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Dated: July 21, 2014.

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Space Administration.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 22, and 52

[FAC 2005-76; FAR Case 2014-013; Item  
I; Docket 2014-0013, Sequence 1]

RIN 9000-AM76

#### Federal Acquisition Regulation: Equal Employment and Affirmative Action for Veterans and Individuals With Disabilities

**AGENCY:** Department of Defense (DoD),  
General Services Administration (GSA),  
and National Aeronautics and Space  
Administration (NASA).

**ACTION:** Interim rule.

**SUMMARY:** DoD, GSA, and NASA are  
issuing an interim rule amending the  
Federal Acquisition Regulation (FAR) to  
implement final rules issued by the  
Office of Federal Contract Compliance  
Programs at the Department of Labor  
(DOL) relating to equal opportunity and  
affirmative action for veterans and  
individuals with disabilities.

**DATES:** *Effective:* July 25, 2014.

*Comment Date:* Interested parties  
should submit written comments to the  
Regulatory Secretariat on or before  
September 23, 2014 to be considered in  
the formation of the final rule.

**ADDRESSES:** Submit comments  
identified by FAC 2005-76, FAR Case  
2014-013, by any of the following  
methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2014-013” Select the link “Comment Now” that corresponds with “FAR Case 2014-013.” Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “FAR Case 2014-013” on your attached document.

- *Fax:* 202-501-4067.

- *Mail:* General Services

Administration, Regulatory Secretariat  
(MVCB), ATTN: Ms. Flowers, 1800 F  
Street NW., 2nd floor, Washington, DC  
20405.

*Instructions:* Please submit comments  
only and cite FAC 2005-76, FAR Case  
2014-013, in all correspondence related  
to this case. All comments received will  
be posted without change to <http://www.regulations.gov>, including any  
personal and/or business confidential  
information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr.  
Edward Loeb, Procurement Analyst, at  
202-501-0650 for clarification of  
content. For information pertaining to  
status or publication schedules, contact  
the Regulatory Secretariat at 202-501-  
4755. Please cite FAC 2005-76, FAR  
Case 2014-013.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD, GSA, and NASA are issuing an  
interim rule amending the FAR to  
implement two DOL final rules that  
were published in the **Federal Register**  
on September 24, 2013 at 78 FR 58614  
and at 78 FR 58682 as follows:

- “Affirmative Action and  
Nondiscrimination Obligations of  
Contractors and Subcontractors  
Regarding Special Disabled Veterans,  
Veterans of the Vietnam Era, Disabled  
Veterans, Recently Separated Veterans,  
Active Duty Wartime or Campaign  
Badge Veterans, and Armed Forces  
Service Medal Veterans”, which  
amended DOL regulations at 41 CFR  
parts 60-250 and 60-300 (78 FR 58614).

- “Affirmative Action and  
Nondiscrimination Obligations of  
Contractors and Subcontractors  
Regarding Individuals with  
Disabilities”, which amended DOL  
regulations at 41 CFR part 60-741 (78  
FR 58682).

##### II. Discussion and Analysis

###### A. Subpart 22.13—Equal Opportunity for Veterans

This interim rule amends the  
definitions in FAR subpart 22.13 to  
conform to the definitions in 41 CFR  
60-300.2.

- Adds a definition of “active duty  
wartime or campaign badge veteran,”  
which replaces the definition of “other  
protected veteran.” The only change is  
in the definition title.

- Adds a definition of “protected  
veteran.”

- Expands policy at FAR 22.1302 to  
address appropriate outreach and  
recruitment, and hiring benchmarks.

###### B. Subpart 22.14—Employment of Workers With Disabilities

The interim rule amends FAR subpart  
22.14 to conform to DOL regulations at  
41 CFR part 60-741.

- Changes references to the title of the  
FAR clause at 52.222-36 to “Equal  
Opportunity for Workers with  
Disabilities”.

- Changes the responsible official at  
DOL to the “Director of Federal Contract  
Compliance Programs” (Director of  
OFCCP).

