

not subsequently modified shall be administered in accordance with the non-discrimination provisions of any prior applicable Executive orders. Any contract or subcontract modified on or after October 24, 1965, shall be subject to Executive Order 11246. Complaints received by and violations coming to the attention of agencies regarding contracts and subcontracts which were subject to Executive Orders 10925 and 11114 shall be processed as if they were complaints regarding violations of this order.

§ 60-1.46 Delegation of authority by the Deputy Assistant Secretary.

The Deputy Assistant Secretary is authorized to redelegate the authority given to him by the regulations in this part. The authority redelegated by the Deputy Assistant Secretary pursuant to the regulations in this part shall be exercised under his general direction and control.

[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

§ 60-1.47 Effective date.

The regulations contained in this part shall become effective July 1, 1968, for all contracts, the solicitations, invitations for bids, or requests for proposals which were sent by the Government or an applicant on or after said effective date, and for all negotiated contracts which have not been executed as of said effective date. Notwithstanding the foregoing, the regulations in this part shall become effective as to all contracts executed on and after the 120th day following said effective date. Subject to any prior approval of the Secretary, any agency may defer the effective date of the regulations in this part, for such period of time as the Secretary finds to be reasonably necessary. Contracts executed prior to the effective date of the regulations in this part shall be governed by the regulations promulgated by the former President's Committee on Equal Employment Opportunity which appear at 28 FR 9812, September 2, 1963, and at 28 FR 11305, October 23, 1963, the temporary regulations which appear at 30 FR 13441, October 22, 1965, and the orders at 31 FR 6881, May 10, 1966, and 32 FR 7439, May 19, 1967.

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

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AUTHORITY: E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086, 43 FR 46501.

SOURCE: 65 FR 68042, Nov. 13, 2000, unless otherwise noted.

Subpart A—General

§ 60-2.1 Scope and application.

(a) *General.* The requirements of this part apply to nonconstruction (supply and service) contractors. The regulations prescribe the contents of affirmative action programs, standards and procedures for evaluating the compliance of affirmative action programs implemented pursuant to this part, and related matters.

(b) *Who must develop affirmative action programs.* (1) Each nonconstruction contractor must develop and maintain a written affirmative action program for each of its establishments if it has 50 or more employees and:

(i) Has a contract of \$50,000 or more; or

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(ii) Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or

(iii) Serves as a depository of Government funds in any amount; or

(iv) Is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount.

(2) Each contractor and subcontractor must require each nonconstruction subcontractor to develop and maintain a written affirmative action program for each of its establishments if it has 50 or more employees and:

(i) Has a subcontract of \$50,000 or more; or

(ii) Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or

(iii) Serves as a depository of Government funds in any amount; or

(iv) Is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount.

(c) *When affirmative action programs must be developed.* The affirmative action programs required under paragraph (b) of this section must be developed within 120 days from the commencement of a contract and must be updated annually.

(d) *Who is included in affirmative action programs.* Contractors subject to the affirmative action program requirements must develop and maintain a written affirmative action program for each of their establishments. Each employee in the contractor's workforce must be included in an affirmative action program. Each employee must be included in the affirmative action program of the establishment at which he or she works, except that:

(1) Employees who work at establishments other than that of the manager to whom they report, must be included in the affirmative action program of their manager.

(2) Employees who work at an establishment where the contractor employs fewer than 50 employees, may be included under any of the following three options: In an affirmative action program which covers just that establishment; in the affirmative action pro-

gram which covers the location of the personnel function which supports the establishment; or, in the affirmative action program which covers the location of the official to whom they report.

(3) Employees for whom selection decisions are made at a higher level establishment within the organization must be included in the affirmative action program of the establishment where the selection decision is made.

(4) If a contractor wishes to establish an affirmative action program other than by establishment, the contractor may reach agreement with OFCCP on the development and use of affirmative action programs based on functional or business units. The Deputy Assistant Secretary, or his or her designee, must approve such agreements. Agreements allowing the use of functional or business unit affirmative action programs cannot be construed to limit or restrict how the OFCCP structures its compliance evaluations.

(e) *How to identify employees included in affirmative action programs other than where they are located.* If pursuant to paragraphs (d)(1) through (3) of this section employees are included in an affirmative action program for an establishment other than the one in which the employees are located, the organizational profile and job group analysis of the affirmative action program in which the employees are included must be annotated to identify the actual location of such employees. If the establishment at which the employees actually are located maintains an affirmative action program, the organizational profile and job group analysis of that program must be annotated to identify the program in which the employees are included.

§ 60-2.2 Agency action.

(a) Any contractor required by § 60-2.1 to develop and maintain a written affirmative action program for each of its establishments that has not complied with that section is not in full compliance with Executive Order 11246, as amended. When a contractor is required to submit its affirmative action program to OFCCP (e.g., for a compliance evaluation), the affirmative action program will be deemed to have