Act, 5 U.S.C. 601 *et seq.*, because the number of small entities providing commercial items with noncommercial modifications costing more than $500,000 is expected to be very low. Although comments submitted on the interim rule prompted several technical amendments necessary to correct the rule, this expectation remains unchanged.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: June 20, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 15 as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Section 15.403–1 is amended by revising paragraphs (c)(3)(ii)(A), (B), and (C) to read as follows:

15.403–1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

* * * * *

(c) * * *

(3) Commercial items. (i) * * *

(ii) * * *

(A) For acquisitions funded by any agency other than DoD, NASA, or Coast Guard, such modifications of a commercial item are exempt from the requirement for submission of cost or pricing data.

(B) For acquisitions funded by DoD, NASA, or Coast Guard, such modifications of a commercial item are exempt from the requirement for submission of cost or pricing data provided the total price of all such modifications under a particular contract action does not exceed the greater of $500,000 or 5 percent of the total price of the contract.

(C) For acquisitions funded by DoD, NASA, or Coast Guard such modifications of a commercial item are not exempt from the requirement for submission of cost or pricing data on the basis of the exemption provided for at FAR 15.403–1(c)(3) if the total price of all such modifications under a particular contract action exceeds the greater of $500,000 or 5 percent of the total price of the contract.

* * * * *

[FR Doc. 06–5710 Filed 6–27–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 22, 47, 52, and 53

[FAC 2005–10; FAR Case 2005–033; Item IV; Docket 2006–0020, Sequence 11]

RIN 9000–AK47

Federal Acquisition Regulation; FAR Case 2005–033, Implementation of Wage Determinations OnLine (WDOL)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Wage Determinations OnLine (WDOL) internet website as the source for Federal contracting agencies to obtain wage determinations issued by the Department of Labor (DOL) for service contracts subject to the McNamara-O'Hara Service Contract Act (SCA) and for construction contracts subject to the Davis-Bacon Act (DBA).

DATES: *Effective Date*: June 28, 2006.

Comment Date: Interested parties should submit written comments to the FAR Secretariat on or before August 28, 2006 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–10, FAR case 2005–033, by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

• Agency Web site: *http://www.acquisition.gov/far/ProposedRules/ proposed.htm*. Click on the FAR case number to submit comments.

• E-mail: *farcase.2005–033@gsa.gov*. Include FAC 2005–10, FAR case 2005–033 in the subject line of the message.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–10, FAR case 2005–033, in all correspondence related to this case. All comments received will be posted without change to *http://www.acquisition.gov/far/ProposedRules/comments.htm* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Gloria Sochon, Procurement Analyst, at (202) 219–0311. Please cite FAC 2005–10, FAR case 2005–033. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

In the August 26, 2005 **Federal Register** (70 FR 50888), the DOL issued a final rule to amend Title 29 CFR parts 1 and 4 to allow for full implementation of the Wage Determinations OnLine (WDOL) Internet Website (*http://www.wdol.gov*) as the source for Federal contracting agencies to use when obtaining wage determinations issued by the DOL for service contracts subject to the SCA and for construction contracts subject to the DBA. The Councils are not seeking comments on the DOL rule, which has already been issued in final, but are requesting comments as to whether the FAR policy in this rule implementing the DOL rule is clear. This interim rule amends FAR Part 22 to direct Federal contracting agencies to obtain wage determinations issued by the DOL for contracts subject to the SCA and DBA from the WDOL website.

This interim rule incorporates new geographical jurisdictions for DOL's Wage and Hour Regional Offices and eliminates FAR references to the Government Printing Office (GPO) publication of general wage determinations. The Contracting Officer (CO) will be able to access the WDOL website (*http://www.wdol.gov*) to find the applicable wage determination for a contract action subject to the SCA or DBA. If the WDOL database does not contain the applicable wage determination for a SCA contract action, the CO must use the e98 process to request a wage determination from DOL.

