

§ 470.14 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 Assistant Secretary 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, among which reasons must be 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, however, will not be imposed if:

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

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

(d) In enforcing the Order and this part, the Assistant Secretary may:

(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 of the contractor to comply with its contractual provisions as required by section 2 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 6(b) of the 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 noncomplying contractor.

(e) Whenever the Assistant Secretary has exercised his or her authority pursuant to paragraph (d) of this section, the contracting agency must report the actions it has taken to the Assistant

Secretary within such time as the Assistant Secretary will specify.

(f) Periodically, the Assistant Secretary will publish and distribute, or cause to be published and distributed, to all executive agencies a list of the names of contractors that have, in the judgment of the Assistant Secretary under section 470.13(b)(4) of this part, 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 or subcontracts under the Executive Order and the regulations in this part.

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

Before the Assistant Secretary takes the following action, a contractor must be given the opportunity for a hearing before the Assistant Secretary:

(a) Issues an order debarring the contractor from further Government contracts under section 6(b) of the Executive Order and § 470.14(d)(2) of this part; or

(b) Includes the contractor on a published list of noncomplying contractors under section 6(c) of the Executive Order and § 470.14(f) of this part.

§ 470.16 Under what circumstances may a contractor be reinstated?

Any contractor or subcontractor debarred from or declared ineligible for further contracts or subcontracts under the Executive Order may request reinstatement in a letter to the Assistant Secretary. If the Assistant Secretary finds that the contractor or subcontractor has come into compliance with the Order and this part and has shown that it will carry out the Order and this part, the contractor or subcontractor may be reinstated.

Subpart C—Ancillary Matters

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

Section 9 of the Executive Order grants the Secretary the right to delegate any of his/her functions or duties

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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.

§ 470.21 Who will make rulings and interpretations under the Executive Order and this part?

Rulings under or interpretations of the Executive Order or the regulations contained in this part will be made by the Assistant Secretary or his or her designee.

§ 470.22 What actions may the Assistant Secretary take in the case of intimidation and interference?

The sanctions and penalties contained in Section 470.14 of this part may be exercised by the Assistant Secretary against any contractor or subcontractor who fails to take all necessary steps to ensure that no person intimidates, threatens, or coerces any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in a compliance evaluation, complaint investigation, hearing, or any other activity related to the administration of the Executive Order or the regulations in this part.

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§ 470.23 What other provisions apply to this part?

(a) The regulations in this part implement Executive Order 13201 only, and do not modify or affect the interpretation of any other Department of Labor regulations or policy.

(b) Consistent with section 8 of the Executive Order, each contracting department and agency must cooperate with the Assistant Secretary, the Deputy Assistant Secretary for Labor-Management Programs, and/or the Deputy Assistant Secretary for Federal Contract Compliance, and must provide such information and assistance as the Assistant Secretary or Deputy Assistant Secretary may require, in the performance of his or her functions under the Executive Order and the regulations in this part.

(c) Consistent with section 13 of the Executive Order, nothing contained in the Executive Order or this part, or promulgated pursuant to the Executive Order or this part, is intended to confer any substantive or procedural right, benefit, or privilege enforceable at law by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.