

## 419.201-73

(g) Develop a program of contacts with local, small, minority, and women-owned trade, business, and professional associations and organizations and Indian tribal councils to apprise them of USDA's program needs and recurring contract requirements.

(h) Periodically meet with program managers to discuss requirements of the small business preference program, explore the feasibility of breaking large complex requirements into smaller lots suitable for participation by small firms, and encourage program managers to meet with these firms so that their capabilities can be demonstrated.

(i) Establish internal operating procedures which implement the requirements of the regulations as set forth in this part 419. Compile data and prepare all reports pertaining to the small, minority and women-owned business activities. Ensure that these reports are accurate, complete and up-to-date.

(j) Assist and counsel small business firms and especially those found to be nonresponsive or nonresponsible to help qualify them for future awards.

(k) Review proposed large contract requirements to determine the potential for breaking out components suitable for purchase from small business firms.

(l) Ensure that the SBA Resident Procurement Center Representative (PCR) is provided an opportunity and reasonable time to review any solicitation that meets the dollar threshold for small business and small disadvantaged business subcontracting plans.

### 419.201-73 Reports.

(a) The Director, OSDBU, shall be responsible for submitting reports concerning USDA's progress and achievements in the procurement preference program.

(b) The following dates must be adhered to in regard to the reporting of subcontract award data.

#### SF-294 Reports

Frequency: Twice a Year.  
Cut-off date (Reporting Period Ending):  
March 31.  
Date Due at Contracting Activity: April 30.  
Cut-off date (Reporting Period Ending):  
September 30.  
Date Due at Contracting Activity: October 30.

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#### SF-295 Reports

Frequency: Once a Year.  
Cut-off date (12 Month-Period Ending):  
September 30.  
Date Due at OSDBU: October 30.

[61 FR 53646, Oct. 15, 1996, as amended at 63 FR 26995, May 15, 1998]

### Subpart 419.5—Set-Asides for Small Business

#### 419.508 Solicitation provisions.

The contracting officer shall insert the provision at 452.219-70, Size Standard and NAICS Code Information, in solicitations that are set aside for small businesses.

[61 FR 53646, Oct. 15, 1996, as amended at 66 FR 49317, Sept. 27, 2001]

### Subpart 419.6—Certificates of Competency and Determinations of Eligibility

#### 419.602 Procedures.

##### 419.602-1 Referral.

Contracting officers shall refer determinations of non-responsibility regarding small businesses directly to the SBA Regional Office servicing the location where the contractor's office (home) is located.

##### 419.602-3 Resolving differences between the agency and the Small Business Administration.

The HCA is authorized to appeal the issuance of a COC to SBA Headquarters as provided by FAR 19.602-3(a).

[63 FR 26995, May 15, 1998]

## PARTS 420-421 [RESERVED]

## PART 422—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

### Subpart 422.1—Basic Labor Policies

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422.103 Overtime.  
422.103-4 Approvals.

### Subpart 422.3—Contract Work Hours and Safety Standards Act

422.302 Liquidated damages and overtime pay.

## Department of Agriculture

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### Subpart 422.4—Labor Standards for Contracts Involving Construction

- 422.404 Davis-Bacon Act wage determinations.
- 422.404-6 Modifications of wage determinations.
- 422.406 Administration and enforcement.
- 422.406-8 Investigations.

### Subpart 422.6—Walsh-Healey Public Contracts Act

- 422.604 Exemptions.
- 422.604-2 Regulatory exemptions.
- 422.608 [Reserved]

### Subpart 422.8—Equal Employment Opportunity

- 422.803 Responsibilities.
- 422.804 Affirmative action programs.
- 422.804-2 Construction.
- 422.807 Exemptions.

### Subpart 422.13—Special Disabled and Vietnam Era Veterans

- 422.1303 Waivers.
- 422.1306 Complaint procedures.

### Subpart 422.14—Employment of the Handicapped

- 422.1403 Waivers.
- 422.1406 Complaint procedures.

AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

### Subpart 422.1—Basic Labor Policies

#### 422.103 Overtime.

#### 422.103-4 Approvals.

Requests for the use of overtime shall be approved by an acquisition official at a level above the contracting officer in accordance with the procedures in FAR 22.103-4 (a) and (b).

