-reference either directly on the SF 98a file copy or on an attached sheet to the SF 98a file copy.

(B) Include and note as such any classifications and minimum hourly wage rates conformed under any predecessor contract. Where a previously conformed classification is not included in the Directory, attach the job description to the SF 98a.

**222.1008-7 Required time of submission of notice.**

(d) Submit requests for immediate wage determination responses for emergency acquisitions through the labor advisor. If the request is justified, the labor advisor will contact Department of Labor headquarters officials.

**222.1014 Delay of acquisition dates over 60 days.**

Send update requests in writing directly to the Wage and Hour Division and provide a copy to the labor advisor. The update request shall—

(1) State that one or more dates on the original notice have been delayed more than 60 days;

(2) List the new dates; and

(3) Include a copy of the original notice and SF 98a as enclosures.

**Subpart 222.13—Special Disabled and Vietnam Era Veterans**

**222.1303 Waivers.**

(c) The contracting officer shall submit a waiver request through contracting channels to the labor advisor.

## 222.1306

If the request is justified, the labor advisor will endorse the request and forward it for action to—

(i) The agency head for waivers under FAR 22.1303(a); or

(ii) The Secretary of Defense, without the power of redelegation, for waivers under FAR 22.1303(b).

### 222.1306 Complaint procedures.

The contracting officer shall—

(1) Forward each complaint received as indicated in FAR 22.1306; and

(2) Notify the complainant of the referral. The contractor in question shall not be advised in any manner or for any reason of the complainant's name, the nature of the complaint, or the fact that the complaint was received.

### 222.1308 Contract clauses.

(a)(1) Use of the clause at FAR 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans, with its paragraph (c), Listing Openings, also satisfies the requirement of 10 U.S.C. 2410d.

[58 FR 28466, May 13, 1993]

## Subpart 222.14—Employment of the Handicapped

### 222.1403 Waivers.

(c) The contracting officer shall submit a waiver request through contracting channels to the labor advisor. If the request is justified, the labor advisor will endorse the request and forward it for action to—

(i) The agency head for waivers under FAR 22.1403(a). For the defense agencies, waivers must be approved by the Under Secretary of Defense for Acquisition.

(ii) The Secretary of Defense, without the power of redelegation, for waivers under FAR 22.1403(b).

### 222.1406 Complaint procedures.

The contracting officer shall—

(1) Forward each complaint received as indicated in FAR 22.1406 (see FAR 22.609 for a listing of Department of Labor regional/area offices); and

(2) Notify the complainant of such referral. The contractor in question shall not be advised in any manner or for any reason of the complainant's name,

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the nature of the complaint, or the fact that the complaint was received.

## Subpart 222.70—Restrictions on the Employment of Personnel for Work on Construction and Service Contracts in Noncontiguous States

SOURCE: 65 FR 14403, Mar. 16, 2000, unless otherwise noted.

### 222.7000 Scope of subpart.

(a) This subpart implements Section 8071 of the Fiscal Year 2000 Defense Appropriations Act, Public Law 106-79, and similar sections in subsequent Defense Appropriations Acts.

(b) This subpart applies only—

(1) To construction and service contracts to be performed in whole or in part within a noncontiguous State; and

(2) When the unemployment rate in the noncontiguous State is in excess of the national average rate of unemployment as determined by the Secretary of Labor.

### 222.7001 Definition.

“Noncontiguous State,” as used in this subpart, means Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Island.

[65 FR 50151, Aug. 17, 2000]

### 222.7002 General.

A contractor awarded a contract subject to this subpart must employ, for the purpose of performing that portion of the contract work within the noncontiguous State, individuals who are residents of that noncontiguous State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform this contract.

### 222.7003 Waivers.

The head of the agency may waive the requirements of 222.7002 on a case-