

22.1006 Solicitation provisions and contract clauses.

(a)

(1) The *contracting officer shall* insert the clause at 52.222-41, *Service Contract Labor Standards*, in *solicitations* and contracts (except as provided in paragraph (a)(2) of this section) if the contract is subject to the *Service Contract Labor Standards* statute and is-

(i) Over \$2,500; or

(ii) For an indefinite dollar amount and the *contracting officer* does not know in advance that the contract amount will be \$2,500 or less.

(2) The *contracting officer shall* not insert the clause at 52.222-41 (or any of the associated *Service Contract Labor Standards* statute clauses as prescribed in this section for possible use when 52.222-41 applies) in the resultant contract if-

(i) The *solicitation* includes the provision at-

(A) 52.222-48, Exemption from Application of the *Service Contract Labor Standards* statute to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Certification;

(B) 52.222-52, Exemption from Application of the *Service Contract Labor Standards* statute to Contracts for Certain Services-Certification; or

(C) Either of the comparable certifications is checked as applicable in the provision at 52.204-8(c)(2) or 52.212-3(k); and

(ii) The *contracting officer* has made the determination, in accordance with paragraphs (c)(3) or (d)(3) of subsection 22.1003-4, that the *Service Contract Labor Standards* statute does not apply to the contract. (In such case, insert the clause at 52.222-51, Exemption from Application of the *Service Contract Labor Standards* to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements, or 52.222-53, Exemption from Application of the *Service Contract Labor Standards* to Contracts for Certain Services-Requirements, in the contract, in accordance with the prescription at paragraph (e)(2)(ii) or (e)(4)(ii) of this subsection).

(b) The *contracting officer shall* insert the clause at 52.222-42, *Statement of Equivalent Rates for Federal Hires*, in *solicitations* and contracts if the contract amount is expected to be over \$2,500 and the *Service Contract Labor Standards* statute is applicable. (See 22.1016.)

(c)

(1) The *contracting officer shall* insert the clause at 52.222-43, *Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts)*, or another clause which accomplishes the same purpose, in *solicitations* and contracts if the contract is expected to be a fixed-price, time-and-materials, or labor-hour *service contract* containing the clause at 52.222-41, *Service Contract Labor Standards*, and is a multiple year contract or is a contract with *options* to

renew which exceeds the *simplified acquisition threshold*. The clause *may* be used in contracts that do not exceed the *simplified acquisition threshold*. The clause at 52.222-43, Fair Labor Standards Act and *Service Contract* Labor Standards-Price Adjustment (Multiple Year and *Option* Contracts), applies to both contracts subject to area prevailing *wage determinations* and contracts subject to the incumbent *contractor's* collective bargaining agreement in effect during this contract's preceding contract period (see 22.1002-2 and 22.1002-3). *Contracting officers shall* ensure that contract prices or contract unit price labor rates are adjusted only to the extent that a *contractor's* increases or decreases in applicable wages and fringe benefits are made to comply with the requirements set forth in the clauses at 52.222-43 (subparagraphs(d)(1), (2) and (3)), or 52.222-44 (subparagraphs(b)(1) and (2)). (For example, the prior year *wage determination* required a minimum wage rate of \$4.00 per hour. The *contractor* actually paid \$4.10. The new *wage determination* increases the minimum rate to \$4.50. The *contractor* increases the rate actually paid to \$4.75 per hour. The allowable price adjustment is \$.40 per hour.)

(2) The *contracting officer shall* insert the clause at 52.222-44, Fair Labor Standards Act and *Service Contract* Labor Standards-Price Adjustment, in *solicitations* and contracts if the contract is expected to be a fixed-price, time-and-materials, or labor-hour *service contract* containing the clause at 52.222-41, *Service Contract* Labor Standards, exceeds the *simplified acquisition threshold*, and is not a multiple year contract or is not a contract with *options* to renew. The clause *may* be used in contracts that do not exceed the *simplified acquisition threshold*. The clause at 52.222-44, Fair Labor Standards Act and *Service Contract* Labor Standards-Price Adjustment, applies to both contracts subject to area prevailing *wage determinations* and contracts subject to *contractor* collective bargaining agreements (see 22.1002-2 and 22.1002-3).

(3) The clauses prescribed in paragraph 22.1006(c)(1) cover situations in which revised minimum wage rates are applied to contracts by operation of law, or by revision of a *wage determination* in connection with (i) exercise of a contract *option* or (ii) extension of a multiple year contract into a new program year. If a clause prescribed in 16.203-4(d) is used, it *must* not conflict with, or duplicate payment under, the clauses prescribed in this paragraph 22.1006(c).

(d) [Reserved]

(e)

(1) The *contracting officer shall* insert the provision at 52.222-48, Exemption from Application of the *Service Contract* Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Certification, in *solicitations* that-

(i) Include the clause at 52.222-41, *Service Contract* Labor Standards; and

(ii) The contract *may* be exempt from the *Service Contract* Labor Standards statute in accordance with 22.1003-4(c).

(2) The *contracting officer shall* insert the clause at 52.222-51, Exemption from Application of the *Service Contract* Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements-

(i) In *solicitations* that include the provision at 52.222-48, or the comparable provision is checked as applicable in the clause at 52.204-8(c)(2)(iii) or 52.212-3(k)(1); and

(ii) In resulting contracts in which the *contracting officer* has determined, in accordance with 22.1003-4(c)(3), that the *Service Contract* Labor Standards statute does not apply.

(3)

(i) Except as provided in paragraph (e)(3)(ii) of this section, the *contracting officer shall* insert the provision at [52.222-52](#), Exemption from Application of the *Service Contract* Labor Standards to Contracts for Certain Services--Certification, in *solicitations* that-

(A) Include the clause at [52.222-41](#), *Service Contract* Labor Standards, and

(B) The contract *may* be exempt from the *Service Contract* Labor Standards statute in accordance with [22.1003-4\(d\)](#).

(ii) When resoliciting in accordance with [22.1003-4\(d\)\(3\)\(iii\)](#), amend the *solicitation* by removing the provision at [52.222-52](#) from the *solicitation*.

(4) The *contracting officer shall* insert the clause at [52.222-53](#), Exemption from Application of the *Service Contract* Labor Standards to Contracts for Certain Services-Requirements-

(i) In *solicitations* that include the provision at [52.222-52](#), or the comparable provision is checked as applicable in [52.204-8\(c\)\(2\)](#) or [52.212-3\(k\)\(2\)](#); and

(ii) In resulting contracts in which the *contracting officer* has determined, in accordance with [22.1003-4\(d\)\(3\)](#), that the *Service Contract* Labor Standards statute does not apply.

(f) The *contracting officer shall* insert the clause at [52.222-49](#), *Service Contract* Labor Standards-Place of Performance Unknown, if using the procedures prescribed in [22.1009-4](#).

Parent topic: [Subpart 22.10 - Service Contract Labor Standards](#)