

# Part 522 - Application of Labor Laws to Government Acquisitions

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**Parent topic:** General Services Administration Acquisition Manual

## **Subpart 522.1 - Basic Labor Policies**

### **522.101 Labor relations.**

#### **522.101-1 General.**

The Office of General Counsel (OGC) and the agency labor advisor shall—

- (a) Serve as the GSA points of contact on all contractor labor relations matters;

(b) Initiate contact on contractor labor relations matters with national offices of labor organizations, Government departments, agencies or other governmental organizations. Contracting offices shall notify OGC and the agency labor advisor when they are contacted by such external organizations;

(c) Serve as a clearinghouse for information on labor laws applicable to Government acquisitions; and

(d) Respond to questions involving FAR 22, Application of Labor Laws to Government Acquisitions, or other contractor labor relations matters concerning GSA acquisition programs. OGC determines the agency's legal position.

### **522.101-3 Reporting labor disputes.**

Written reports of contractor labor disputes shall be submitted to the agency labor advisor as soon as the circumstances surrounding a labor dispute are identified. Include in the report a description of the following: the nature of the labor dispute; location of the dispute and contracts affected; the potential or actual impact of the dispute on GSA operations or programs; and any actions taken to reduce the impact. The agency labor advisor will notify other GSA contracting offices that may be affected, and will determine further actions to be taken.

### **522.103 Overtime.**

#### **522.103-4 Approvals.**

The contracting officer is the "agency approving official" under FAR 22.103-4.

#### **522.103-5 Contract clauses.**

Insert the FAR clause at [52.222-1](#) in solicitations and contracts for DX rated orders under the Defense Priorities and Allocations System (see FAR [subpart 11.6](#))

## **Subpart 522.3 - Contract Work Hours and Safety Standards Act**

### **522.302 Liquidated damages and overtime pay.**

(a) *Contracting officer's responsibilities.*

(1) Provide instructions to the appropriate Finance Office whether to withhold funds from contract payments pending final administrative determination.

(2) Notify the Finance Office of your final decision to assess liquidated damages.

(3) After final decision, provide instructions to either immediately release to the contractor any funds in excess of the amount specified in your decision or initiate the collection of additional funds (see paragraph (c) of this section).

(4) Advise the contractor in writing of any decision to withhold funds, including the reasons for the withholding, and the amount held to satisfy the contractor's liability for unpaid wages and liquidated damages. Coordinate all written communications with the contractor, including the notification of dispute resolution procedures under the Department of Labor's regulations at 29 CFR Parts 4 through 8, with the Office of Regional Counsel.

(b) *Procedures for the collection of liquidated damages.*

(1) Initiate collection action by either:

(i) Withholding funds from payments due on the contract.

(ii) Issuing a demand for payment, if no funds were withheld or the amount withheld was less than the liquidated damages.

(2) Indicate in the demand letter the intent to offset from the contractor's other Government contracts if payment is not made.

(3) Provide the Finance Office with a:

(i) Copy of the demand letter.

(ii) Request that it initiate collection action under 41 CFR 105-55, Collection of Claims Owed the United States, if payment is not made in accordance with the demand letter.

(c) Consult the GSA Delegations of Authority Manual, ADM P 5450.39C, to determine who the agency head is for purposes of FAR 22.302(c) (Chapters 13(2)(f) and 17(5)(a)).

## **Subpart 522.4 - Labor Standards for Contracts Involving Construction**

### **522.404 Construction Wage Rate Requirements wage determinations.**

#### **522.404-6 Modifications of wage determinations.**

The contracting director shall serve as the agency head for purposes of requesting extensions under FAR 22.404-6(b)(6).

#### **522.406 Administration and enforcement.**

##### **522.406-6 Payrolls and statements.**

Weekly payrolls and statements of compliance with respect to payment of wages are not required from a prime contractor or a subcontractor that personally performs work.

#### **522.406-7 [Reserved]**

#### **522.406-8 Investigations.**

(a) If a compliance check uncovers information of possible violations, the contracting officer shall consult with OGC and, if warranted, submit a request to the appropriate Office of the Inspector General Field Office under FAR 22.406-8(a).

