

8(a) small business concerns before evaluating offers from other small business concerns.

819.7011 Contract clauses.

(a) The contracting officer shall insert clause 852.219-73, VA Notice of Total Set-Aside for Verified Service-Disabled Veteran-Owned Small Businesses, or clause 852.219-74, VA Notice of Total Set-Aside for Verified Veteran-Owned Small Businesses, as applicable, in solicitations, orders and contracts that are set-aside, reserved, evaluated or awarded under this subpart. This includes sole source awards as well as multiple-award contracts when orders may be set aside for SDVOSBs/VOSBs as described in 808.405 and FAR 19.504(c)(1)(ii).

(b) The contracting officer shall insert the clause at 852.219-75, VA Notice of Limitations on Subcontracting—Certificate of Compliance for Services and Construction, in solicitations and contracts for services and construction, including BPAs, BOAs, and orders, for acquisitions that are evaluated, set-aside, or awarded on a sole source basis under this subpart. This includes orders awarded under multiple-award contracts to SDVOSBs/VOSBs.

(c) The contracting officer shall insert the clause at 852.219-76, VA Notice of Limitations on Subcontracting—Certificate of Compliance for Supplies and Products, in solicitations and contracts for supplies or products, including BPAs, BOAs, and orders, for acquisitions that are to be awarded on the basis of an SDVOSB/VOSB set-aside, sole source, or an evaluation preference under this subpart. This includes orders awarded under multiple-award contracts to SDVOSBs/VOSBs. The contracting officer shall tailor clause 852.219-76, and paragraph (a)(2)(iii) of the clause, as appropriate.

Subpart 819.71 [Reserved]

PART 822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 822.3—Contract Work Hours and Safety Standards Act

Sec.

822.304 Variations, tolerances, and exemptions.

822.305 Contract clause.

Subpart 822.4 [Reserved]

AUTHORITY: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 29 CFR 5.15(d); 41 U.S.C. 1702; and 48 CFR 1.301-1.304.

SOURCE: 73 FR 2717, Jan. 15, 2008, unless otherwise noted.

Subpart 822.3—Contract Work Hours and Safety Standards Act

822.304 Variations, tolerances, and exemptions.

For contracts providing nursing home care for veterans, the Secretary of Labor has allowed a variation to the requirements of Contract Work Hours and Safety Standards (the statute) (40 U.S.C. 3701, *et seq.*) regarding the payment of overtime (see 29 CFR 5.15(d)(2)). The variation provides that overtime may be calculated on a basis other than a 40 hour workweek (as an alternate work period) when—

(a) Due to operational necessity or convenience a work period of 14 consecutive days may be accepted in lieu of the workweek of 7 consecutive days for the purpose of computing overtime compensation, pursuant to an agreement or understanding arrived at between the contractor and the contractors' employees before performance of the work; and

(b) If The contractor's employees receive compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended

[83 FR 16209, Apr. 16, 2018]

822.305

822.305 Contract clause.

The contracting officer shall insert the clause at 852.222-70, Contract Work Hours and Safety Standards—Nursing Home Care for Veterans, in solicitations and contracts for nursing home care for veterans. The contractor shall flow down this clause and insert in all subcontracts, at any tier.

[83 FR 16209, Apr. 16, 2018]

Subpart 822.4 [Reserved]

PART 823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 823.1—Sustainable Acquisition Policy

Sec.

823.103-70 Policy.

823.103-71 Solicitation provision.

Subpart 823.3—Hazardous Material Identification and Material Safety Data

823.300 Scope of subpart.

823.303-70 Contract clause.

AUTHORITY: 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301-1.304.

SOURCE: 84 FR 45681, Aug. 30, 2019, unless otherwise noted.

Subpart 823.1—Sustainable Acquisition Policy

823.103-70 Policy.

(a) For new contracts and orders above the micro-purchase threshold, contracting officers may insert a solicitation provision to include an evaluation factor for an offeror's Sustainable Acquisition Plan.

(b) When a solicitation includes the provision at 852.223-70, Instruction to Offerors—Sustainable Acquisition Plan, offerors shall include a Sustainable Acquisition Plan in their technical proposal addressing the sustainable products and services for delivery under any resulting contract.

823.103-71 Solicitation provision.

The contracting officer shall insert the provision at 852.223-70, Instruction

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to Offerors—Sustainable Acquisition Plan, in solicitations above the micro-purchase threshold.

Subpart 823.3—Hazardous Material Identification and Material Safety Data

823.300 Scope of subpart.

This subpart provides a contract clause for use in administering safety and health requirements.

823.303-70 Contract clause.

Contracting officers shall insert clause 852.223-71, Safety and Health, in solicitations and contracts that involve hazardous materials for the following types of requirements:

(a) Research, development, or test projects.

(b) Transportation of hazardous materials.

(c) Construction.

PART 824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 824.1—Protection of Individual Privacy

Sec.

824.102 General.

824.103 Procedures.

824.103-70 Protection of privacy—general requirements and procedures related to Business Associate Agreements.

824.103-71 Liquidated damages—protection of information.

Subpart 824.2—Freedom of Information Act

824.203 Policy.

AUTHORITY: 5 U.S.C. 552a; 38 U.S.C. 5723-5724, 5725(a)-(c); 40 U.S.C. 121(c); 41 U.S.C. 1121(c), 1702; 38 CFR 1.550 through 1.562 and 1.575 through 1.584; and 48 CFR 1.301 through 1.304.

SOURCE: 73 FR 2717, Jan. 15, 2008, unless otherwise noted.

Subpart 824.1—Protection of Individual Privacy

824.102 General.

VA rules implementing the Privacy Act of 1974 are in 38 CFR 1.575 through