- Expands policy at FAR 22.1401 to  
address appropriate outreach and  
recruitment, and utilization goals, as  
prescribed in the regulations of the  
Secretary of Labor.

- Amends the waiver authority at  
FAR 22.1403 to be the Director of the  
Office of Federal Contract Compliance  
Programs to conform to the Department  
of Labor regulations. Also revises the  
policy at FAR 22.1403(b) concerning  
national security waivers to conform to  
the DOL regulations.

###### C. Clauses

The DOL regulations contain two  
revised Equal Opportunity clauses at 41  
CFR 60-300.5 (relating to veterans) and  
41 CFR 60-741.5 (relating to individuals  
with disabilities).

- The clause for Equal Opportunity  
for VEVRRA Protected Veterans  
provides clarification of mandatory  
listing of employment openings and  
posting of notices, in paragraphs 2, 4, 9,  
and 12 of 41 CFR 60-300.5(a).

- The clause for Equal Opportunity  
for Workers with Disabilities adds some  
requirements with regard to posting in  
electronic format and making notices  
accessible to persons with disabilities,  
in paragraphs 4 and 7 of 41 CFR 60-  
741.5(a).

- Both clauses add requirements with  
regard to contractor solicitations or  
advertisements for employees, requiring  
inclusion of statements that all qualified  
applicants will receive consideration for  
employment, without regard to their  
protected veteran status; and that  
qualified applicants will not be  
discriminated against on the basis of  
disability.

At 41 CFR 60-300.5(d) and 41 CFR  
60-741.5(d), each entitled “Inclusion of  
the equal opportunity clause in the  
contract,” the DOL regulations provide  
that it is not necessary to include the  
equal opportunity clause verbatim in  
the contract (as had been considered in  
the proposed rule), but that the clause  
shall be made a part of the contract by  
citation to 41 CFR 60-300.5(a) and 41  
CFR 60-741.5(a) respectively, and then  
provides a short paragraph that must be

included after the citation, providing a brief summary that highlights to contractors and subcontractors the nature of their obligation, *i.e.*;

- This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractor and subcontractors to employ and advance in employment qualified protected veterans; and

- This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

Therefore, in the interim FAR rule, the clauses at FAR 52.222–35, Equal Opportunity for Veterans, and 52.222–36, Equal Opportunity for Workers with Disabilities, do not repeat the entire equal opportunity clauses from the DOL regulations. Instead, each clause provides a citation to the applicable clause in the DOL regulations and includes a statement that summarizes the contractors' top level obligations under each clause. The FAR clauses must be incorporated in the contract in full text, as required by the DOL regulations.

Because some of the definitions and clause flowdown are not included within the equal opportunity clauses in the DOL regulations, the FAR clause 52.222–35 adds a paragraph to reference the appropriate definitions at FAR 22.1301, relating to types of veterans, and both 52.222–35 and 52.222–36 include a final paragraph requiring clause flowdown.

At 41 CFR 60–300.5(e) and 41 CFR 60–741.5(e), each paragraph entitled “Incorporation by Operation of the Act,” the DOL regulations state that the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulation to include such clause, whether or not it is physically incorporated in such contract.

A minor conforming change has been made to the clause at FAR 52.222–37, Employment Reports on Veterans, to add a definition of “active duty wartime or campaign badge veterans,” because the term “other protected veterans” is no longer defined in FAR subpart 22.13. However, the term “other protected veterans” still appears on the VETS–100 report, so the term is explained as equivalent in meaning to “active duty wartime or campaign badge veterans.” The FAR clause 52.222–37 has also been added to the lists at 52.212–5(e) and

52.244–6 to require flowdown to commercial subcontracts.

#### D. Additional Contractor Duties

The DOL regulations mandate in 41 CFR part 60 additional duties that contractors must perform. Contractors must consult the DOL regulations at 41 CFR parts 60–250, 60–300, and 60–741 to understand their full obligations. The contract clause does not include detail on the duties.