(b) The contracting officer shall consult the GSA Delegations of Authority Manual, ADM P 5450.39C, (Chapters 13(2)(f) and 17(5)(a)), to determine who the agency head is for purposes of FAR 22.406-8(d).

#### **522.406-9 Withholding from or suspension of contract payments.**

Contracting officers shall follow the procedures in [522.302](#) in order to assess liquidated damages.

#### **522.406-10 Disposition of disputes concerning construction contract labor standards enforcement.**

Submit the information required by FAR 22.406-10(d) to the Administrator, Wage and Hour Division, Department of Labor and submit a copy to the agency labor advisor.

#### **522.406-11 Contract terminations.**

When a contract or subcontract is terminated for labor standards violations, the contracting officer shall submit the report required by FAR 22.406-11 to the Administrator, Wage and Hour Division, Department of Labor and submit a copy to the agency labor advisor.

#### **522.406-13 Semiannual enforcement reports.**

(a) PBS and FAS shall report through the Commissioners the semiannual enforcement reports required by FAR 22.406-13, in the format described in paragraph (d) of this section. The Commissioner will consolidate the regional and central office information and submit the report to the agency labor advisor, Office of Acquisition Policy. The report must identify the service submitting the report and the name, phone number, and email address of the official responsible for preparing the report.

(b) Central Office Contracting Offices outside of FAS and PBS must submit the reports directly to the agency labor advisor. Each report must identify the contracting office and the name, phone number, and e-mail address of the official responsible for preparing the report.

(c) The reports from the FAS and PBS and Central Office Contracting Offices must be submitted to the agency labor advisor within 15 calendar days after the end of the reporting periods. The ALA will consolidate the reports and submit an official agency report to the:

U.S. Department of Labor (DOL)

Wage and Hour Division

Office of Enforcement Policy

Government Contracts Team

Room S3018

200 Constitution Avenue, N.W.

Washington, DC 20210

E-Mail Address: [osp@fenix2.dol-esa.gov](mailto:osp@fenix2.dol-esa.gov).

(d) The official agency report shall include only the compliance or enforcement of the labor standards requirements for the time periods specified in FAR 22.406-13, and identify the responsible agency official, title, address, phone number, and email address. The report shall be submitted to DOL within 30 calendar days after the end of the reporting periods using the following instructions and format:

#### **SEMI-ANNUAL ENFORCEMENT REPORT**

**FY** \_\_\_\_

1. Enter the beginning and ending dates of the period covered by the semiannual report. \_\_\_\_\_
2. Enter the total number of prime contracts awarded subject to Construction Wage Rate Requirements statute or the Contract Work Hours and Safety Standards Act awarded during the period covered by this report. \_\_\_\_\_
3. Enter the total dollar value of the contracts listed on line 2. \_\_\_\_\_
4. Enter the total number of contractors/subcontractors against whom complaints were received. \_\_\_\_\_
5. Enter the total number of investigations completed. \_\_\_\_\_
6. Enter the total number of contractors/subcontractors found in violation as a result of the investigations reported on line 5. \_\_\_\_\_
7. Enter the total amount of back wages determined due employees by contractors/subcontractors under the:
  - a) Construction Wage Rate Requirements statute (prevailing wage violations). \_\_\_\_\_
  - b) Contract Work Hours and Safety Standards Act (overtime violations). \_\_\_\_\_

8. Enter the total amount of back wages paid employees by contractors/subcontractors reported on line 6, for the:

a) Construction Wage Rate Requirements statute (prevailing wage violations). \_\_\_\_\_

b) Contract Work Hours and Safety Standards Act (overtime violations). \_\_\_\_\_

9. Enter the total number of employees paid wage restitution as reported on line 8, under the Construction Wage Rate Requirements statute and/or Contract Work Hours and Safety Standards Act. \_\_\_\_\_

10. Enter the amount of liquidated damages assessed as a result of violations under the Contract Work Hours and Safety Standards Act. \_\_\_\_\_

**Remarks: (Enter any explanation or comment considered necessary for proper understanding of the report.)**

## **Subpart 522.6 - Walsh-Healey Public Contracts Act**

### **522.608 Procedures.**

Before notifying or furnishing information to DOL under FAR 22.608(b), coordinate with legal counsel.

