

# 52.222-6 Construction Wage Rate Requirements.

As prescribed in 22.407(a), insert the following clause:

Construction Wage Rate Requirements (Aug 2018)

(a) *Definition.*—"Site of the work"—

(1) Means—

(i) *The primary site of the work.* The physical place or places where the *construction* called for in the contract will remain when work on it is completed; and

(ii) *The secondary site of the work, if any.* Any other site where a significant portion of the *building or work* is constructed, provided that such site is-

(A) Located in the *United States*; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided-

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time *may* be dedicated exclusively or nearly so, to the performance of a contract.

(b)

(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as *may* be incorporated for a secondary site of the work, regardless of any contractual relationship which *may* be alleged to exist between the Contractor and such laborers

and mechanics. Any wage determination incorporated for a secondary site of the work *shall* be effective from the first *day* on which work under the contract was performed at that site and *shall* be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the *construction* Contractor or *construction* subcontractor that are transporting portions of the *building* or work between the secondary site of the work and the primary site of the work *shall* be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the *Construction Wage Rate Requirements* statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics *shall* be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification *may* be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the *Construction Wage Rate Requirements* (Davis-Bacon Act) poster (WH-1321) *shall* be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)

(1) The *Contracting Officer* *shall* require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract *shall* be classified in conformance with the wage determination. The *Contracting Officer* *shall* approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the *construction* industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the *Contracting Officer* agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken *shall* be sent by the *Contracting Officer* to the Administrator of the:

Wage and Hour Division

U.S. Department of Labor

Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the *Contracting Officer* or will notify the *Contracting Officer* within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the *Contracting Officer* do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the *Contracting Officer shall* refer the questions, including the views of all interested parties and the recommendation of the *Contracting Officer*, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the *Contracting Officer* or will notify the *Contracting Officer* within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause *shall* be paid to all workers performing work in the classification under this contract from the firstday on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor *shall* either pay the benefit as stated in the wage determination or *shall* pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor *may* consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the *Construction Wage Rate Requirements* statute have been met. The Secretary of Labor *may* require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

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