

## 22.302 Liquidated damages and overtime pay.

(a) When an *overtime* computation discloses underpayments, the responsible contractor or subcontractor *must* pay the affected employee any unpaid wages and pay liquidated damages to the Government. The *contracting officer must* assess liquidated damages at the rate specified at 29 CFR [5.5\(b\)\(2\)](#) per affected employee for each calendar *day* on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying *overtime* wages required by the statute. In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 ([28 U.S.C. 2461](#) Note), the Department of Labor adjusts this civil monetary penalty for inflation no later than January 15 each year.

(b) If the contractor or subcontractor fails or refuses to comply with *overtime* pay requirements of the statute and the funds withheld by *Federal agencies* for labor standards violations do not cover the unpaid wages due laborers and mechanics and the liquidated damages due the Government, make payments in the following order—

(1) Pay laborers and mechanics the wages they are owed (or prorate available funds if they do not cover the entire amount owed); and

(2) Pay liquidated damages.

(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 statute 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.

**Parent topic:** [Subpart 22.3 - Contract Work Hours and Safety Standards Act](#)