## **Subpart 522.8 - Equal Employment Opportunity**

### **522.803 Responsibilities.**

Contracting officers should submit questions on the applicability of EO 11246 and implementing regulations to assigned legal counsel.

### **522.804 Affirmative action programs.**

#### **522.804-1 Nonconstruction.**

(a) The requirements of FAR 22.804 also apply to each contractor and subcontractor with 50 or more employees that either:

(1) Serves as a depository of Government funds; or

(2) Is a financial institution serving as an issuing and paying agent for U.S. savings bonds and savings notes.

(b) The contractors, subcontractors, and financial institutions described in 522.804-1(a) must

develop a written affirmative action compliance program for each of its establishments regardless of the contract or holding value, in accordance with 41 CFR 60-1.40.

### **522.804-2 Construction.**

Construction contractors and subcontractors are required to set trade participation goals for minorities and women based on percentages established by the Director, Office of Federal Contract Compliance Programs (OFCCP), Department of Labor. The goals can be found on OFCCP's website at <https://www.dol.gov/agencies/ofccp/construction>.

### **522.805 Procedures.**

(a) To determine whether the contract meets the threshold in FAR 22.805(a), contracting officers shall include the value of the basic contract plus priced options. A contract modification exercising a priced option is not a contract award under FAR 22.805(a)(1)(ii) and does not require a preaward clearance.

(b) Contracting officers shall submit preaward clearance requests directly to the appropriate OFCCP regional office. A list of OFCCP regional offices can be found on OFCCP's website at [https://ofccp.dol-esa.gov/preaward/pa\\_reg.html](https://ofccp.dol-esa.gov/preaward/pa_reg.html).

(c) The EEO poster required by FAR 22.805(b) can be found at: <https://www.dol.gov/agencies/ofccp/posters>.

### **522.807 Exemptions.**

The agency labor advisor submits a request for exemption.

## **Subpart 522.10 - Service Contract Labor Standards**

### **522.1003 Applicability.**

#### **522.1003-3 Statutory exemptions.**

The Service Contract Labor Standards statute applies to local office relocation moves if transportation costs are incidental to the principal purpose of the contract. Such contracts do not meet the statutory exemption cited in FAR 22.1003-3(c).

#### **522.1003-4 Administrative limitations, variations, tolerances, and exemptions.**

Contracting officers shall coordinate with assigned legal counsel before submitting a request under FAR 22.1003-4(a) to the agency labor advisor.



### **522.1003-7 Questions concerning applicability of the Act.**

The contracting officer may submit a question regarding the applicability of the Act to assigned legal counsel. If the question cannot be answered, the agency labor advisor will forward it to the Administrator, Wage and Hour Division.

### **522.1021 Requests for hearing.**

Contracting Officers who are considering requesting a substantial variance should coordinate with assigned legal counsel and the agency labor advisor. The agency labor advisor submits any request.

## **Subpart 522.13 - Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans**

### **522.1305 Waivers.**

Submit each waiver request to the agency labor advisor. The agency labor advisor forwards the request to the appropriate office for concurrence and approval.

### **522.1308 Complaint procedures.**

After consultation with OGC, the contracting officer shall forward complaints to the cognizant Department of Labor office, with a copy to the agency labor advisor and the appropriate Office of Inspector General Field Office.

## **Subpart 522.14 - Employment of Workers With Disabilities**

### **522.1403 Waivers.**

Submit each waiver request to the agency labor advisor. The agency labor advisor forwards the request to the appropriate office for concurrence and approval.

### **522.1406 Complaint procedures.**

After consultation with OGC, forward complaints to the cognizant OFCCP office, with a copy to the agency labor advisor and the appropriate Office of Inspector General Field Office.

## **Subpart 522.15 - Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor**

### **522.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.**

Refer matters for investigation under FAR 22.1503(e) to the appropriate Office of Inspector General Field Office.