The e98 means a DOL approved electronic application, (also available at *http://www.wdol.gov*), whereby a CO submits pertinent information to the DOL and requests a wage determination directly from the Wage and Hour Division. If the WDOL database does not contain the applicable wage determination for a DBA contract action, the CO must request a wage determination by submitting a SF–308 to the Wage and Hour Division. The DOL made an administrative determination that providing Federal contracting agencies with an electronic submission option for the infrequent instances in which an agency files a SF–308 does not justify the considerable expense that developing such a system would entail. To substantiate its decision, the DOL noted that in FY 2004, it processed less than 100 SF–308's.

This FAR rule eliminates the requirement for the CO to submit a copy of collective bargaining agreements (CBAs) to the DOL for the purpose of obtaining a wage determination under Section 4(c) of the SCA, unless directed by the DOL to do so. The CO instead, is required to prepare a wage determination using the WDOL process, and to incorporate the complete CBA and all its attachments into the solicitation or contract action. The wage determination prepared by the CO is a one page document that references the CBA by the name of the incumbent contractor and the name of the union, and stipulates that the economic terms of the CBA will apply as the SCA minimum wages and monetary benefits for the contract resulting from the solicitation pursuant to DOL Regulation 29 CFR subpart 4.1b.

This interim rule also deletes the clause at 52.222–47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA), because with the WDOL process it is no longer necessary. In addition, FAR clause 52.222–49, Service Contract Act-Place of Performance Unknown, is revised to make conforming changes to FAR references; and Standard Forms 98, 98a and 99 are deleted from FAR Part 53 in their entirety.

This is not a significant regulatory action and, therefore, is not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. The rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule involves internal Government processes between the DOL and Federal contracting.

During the design phase of WDOL.gov, the WDOL Task Force coordinated with a number of labor organizations, contractors, the Contract Services Association and various Federal contracting agencies to address and satisfy any concerns about the effect of the rule on all interested parties including small entities.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR parts 22, 47, 52, and 53 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2005–10, FAR case 2005–033), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), The Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule allows agencies to use the WDOL website as the source for obtaining wage determinations issued by DOL for service contracts subject to the SCA and DBA. Thus, the rule will streamline and improve the internal operating procedures of the Government. The rule will not have a significant cost or administrative impact on contractors or offerors. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 22, 47, 52, and 53

Government procurement.

Dated: June 20, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 22, 47, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 22, 47, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

■ 2. Amend section 4.1202 by revising paragraph (q) to read as follows:

4.1202 Solicitation provision and contract clause.

* * * * *

(q) 52.222–48, Exemption from Application of Service Contract Act Provisions—Contractor Certification.

* * * * *

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 3. Amend section 22.001 by revising the section heading, and by adding, in alphabetical order, the definitions ''e98'' and ''Wage Determinations OnLine (WDOL)'' to read as follows:

22.001 Definitions.

* * * * *

e98 means the Department of Labor's approved electronic application (*http://www.wdol.gov*), whereby a contracting officer submits pertinent information to the Department of Labor and requests a Service Contract Act wage determination directly from the Wage and Hour Division.

Wage Determinations OnLine (WDOL) means the Government Internet website for both Davis-Bacon Act and Service Contract Act wage determinations available at *http://www.wdol.gov*.

■ 4. Amend section 22.102–2 by revising paragraph (c) to read as follows:

22.102–2 Administration.

* * * * *

(c) The U.S. Department of Labor is responsible for the administration and enforcement of the Occupational Safety and Health Act. The Department of Labor's Wage and Hour Division is responsible for administration and enforcement of numerous wage and hour statutes including Davis-Bacon and Related Acts, McNamara-O'Hara Service Contract Act, Walsh-Healey Public Contracts Act, Copeland Act, and Contract Work Hours and Safety Standards Act. Contracting officers should contact the Wage and Hour Division's regional offices when

required by the subparts relating to these statutes unless otherwise specified. Addresses for these offices may be found at 29 CFR 1, Appendix B.

■ 5. Amend section 22.404–1 by revising paragraph (a) to read as follows:

22.404–1 Types of wage determinations.

