

§ 470.12

29 CFR Ch. IV (7-1-04 Edition)

§ 470.12 What are the procedures to be followed when a violation is found during a complaint investigation or compliance evaluation?

(a) If any complaint investigation or compliance evaluation indicates a violation of the Executive Order or this part, the Department will make reasonable efforts to secure compliance through conciliation.

(b) The contractor must correct the violation found by the Department (for example, by posting the required employee notice, and/or by amending its subcontracts or purchase orders with nonexempt subcontractors and vendors to include the employee notice clause), and must commit, in writing, not to repeat the violation, before the contractor may be found to be in compliance with the Executive Order or this part.

(c) If a violation cannot be resolved through conciliation efforts, the Deputy Assistant Secretary for Labor-Management Programs may proceed in accordance with Section 470.13.

(d) For reasonable cause shown, the Deputy Assistant Secretary for Labor-Management Programs may reconsider, or cause to be reconsidered, any matter on his or her own motion or pursuant to a request.

§ 470.13 Under what circumstances, and how, will enforcement proceedings under the Executive Order be conducted?

(a) *General.* (1) Violations of the Executive Order may result in administrative proceedings to enforce the Order. The bases for a finding of a violation may include, but are not limited to:

(i) The results of a compliance evaluation;

(ii) The results of a complaint investigation;

(iii) A contractor's refusal to allow a compliance evaluation or complaint investigation to be conducted; or

(iv) A contractor's refusal to provide information as required by the Executive Order and the regulations in this part.

(2) If a determination is made that the Executive Order or the regulations in this part have been violated, and the violation has not been corrected

through conciliation, the Deputy Assistant Secretary for Labor-Management Programs may refer the matter to the Solicitor of Labor for institution of 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 set forth 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 pursuant to 29 CFR 18.57 to the Assistant Secretary. The decision will be served on all parties and amici.

(3) Within 25 days (10 days in the event that 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 Assistant Secretary.

(4) After the expiration of time for filing exceptions, the Assistant Secretary may issue a final administrative order, or may make such other disposition of the matter as he or she finds appropriate. In an expedited proceeding, unless the Assistant Secretary 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 Assistant Secretary determines that the contractor has violated the Executive Order or the regulations 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 Section 470.14, impose appropriate sanctions and penalties, or any combination thereof.