#### E. Threshold

This rule does not change the threshold for applicability of FAR subpart 22.13 and the associated clause at 52.222–35, which is \$100,000. Nor does it change the threshold for applicability of FAR subpart 22.14 and the associated clause at 52.222–36, which is \$15,000. The thresholds for these clauses are set by statute. FAR 1.109 explains the statutory requirement, now codified at 41 U.S.C. 1908, for the FAR Council to subsequently adjust all the acquisition-related statutory thresholds for inflation, every five years in October.

Although the statute (section 503 of the Rehabilitation Act of 1973) (29 U.S.C. 793) originally established a threshold of \$10,000, relating to equal opportunity for workers with disabilities, this was adjusted to \$15,000 in October 2010. The threshold adjustment was discussed with DOL/OFCCP and they concurred with this change. The threshold of \$100,000 relating to equal opportunity for veterans was not adjusted in 2010 because the inflationary adjustment resulted in an increase that was insufficient to justify an adjustment to the next threshold level.

#### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Both rules issued by the Department of Labor were determined to be

economically significant under E.O. 12866, and major rules under 5 U.S.C. 804. The Regulatory Impact Analysis for these rules was published in the **Federal Register** on September 24, 2013 at 78 FR 59643 and at 78 FR 58714. The FAR rule adds no new information collections, recordkeeping, or other compliance burdens. The FAR rule cites to the DOL OMB Control numbers 1250–0004 and 1250–0005 for OMB approval under the PRA for any information collection requirements associated with revised FAR 52.222–35 (Equal Opportunity for Veteran) and 52.225–36 (Equal Opportunity for Workers with Disabilities). As explained in the section on clauses (I.C.) above, the FAR clauses, to be incorporated in solicitations and contracts in full text, include the required summary statement (paragraph (b) and (a) of each of the FAR clauses, respectively) and then reference to the DOL clauses. There is no economic impact arising from the FAR rule, since the FAR rule only informs the contractors of the requirements of the DOL rules. Further, each DOL rule states that “By operation of the Act, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contract . . .” (41 CFR 60–300.5(e) and 60–741.5(e)). So the FAR is not actually imposing any requirement, but for consistency is incorporating this guidance and informing the contractor of existing requirements.

#### IV. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

This interim rule is being issued to implement changes to 41 CFR 60–25, 60–300, and 60–741, as published in the **Federal Register** on September 24, 2013 at 78 FR 58614 and at 78 FR 58682 by the Office of Federal Contract Compliance Programs of the Department of Labor (DOL).

The DOL rules revise the current regulations implementing 38 U.S.C. 4211 and 4212, and the nondiscrimination and affirmative action regulations of section 503 of the Rehabilitation Act of 1973, as amended. The DOL rules add requirements on mandatory job listings, data collection, and establishing hiring benchmarks.

With regard to equal opportunity for veterans, DOL estimated that the approximate number of small entities that would be subject to the rule would be 20,490

federal contractors with between 50 and 500 employees (approximately 44 percent of the total Federal contractors impacted by the rule).

With regard to equal opportunity for individuals with disabilities, DOL estimated that the final rule impacts 20,490 Federal contractors with between 50 and 500 employees (approximately 44 percent of total Federal contractors impacted by the rule).

This FAR rule does not add any new reporting, recordkeeping, or other compliance burdens. The FAR rule makes contracting officers and contractors aware of the DOL requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD, GSA, and NASA are not aware of any significant alternatives to the rule which would accomplish the stated objectives of implementing the DOL final rules, while minimizing impact on small entities. DoD, GSA, and NASA do not have the flexibility of making any changes to the DOL rules, which have already been published for public comment and are now taking effect as final rules. There is no significant impact on small entities imposed by the FAR rule.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005-76, FAR Case 2014-013) in correspondence.

## V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved for the DOL regulations under OMB Control Numbers 1250-004, titled: OFCCP Recordkeeping and Reporting Requirements—38 U.S.C. 4212, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; 1250-005, titled: OFCCP Recordkeeping and Reporting Requirements—Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 703; and 1293-0005, titled: Federal Contractor Veterans' Employment Report, VETS-100/VETS-100A.

## VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the Department of Labor rules became effective on March 24, 2014. The DOL rules were published for public comment prior to publication of the final rules. Further, each DOL rule states that "By operation of the Act, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contract . . ." (41 CFR 60-300.5(e) and 60-741.5(e)).

However, the FAR does provide government-wide policy and procedures to contractors and even though the FAR rule only informs the contractors of DOL's requirements, and it is not actually imposing any new requirements, immediate implementation in the FAR is necessary to provide awareness and ensure compliance across all agencies and contractors, respectively. The FAR rule adds no new information collections, recordkeeping, or other burdens. If the FAR rule is not issued as an interim rule, which becomes effective upon publication, the incorporation of the new clauses in solicitations and contracts would be delayed, and contractors may not be aware of DOL's regulatory changes with regard to the employment of and outreach methods used to hire veterans and workers with disabilities under these new rules.

However, pursuant to 41 U.S.C. 1707, DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

### List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: July 18, 2014.

**William Clark,**

*Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 22, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 22, and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

### 1.106 [Amended]

- 2. Amend section 1.106, in the table following the introductory text, by—
  - a. Removing from FAR segment 22.13 OMB Control Number "1215-0072" and adding "1250-0004" in its place;
  - b. Removing from FAR segment 22.14 OMB Control Number "1215-0072" and adding "1250-0005" in its place; and
  - c. Removing from FAR segments 52.222-35 and 52.222-36 OMB Control Number "1215-0072" and adding "1250-0004" and "1250-0005" in their places, respectively.

## PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

### 22.1300 [Amended]

- 3. Amend section 22.1300 by removing from paragraph (e) "part 60-250,".
- 4. Amend section 22.1301 by adding, in alphabetical order, the definitions "Active duty wartime or campaign badge veteran" and "Protected veteran"; and removing the definition "Other protected veteran".

The additions read as follows:

#### 22.1301 Definitions.

\* \* \* \* \*

*Active duty wartime or campaign badge veteran* means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

\* \* \* \* \*

*Protected veteran* means a veteran who is protected under the non-discrimination and affirmative action provisions of 38 U.S.C. 4212; specifically, a veteran who may be classified as a "disabled veteran," "recently separated veteran," "active duty wartime or campaign badge veteran," or an "Armed Forces service medal veteran," as defined by this section.

\* \* \* \* \*

- 5. Amend section 22.1302 by revising paragraph (a) to read as follows:

#### 22.1302 Policy.

(a) Contractors and subcontractors, when entering into contracts and subcontracts subject to the Act, are required to—

(1) List all employment openings, with the appropriate employment service delivery system where the opening occurs, except for—

(i) Executive and senior management positions;

(ii) Positions to be filled from within the contractor's organization; and

(iii) Positions lasting three days or less;

(2) Take affirmative action to employ, advance in employment, and otherwise treat qualified individuals, including qualified disabled veterans, without discrimination based upon their status as a protected veteran, in all employment practices;

(3) Undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit protected veterans; and

(4) Establish a hiring benchmark and apply it to hiring of protected veterans in each establishment, on an annual basis, in the manner prescribed in the regulations of the Secretary of Labor.

\* \* \* \* \*

■ 6. Amend section 22.1310 by—

■ a. Revising paragraph (a)(1)(ii); and

■ b. Removing from paragraph (a)(2) "Programs" and adding "Programs of the U.S. Department of Labor" in its place.

The revision reads as follows:

**22.1310 Solicitation provision and contract clauses.**

\* \* \* \* \*

(a)(1) \* \* \*

(ii) The Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, has waived, in accordance with 22.1305(a), or the head of the agency has waived, in accordance with 22.1305(b), all of the terms of the clause.

\* \* \* \* \*

**22.1400 [Amended]**

■ 7. Amend section 22.1400 by removing "implementing Section" and adding "implementing section" in its place.

