

22.1003-7 Questions concerning applicability of the Act.

If the contracting officer questions the applicability of the Act to an acquisition, the contracting officer shall request the advice of the agency labor advisor. Unresolved questions shall be submitted in a timely manner to the Administrator, Wage and Hour Division, for determination.

22.1004 Department of Labor responsibilities and regulations.

Under the Act, the Secretary of Labor is authorized and directed to enforce the provisions of the Act, make rules and regulations, issue orders, hold hearings, make decisions, and take other appropriate action. The Department of Labor has issued implementing regulations on such matters as—

- (a) Service contract labor standards provisions and procedures (29 CFR part 4, subpart A);
- (b) Wage determination procedures (29 CFR part 4, subparts A and B);
- (c) Application of the Act (rulings and interpretations) (29 CFR part 4, subpart C);
- (d) Compensation standards (29 CFR part 4, subpart D);
- (e) Enforcement (29 CFR part 4, subpart E);
- (f) Safe and sanitary working conditions (29 CFR part 1925);
- (g) Rules of practice for administrative proceedings enforcing service contract labor standards (29 CFR part 6); and
- (h) Practice before the Administrative Review Board (29 CFR part 8).

[54 FR 19816, May 8, 1989, as amended at 71 FR 36933, June 28, 2006; 72 FR 63080, Nov. 7, 2007]

22.1005 [Reserved]**22.1006 Solicitation provisions and contract clauses.**

(a)(1) The contracting officer shall insert the clause at 52.222-41, Service Contract Act of 1965, in solicitations and contracts (except as provided in paragraph (a)(2) of this section) if the contract is subject to the Act 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 Act 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 Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification;

(B) 52.222-52, Exemption from Application of the Service Contract Act 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)(v) or (vi) 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 Act does not apply to the contract. (In such case, insert the clause at 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, or 52.222-53, Exemption from Application of the Service Contract Act 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 Act 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 Act—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 Act of 1965, and is a multiple year contract or is a contract with options