(a) *General wage determinations.* (1) A general wage determination contains prevailing wage rates for the types of construction designated in the determination, and is used in contracts performed within a specified geographical area. General wage determinations contain no expiration date and remain valid until modified, superseded, or canceled by the Department of Labor. Once incorporated in a contract, a general wage determination normally remains effective for the life of the contract, unless the contracting officer exercises an option to extend the term of the contract (see 22.404–12). These determinations shall be used whenever possible. They are issued at the discretion of the Department of Labor either upon receipt of an agency request or on the Department of Labor's own initiative.

(2) General wage determinations are published on the WDOL website. General wage determinations are effective on the publication date of the wage determination or upon receipt of the wage determination by the contracting agency, whichever occurs first. ''Publication'' within the meaning of this section shall occur on the first date the wage determination is published on the WDOL. Archived Davis-Bacon Act general wage determinations that are no longer current may be accessed in the ''Archived DB WD'' database on WDOL for information purposes only. Contracting officers may not use an archived wage determination in a contract action without obtaining prior approval of the Department of Labor. To obtain prior approval, contact the Department of Labor, Wage and Hour Division, using *http://www.dol.gov/esa*, or contact the procurement agency labor advisor listed on *http://www.wdol.gov*.

* * * * *

■ 6. Amend section 22.404–3 by revising paragraph (a); and the paragraph heading and the first sentence of the introductory text of paragraph (b) to read as follows:

22.404–3 Procedures for requesting wage determinations.

(a) *General wage determinations.* If there is a general wage determination on the WDOL website applicable to the project, the agency may use it without notifying the Department of Labor. When necessary, a request for a general wage determination may be made by submitting Standard Form (SF) 308, Request for Determination and Response to Request (see 53.301–308), to the Administrator, Wage and Hour Division, Attention: Branch of Construction Contract Wage Determinations, 200 Constitution Avenue, NW, Washington, DC 20210.

(b) *Project wage determinations.* If a general wage determination is not available on WDOL, a contracting agency shall submit requests for project wage determinations on SF 308 to the Department of Labor. * * *

* * * * *

■ 7. Amend section 22.404–6 by—

■ a. Revising paragraph (a)(3);

■ b. Revising paragraph (b)(1)(i), the first sentence of (b)(1)(ii), (b)(2), and the first and second sentences of (b)(6);

■ c. Revising paragraph (c)(1); and

■ d. Revising paragraph (d)(1)(ii).

■ The revised text reads as follows:

22.404–6 Modifications of wage determinations.

(a) *General.* * * *

(3) The need for inclusion of the modification of a general wage determination for the primary site of the work in a solicitation is determined by the date the modified wage determination is published on the WDOL, or by the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first. (Note the distinction between receipt by the agency (modification is effective) and receipt by the contracting officer, which may occur later.) During the course of the solicitation, the contracting officer shall monitor the WDOL website to determine whether the applicable wage determination has been revised. Revisions published on the WDOL website or otherwise communicated to the contracting officer within the timeframes prescribed at 22.404–6(b) and (c) are applicable and must be included in the resulting contract. Monitoring can be accomplished by use of the WDOL website's ''Alert Service''.

(b) * * *

(1) * * *

(i) It is received by the contracting agency, or is published on the WDOL, 10 or more calendar days before the date of bid opening; or

(ii) It is received by the contracting agency, or is published on the WDOL, less than 10 calendar days before the date of bid opening, unless the contracting officer finds that there is not reasonable time available before bid opening to notify the prospective bidders. * * *

(2) All written actions modifying wage determinations received by the contracting agency after bid opening, or modifications to general wage determinations published on the WDOL after bid opening, shall not be effective and shall not be included in the solicitation (but see paragraph (b)(6) of this subsection).

* * * * *

(6) If an award is not made within 90 days after bid opening, any modification to a general wage determination which is published on the WDOL before award, shall be effective for any resultant contract unless an extension of the 90–day period is obtained from the Administrator, Wage and Hour Division. An agency head may request such an extension from the Administrator. * * *

(c) * * *

(1) All written actions modifying wage determinations received by the contracting agency before contract award, or modifications to general wage determinations published on the WDOL before award, shall be effective.

* * * * *

(d) * * *

(1) * * *

(ii) The Department of Labor publishes the modification to a general wage determination on the WDOL before exercise of the option.

