

22.303

(c) If the head of an agency finds that the administratively determined liquidated damages due under paragraph (a) of this section are incorrect, or that the contractor or subcontractor inadvertently violated the Act despite the exercise of due care, the agency head may—

(1) Reduce the amount of liquidated damages assessed for liquidated damages of \$500 or less;

(2) Release the contractor or subcontractor from the liability for liquidated damages of \$500 or less; or

(3) Recommend that the Secretary of Labor reduce or waive liquidated damages over \$500.

(d) After the contracting officer determines the liquidated damages and the contractor makes appropriate payments, disburse any remaining assessments in accordance with agency procedures.

[65 FR 46065, July 26, 2000]

22.303 Administration and enforcement.

The procedures and reports required for construction contracts in subpart 22.4 also apply to investigations of alleged violations of the Act on other than construction contracts.

22.304 Variations, tolerances, and exemptions.

(a) The Secretary of Labor under 40 U.S.C. 3706, upon the Secretary's initiative or at the request of any Federal agency, may provide reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of the Act (see 29 CFR 5.15).

(b) The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of applicable parts of 29 CFR when the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship (see 29 CFR 5.14).

[51 FR 12293, Apr. 9, 1986, as amended at 70 FR 57454, Sept. 30, 2005]

22.305 Contract clause.

Insert the clause at 52.222-4, Contract Work Hours and Safety Standards Act—Overtime Compensation, in solicitations and contracts (including, for

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this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, do not include the clause in solicitations and contracts—

(a) Valued at or below \$150,000;

(b) For commercial items;

(c) For transportation or the transmission of intelligence;

(d) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331) (29 CFR 5.15);

(e) For work to be done solely in accordance with the Walsh-Healey Public Contracts Act (see subpart 22.6);

(f) For supplies that include incidental services that do not require substantial employment of laborers or mechanics; or

(g) Exempt under regulations of the Secretary of Labor (29 CFR 5.15).

[68 FR 28082, May 22, 2003, as amended at 71 FR 57367, Sept. 28, 2006, 75 FR 53133, Aug. 30, 2010]

Subpart 22.4—Labor Standards for Contracts Involving Construction

SOURCE: 53 FR 4935, Feb. 18, 1988, unless otherwise noted.

22.400 Scope of subpart.

This subpart implements the statutes which prescribe labor standards requirements for contracts in excess of \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works. (See definition of *Construction, alteration, or repair* in section 22.401.) Labor relations requirements prescribed in other subparts of part 22 may also apply.

[53 FR 4935, Feb. 18, 1988; 65 FR 46074, July 26, 2000]

22.401 Definitions.

As used in this subpart—

Apprentice means a person—

(1) Employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and