

conducting the investigation, follow the procedures at PGI 222.406-8(a).

(c) *Contractor notification.*

(4)(A) Notify the contractor by certified mail of any finding that it is liable for liquidated damages under the Contract Work Hours and Safety Standards Act (CWHSSA). The notification shall inform the contractor that—

(1) It has 60 days after receipt of the notice to appeal the assessment of liquidated damages; and

(2) The appeal must demonstrate either that the alleged violations did not occur at all, occurred inadvertently notwithstanding the exercise of due care, or the assessment was computed improperly.

(B) If an appeal is received, the contracting officer shall process the appeal in accordance with department or agency regulations.

(d) *Contracting officer's report.* Forward a detailed enforcement report or summary report to the agency head in accordance with agency procedures. Include in the report, as a minimum, the information specified at PGI 222.406-8(d).

[56 FR 36358, July 31, 1991, as amended at 71 FR 18670, Apr. 12, 2006]

**222.406-9 Withholding from or suspension of contract payments.**

(a) *Withholding from contract payments.* The contracting officer shall contact the labor advisor for assistance when payments due a contractor are not available to satisfy that contractor's liability for Davis-Bacon or CWHSSA wage underpayments or liquidated damages.

(c) *Disposition of contract payments withheld or suspended.*

(3) *Limitation on forwarding or returning funds.* When disposition of withheld funds remains the final action necessary to close out a contract, the Department of Labor has given blanket approval to forward withheld funds to the Comptroller General pending completion of an investigation or other administrative proceedings.

(4) *Liquidated damages.* (A) The agency head may adjust liquidated damages of \$500 or less when the amount assessed is incorrect or waive the assessment when the violations—

(1) Were nonwillful or inadvertent; and

(2) Occurred notwithstanding the exercise of due care by the contractor, its subcontractor, or their agents.

(B) The agency head may recommend to the Administrator, Wage and Hour Division, that the liquidated damages over \$500 be adjusted because the amount assessed is incorrect. The agency head may also recommend the assessment be waived when the violations—

(1) Were nonwillful or inadvertent; and

(2) Occurred notwithstanding the exercise of due care by the contractor, the subcontractor, or their agents.

**222.406-10 Disposition of disputes concerning construction contract labor standards enforcement.**

(d) Forward the contracting officer's findings and the contractor's statement through the labor advisor.

**222.406-13 Semiannual enforcement reports.**

Forward these reports through the head of the contracting activity to the labor advisor within 15 days following the end of the reporting period. These reports shall not include information from investigations conducted by the Department of Labor. These reports shall contain the following information, as applicable, for construction work subject to the Davis-Bacon Act and the CWHSSA—

- (1) Period covered;
- (2) Number of prime contracts awarded;
- (3) Total dollar amount of prime contracts awarded;
- (4) Number of contractors/subcontractors against whom complaints were received;
- (5) Number of investigations conducted;
- (6) Number of contractors/subcontractors found in violation;
- (7) Amount of wage restitution found due under—
  - (i) Davis-Bacon Act
  - (ii) CWHSSA;
- (8) Number of employees due wage restitution under—
  - (i) Davis-Bacon Act
  - (ii) CWHSSA;

**222.604**

- (9) Amount of liquidated damages assessed under the CWHSSA—
  - (i) Total amount
  - (ii) Number of contracts involved;
- (10) Number of employees and amount paid/withheld under—
  - (i) Davis-Bacon Act
  - (ii) CWHSSA
  - (iii) Copeland Act; and
- (11) Preconstruction activities—
  - (i) Number of compliance checks performed
  - (ii) Preconstruction letters sent.

**Subpart 222.6—Walsh-Healey Public Contracts Act**

**222.604 Exemptions.**

**222.604-2 Regulatory exemptions.**

(b) Submit all applications for such exemptions through contracting channels to the labor advisor.

[56 FR 36358, July 31, 1991, as amended at 65 FR 14398, Mar. 16, 2000]

**Subpart 222.8—Equal Employment Opportunity**

**222.806 Inquiries.**

(b) Refer inquiries through the labor advisor.

**222.807 Exemptions.**

(c) Follow the procedures at PGI 222.807(c) when submitting a request for an exemption.

[71 FR 18670, Apr. 12, 2006]

**Subpart 222.10—Service Contract Act of 1965, as Amended**

**222.1003 Applicability.**

**222.1003-1 General.**

For contracts having a substantial amount of construction, alteration, renovation, painting, or repair work, see 222.402-70.

**222.1008 Procedures for preparing and submitting Notice (SF 98/98a).**

**222.1008-2 Preparation of SF 98a.**

Follow the procedures at PGI 222.1008-2 regarding use of the Service

**48 CFR Ch. 2 (10-1-06 Edition)**

Contract Act Directory of Occupations when preparing the SF 98a.

[71 FR 18670, Apr. 12, 2006]

**222.1008-7 Required time of submission of notice.**

(d) Submit requests for immediate wage determination responses for emergency acquisitions through the labor advisor. If the request is justified, the labor advisor will contact Department of Labor headquarters officials.

**222.1014 Delay of acquisition dates over 60 days.**

Follow the procedures at PGI 222.1014 for submission of update requests to the Wage and Hour Division.

[71 FR 18670, Apr. 12, 2006]

**Subpart 222.13—Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans**

SOURCE: 71 FR 18670, Apr. 12, 2006, unless otherwise noted.

**222.1305 Waivers.**

(c) Follow the procedures at PGI 222.1305(c) for submission of waiver requests.

**222.1308 Complaint procedures.**

The contracting officer shall—

- (1) Forward each complaint received as indicated in FAR 22.1308; and
- (2) Notify the complainant of the referral. The contractor in question shall not be advised in any manner or for any reason of the complainant's name, the nature of the complaint, or the fact that the complaint was received.

**222.1310 Solicitation provision and contract clauses.**

(a)(1) Use of the clause at FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans, with its paragraph (c), Listing Openings, also satisfies the requirement of 10 U.S.C. 2410k.