■ 8. Revise section 22.1401 to read as follows:

**22.1401 Policy.**

Contractors and subcontractors, when entering into contracts and subcontracts subject to the Act, are required to—

(a) Take affirmative action to employ, and advance in employment, qualified individuals with disabilities, and to otherwise treat qualified individuals without discrimination based on their physical or mental disability;

(b) Undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively

recruit qualified individuals with disabilities; and

(c) Compare the utilization of individuals with disabilities in their workforces to the utilization goal, as prescribed in the regulations of the Secretary of Labor, on an annual basis.

**22.1402 [Amended]**

■ 9. Amend section 22.1402 by removing from paragraphs (a) and (b) "Affirmative Action" and adding "Equal Opportunity" in their places.

■ 10. Amend section 22.1403 by—

■ a. Revising the introductory text of paragraph (a);

■ b. Revising paragraph (b); and

■ c. Removing from paragraph (d) "Deputy Assistant Secretary" and adding "Director of OFCCP" in its place.

The revisions read as follows:

**22.1403 Waivers.**

(a) The Director of the Office of Federal Contract Compliance Programs of the U.S. Department of Labor (Director of OFCCP), may waive the application of any or all of the terms of the clause at 52.222–36, Equal Opportunity for Workers with Disabilities, for—

\* \* \* \* \*

(b) The head of an agency may waive any requirement in this subpart when it is determined that the contract is essential to the national security, and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency shall notify the Director of OFCCP in writing within 30 days.

\* \* \* \* \*

**22.1405 [Amended]**

■ 11. Amend section 22.1405 by removing "Affirmative Action" and adding "Equal Opportunity" in its place.

■ 12. Revise section 22.1406 to read as follows:

**22.1406 Complaint procedures.**

(a) Following agency procedures, the contracting office shall forward any complaints received about the administration of the Act to—

(1) Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; or

(2) Any OFCCP regional or area office.

(b) The OFCCP shall institute investigation of each complaint and shall be responsible for developing a complete case record.

**22.1407 [Amended]**

■ 13. Amend section 22.1407 by removing from the introductory text "Affirmative Action" and adding "Equal Opportunity" in its place.

**22.1408 [Amended]**

■ 14. Amend section 22.1408 by—

■ a. Removing from paragraph (a) introductory text "Affirmative Action" and adding "Equal Opportunity", in its place; and

■ b. Removing from paragraphs (a)(2) and (b) "agency head" and adding "Director of OFCCP or agency head", in their places.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 15. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Revising paragraphs (b)(32) through (34);

■ c. Revising paragraphs (e)(1)(v) and (e)(1)(vi);

■ d. Redesignating paragraphs (e)(1)(vii) through (e)(1)(xv) as paragraphs (e)(1)(viii) through (e)(1)(xvi), respectively; and

■ e. Adding a new paragraph (e)(1)(vii); and

■ f. Amending Alternate II by—

■ 1. Revising the date of the Alternate; and

■ 2. Revising paragraphs (e)(1)(ii)(E) and (F).

The revisions and additions read as follows:

**52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.**

\* \* \* \* \*

**Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (July 2014)**

\* \* \* \* \*

(b) \* \* \*

\_\_\_\_(32) 52.222–35, Equal Opportunity for Veterans (July 2014) (38 U.S.C. 4212).

\_\_\_\_(33) 52.222–36, Equal Opportunity for Workers with Disabilities (July 2014) (29 U.S.C. 793).

\_\_\_\_(34) 52.222–37, Employment Reports on Veterans (July 2014) (38 U.S.C. 4212).

\* \* \* \* \*

(e)(1) \* \* \*

(v) 52.222–35, Equal Opportunity for Veterans (July 2014) (38 U.S.C. 4212).

(vi) 52.222–36, Equal Opportunity for Workers with Disabilities (July 2014) (29 U.S.C. 793).

(vii) 52.222–37, Employment Reports on Veterans (July 2014) (38 U.S.C. 4212).

\* \* \* \* \*

*Alternate II (July 2014).* \* \* \*

\* \* \* \* \*

- (e)(1) \* \* \*
- (ii) \* \* \*

(E) 52.222–35, Equal Opportunity for Veterans (July 2014) (38 U.S.C. 4212).

