

# 52.222-43 Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts).

As prescribed in 22.1006(c)(1), insert the following clause:

Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and *Option* Contracts) (Aug 2018)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Labor Standards statute, (41 U.S.C. chapter 67), by the Administrator, Wage and Hour Division, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal *option* period, *shall* apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal *option* period, *shall* apply to this contract.

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal *option* period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation *insurance*, but *shall* not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor *shall* notify the *Contracting Officer* of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended

*in writing* by the *Contracting Officer*. The Contractor *shall* promptly notify the *Contracting Officer* of any decrease under this clause, but nothing in the clause *shall* preclude the Government from asserting a *claim* within the period permitted by law. The notice *shall* contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the *Contracting Officer* may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates *shall* be modified *in writing*. The Contractor *shall* continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The *Contracting Officer* or an authorized representative *shall* have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

(End of clause)

**Parent topic:** [52.222 \[Reserved\]](#)