

CHAPTER 50—PUBLIC CONTRACTS, DEPARTMENT OF LABOR

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PART 50-201—GENERAL REGULATIONS

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AUTHORITY: Sec. 4, 49 Stat. 2038; 41 U.S.C. 38. Interpret or apply sec. 6, 49 Stat. 2038, as amended; 41 U.S.C. 40; 108 Stat. 7201.

§ 50-201.1 The Walsh-Healey Public Contracts Act.

The Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), hereinafter referred to as the Act, was enacted "to provide conditions for the purchase of supplies and the making of contracts by the United States." It is not an act of general applicability to industry. The Supreme Court has described it as an instruction by the Government to its agents who were selected and granted final authority to fix the terms and conditions under which the Government will permit goods to be sold to it. Its purpose, according to the Supreme Court "was to impose obligations upon those favored with Government business and to obviate the possibility that any part of our tremendous national expenditures would go to forces tending to depress wages and purchasing power and offending fair social standards of employment." ("Perkins v. Lukens Steel Co.," 310 U.S. 113, 128 (1940); "Endicott John-

son Corp. v. Perkins," 317 U.S. 501 (1943).) To this end, the Act requires those who enter into contracts to perform Government work subject to its terms to adhere to specifically prescribed representations and stipulations as set forth in 41 CFR 50-201.1 pertaining to qualifications of contractors, minimum wages, overtime pay, safe and sanitary working conditions of workers employed on the contract, the use of child labor or convict labor on the contract work, and the enforcement of such provisions. Except as otherwise specifically provided, these representations and stipulations are required to be included in every contract "for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding \$10,000" which is made and entered into by an agency of the United States or other entity as designated in section 1 of the Act, hereinafter referred to as "contracting agency." Contractors performing work subject to the Act thus "enter into competition to obtain Government business on terms of which they are fairly forewarned by inclusion in the contract." ("Endicott Johnson Corp. v. Perkins, supra," 317 U.S. at 507.) The Act also provides for enforcement of the required representations and stipulations by various methods. Certain exemptions from the application of the Act are provided in section 9 of the statute. Other exemptions, variations, and tolerances may be provided under section 6 of the statute by the Secretary of Labor or the President.

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§ 50-201.2 Administration of the Act.

(a) The Secretary of Labor is authorized and directed to administer the provisions of the Act, to make investigations, findings, and decisions thereunder, and to make, amend, and rescind rules and regulations with respect to its application (see sections 4 and 5). The Supreme Court has recognized that the Secretary may issue rulings defining the coverage of the Act. ("Endicott Johnson Corp. v. Perkins, supra".) According to the Court (*ibid.*), in the statute as originally enacted