(F) 52.222–36, Equal Opportunity for Workers with Disabilities (July 2014) (29 U.S.C. 793).

\* \* \* \* \*

■ 16. Amend section 52.213–4 by revising the date of the clause and paragraphs (a)(2)(viii), (b)(1)(iv), (b)(1)(v), and (b)(1)(vi) to read as follows:

**52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).**

\* \* \* \* \*

**Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (July 2014)**

- (a) \* \* \*
- (2) \* \* \*

(viii) 52.244–6, Subcontracts for Commercial Items (July 2014).

\* \* \* \* \*

- (b) \* \* \*
- (1) \* \* \*

(iv) 52.222–35, Equal Opportunity for Veterans (July 2014) (38 U.S.C. 4212) (applies to contracts of \$100,000 or more).

(v) 52.222–36, Equal Employment for Workers with Disabilities (July 2014) (29 U.S.C. 793). (Applies to contracts over \$15,000, unless the work is to be performed outside the United States by employees recruited outside the United States.) (For purposes of this clause, “United States” includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

(vi) 52.222–37, Employment Reports on Veterans (July 2014) (38 U.S.C. 4212) (applies to contracts of \$100,000 or more).

\* \* \* \* \*

■ 17. Revise section 52.222–35 to read as follows:

**52.222–35 Equal Opportunity for Veterans.**

As prescribed in 22.1310(a)(1), insert the following clause:

**Equal Opportunity for Veterans (July 2014)**

(a) *Definitions.* As used in this clause— “Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR 22.1301.

(b) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60–300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) *Subcontracts.* The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

*Alternate I* (July 2014). As prescribed in 22.1310(a)(2), add the following as a preamble to the clause:

Notice: The following term(s) of this clause are waived for this contract: \_\_\_\_\_ [List term(s)].

■ 18. Revise section 52.222–36 to read as follows:

**52.222–36 Equal Opportunity for Workers with Disabilities.**

As prescribed in 22.1408(a), insert the following clause:

**Equal Opportunity for Workers with Disabilities (July 2014)**

(a) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60–741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

*Alternate I* (July 2014). As prescribed in 22.1408(b), add the following as a preamble to the clause:

Notice: The following term(s) of this clause are waived for this contract: \_\_\_\_\_ [List term(s)].

■ 19. Amend section 52.222–37 by revising the date of the clause and paragraphs (a), (b)(1), and (2) to be read as follows:

**52.222–37 Employment Reports on Veterans.**

\* \* \* \* \*

**Employment Reports on Veterans (July 2014)**

(a) *Definitions.* As used in this clause, “Armed Forces service medal veteran,”

“disabled veteran,” “active duty wartime or campaign badge veteran,” and “recently separated veteran,” have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on—

(1) The total number of employees in the contractor’s workforce, by job category and hiring location, who are disabled veterans, other protected veterans (*i.e.*, active duty wartime or campaign badge veterans), Armed Forces service medal veterans, and recently separated veterans;

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans (*i.e.*, active duty wartime or campaign badge veterans), Armed Forces service medal veterans, and recently separated veterans; and

\* \* \* \* \*

■ 20. Amend section 52.244–6 by—

- a. Revising the date of the clause;
- b. Revising paragraphs (c)(1)(v) and (vi);
- c. Redesignating paragraphs (c)(1)(vii) through (c)(1)(xi) as paragraphs (c)(1)(viii) through (c)(1)(xii), respectively;
- d. Adding new paragraph (c)(1)(vii);

The revised and added text reads as follows:

**52.244–6 Subcontracts for Commercial Items.**

\* \* \* \* \*

**Subcontracts for Commercial Items (July 2014)**

\* \* \* \* \*

(c)(1) \* \* \*

(v) 52.222–35, Equal Opportunity for Veterans (July 2014) (38 U.S.C. 4212(a));

(vi) 52.222–36, Equal Opportunity for Workers with Disabilities (July 2014) (29 U.S.C. 793).

(vii) 52.222–37, Employment Reports on Veterans (July 2014) (38 U.S.C. 4212).

\* \* \* \* \*

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