### Subpart 422.3—Contract Work Hours and Safety Standards Act

#### 422.302 Liquidated damages and overtime pay.

Heads of contracting activities (HCA's) are authorized to review determinations of liquidated damages due under section 104(c) of the Contract Work Hours and Safety Standards Act,

and to take remedial action, if appropriate, in accordance with FAR 22.302(c). Contractors or subcontractors may request review of administrative determinations of liquidated damages by written notice to the contracting officer. The contracting officer shall promptly forward appeals of liquidated damages determinations to the HCA.

### Subpart 422.4—Labor Standards for Contracts Involving Construction

#### 422.404 Davis-Bacon Act wage determinations.

#### 422.404-6 Modifications of wage determinations.

HCA's are authorized to request extension of the 90 day period for award after bid opening as provided in FAR 22.404-6(b)(6).

#### 422.406 Administration and enforcement.

#### 422.406.8 Investigations.

Reports of violations shall be forwarded to the HCA, who shall process such reports in accordance with FAR 22.406-8(d).

### Subpart 422.6—Walsh-Healey Public Contracts Act

#### 422.604 Exemptions.

#### 422.604-2 Regulatory exemptions.

The Assistant Secretary for Administration can request the Secretary of labor to exempt contracts from the Walsh-Healey Public Contracts Act pursuant to FAR 22.604-2(c). A written finding justifying the request for exemption shall be prepared for the Assistant Secretary's signature and submitted by the HCA to the Senior Procurement Executive (SPE) for referral to the Assistant Secretary.

#### 422.608 [Reserved]

### Subpart 422.8—Equal Employment Opportunity

#### 422.803 Responsibilities.

The contracting office shall submit questions involving the applicability of

**422.804**

Executive Order 11246 and FAR subpart 22.8 through the HCA to the SPE for resolution.

**422.804 Affirmative action programs.**

**422.804-2 Construction.**

The HCA shall ensure that each contracting office, awarding nonexempt construction contracts, maintains a current listing of covered geographical areas subject to affirmative action requirements specifying goals for minorities and women in covered construction trades.

**422.807 Exemptions.**

(a) The Assistant Secretary for Administration is authorized to make the determination in FAR 22.807(a)(1) that a contract is essential to the national security.

(b) The contracting officer shall submit requests for exemptions under FAR 22.807(a)(1), (a)(2), and (b)(5) through the HCA to the SPE for determination by the Assistant Secretary of Administration or referral to the Director, Office of Federal Contract Compliance Programs (OFCCP), as appropriate.

**Subpart 422.13—Special Disabled and Vietnam Era Veterans**

**422.1303 Waivers.**

(a) The Assistant Secretary for Administration is authorized to make the waiver determinations under FAR 22.1303(a) and FAR 22.1303(b) with concurrence of the Director, OFCCP.

(b) The contracting office shall submit requests for waivers through the HCA to the SPE for determination by the Assistant Secretary for Administration.

**422.1306 Complaint procedures.**

The contracting officer shall forward complaints received about the administration of the Vietnam Era Veterans Readjustment Assistance Act directly to the Department of Labor (DoL) as prescribed in FAR 22.1306.

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**Subpart 422.14—Employment of the Handicapped**

**422.1403 Waivers.**

(a) The Assistant Secretary for Administration is authorized to make the waiver determinations under FAR 22.1403(a) and (b) with concurrence of the Director, OFCCP.

(b) The contracting officer shall submit requests for waivers through the HCA to the SPE for determination by the Assistant Secretary for Administration.

**422.1406 Complaint procedures.**

The contracting officer shall forward complaints received about the administration of Section 503 of the Rehabilitation Act of 1973, as amended, directly to the OFCCP as prescribed in FAR 22.1406.

**PART 423—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

**Subpart 423.1—Pollution Control and Clean Air and Water**

- Sec.
- 423.101 Applicability.
- 423.103 Policy.
- 423.104 Exemptions.
- 423.106 Delaying award.
- 423.107 Compliance responsibilities.

**Subpart 423.2—Energy Conservation**

- 423.203 Policy.

**Subpart 423.4—Use of Recovered Materials**

- 423.400 Scope of subpart.
- 423.402 Definitions.
- 423.404 Procedures.
- 423.404-70 Acquisition, Recycling, and Waste Prevention Program (AR&WPP).

**Subpart 423.5—Drug-Free Workplace**

- 423.506 Suspension of payments, termination of contract, and debarment and suspension actions.