22.404-5 Expiration of project wage determinations.

(a) The *contracting officer shall* make every effort to ensure that contract award is made before expiration of the project wage determination included in the *solicitation*.

(b) The following procedure applies when *contracting* by sealed bidding:

(1) If a project wage determination for the primary site of the work expires before bid opening, or if it appears before bid opening that a project wage determination *may* expire before award, the *contracting officer shall* request a new determination early enough to ensure its receipt before bid opening. If necessary, the *contracting officer shall* postpone the bid opening date to allow a reasonable time to obtain the determination, amend the *solicitation* to incorporate the new determination, and permit bidders to amend their bids. If the new determination does not change the wage rates and would not warrant amended bids, the *contracting officer shall* amend the *solicitation* to include the number and date of the new determination.

(2) If a project wage determination for the primary site of the work expires after bid opening but before award, the *contracting officer shall* request an extension of the project wage determination expiration date from the *Administrator*, Wage and Hour Division. The request for extension *shall* be supported by a written finding, which *shall* include a brief statement of factual support, that the extension is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Government business. If necessary, the *contracting officer shall* delay award to permit either receipt of the extension or receipt and processing of a new determination. If the request is granted, the *contracting officer shall* award the contract and modify it to apply the extended expiration date to the already incorporated project wage determination. (See 43.103(b)(1).) If the request is denied, the *Administrator* will proceed to issue a new project wage determination. Upon receipt, the *contracting officer shall* process the new determination as follows:

(i) If If the new determination for the primary site of the work changes any wage rates for classifications to be used in the contract, the *contracting officer may* cancel the *solicitation* only in accordance with 14.404-1. Otherwise the *contracting officer shall* award the contract and incorporate the new determination to be effective on the date of contract award. The *contracting officer shall* equitably adjust the contract price for any increased or decreased cost of performance resulting from any changed wage rates.

(ii) If the new determination for the primary site of the work does not change any wage rates, the *contracting officer shall* award the contract and modify it to include the number and date of the new determination. (See 43.103(b)(1).)

(c) The following procedure applies when *contracting* by negotiation:

(1) If a project wage determination will or does expire before contract award, the *contracting officer shall* request a new wage determination from the Department of Labor. If necessary, the *contracting officer shall* delay award while the new determination is obtained and processed.

(2) The *contracting officer* need not delay opening and reviewing proposals or discussing them with the *offerors* while a new determination for the primary site of the work is being obtained. The

contracting officer shall request *offerors* to extend the period for acceptance of any proposal if that period expires or *may* expire before receipt and full processing of the new determination.

(3) If the new determination for the primary site of the work changes any wage rates, the *contracting officer shall* amend the *solicitation* to incorporate the new determination, and furnish the wage rate information to all prospective *offerors* that were sent a *solicitation* if the closing date for receipt of proposals has not yet occurred, or to all *offerors* that have not been eliminated from the competition if the closing date has passed. All *offerors* to whom wage rate information has been furnished *shall* be given reasonable opportunity to amend their proposals.

(4) If the new determination for the primary site of the work does not change any wage rates, the *contracting officer shall* amend the *solicitation* to include the number and date of the new determination and award the contract.

Parent topic: 22.404 Construction Wage Rate Requirements statute wage determinations.