* * * * *

22.608 [Amended]

■ 8. Amend section 22.608 by removing from the parenthetical in paragraph (b) ''22.609'' and adding ''29 CFR part 1, Appendix B'' in its place.

22.609 [Removed and Reserved]

■ 9. Remove and reserve section 22.609.

22.1001 [Amended]

■ 10. Amend section 22.1001 by removing the definition ''Notice''.

■ 11. Amend 22.1002–3 by revising paragraph (b) to read as follows:

22.1002–3 Wage determinations based on collective bargaining agreements.

* * * * *

(b) Paragraphs in this Subpart 22.10 which deal with this statutory requirement and the Department of Labor's implementing regulations are 22.1010, concerning notification to contractors and bargaining representatives of procurement dates; 22.1012–2, explaining when a collective bargaining agreement will not apply due to late receipt by the contracting officer; and 22.1013 and 22.1021, explaining when the application of a collective bargaining agreement can be challenged

due to a variance with prevailing rates or lack of arm's length bargaining.

22.1003–4 [Amended]

■ 12. Amend section 22.1003–4 at paragraph (b)(4)(ii)(D) by removing ''22.1006(e)'' and adding ''22.1006(d)'' in its place.

22.1004 [Amended]

■ 13. Amend section 22.1004 at paragraph (b) by removing ''29 CFR part 4, subpart B'' and inserting ''29 CFR part 4, subparts A and B'' in its place.

22.1006 [Amended]

■ 14. Amend section 22.1006 by removing and reserving paragraph (d); and in paragraph (e)(1) by adding ''—Contractor Certification'' following ''Provisions''.

■ 15. Amend section 22.1007 by revising the section heading and the introductory paragraph; and by removing the parenthetical from the end of paragraph (c)(2). The revised text reads as follows:

22.1007 Requirement to obtain wage determinations.

The contracting officer shall obtain wage determinations for the following service contracts:

* * * * *

■ 16. Revise sections 22.1008 and 22.1008–1 to read as follows:

22.1008 Procedures for obtaining wage determinations.

22.1008–1 Obtaining wage determinations.

(a) Contracting officers may obtain most prevailing wage determinations using the WDOL website. Contracting officers may also use the Department of Labor's e98 electronic process, located on the WDOL website, to request a wage determination directly from the Department of Labor. If the WDOL database does not contain the applicable prevailing wage determination for a contract action, the contracting officer must use the e98 process to request a wage determination from the Department of Labor.

(b) In using the e98 process to obtain prevailing wage determinations, contracting officers shall provide as complete and accurate information on the e98 as possible. Contracting officers shall ensure that the email address submitted on an e98 request is accurate.

(c) The contracting officer must anticipate the amount of time required to gather the information necessary to obtain a wage determination, including sufficient time, if necessary, to contact the Department of Labor to request wage determinations that are not available through use of the WDOL.

(d) Although the WDOL website provides assistance to the contracting agency to select the correct wage determination, the contracting agency remains responsible for the wage determination selected. If the contracting agency has used the e98 process, the Department of Labor will respond to the contracting agency based on the information provided on the e98. The contracting agency may rely upon the Department of Labor response as the correct wage determination for the contract.

(e) To obtain the applicable wage determination for each contract action, the contracting officer shall determine the following information concerning the service employees expected to be employed by the contractor and any subcontractors in performing the contract:

(1) Determine the classes of service employees to be utilized in performance of the contract using the Wage and Hour Division's *Service Contract Act Directory of Occupations* (Directory). The Directory can be found on WDOL's Library Page, and is for sale by the Superintendent of Documents, U.S. Government Printing Office.

(2) Determine the locality where the services will be performed (see 22.1009).

(3) Determine whether Section 4(c) of the Act applies (see 22.1008–2, 22.1010 and 22.1012–2).

(4) Determine the wage rate that would be paid each class if employed by the agency and subject to the wage provisions of 5 U.S.C. 5341 and/or 5332 (see 22.1016).

(f) If the contracting officer has questions regarding the procedures for obtaining a wage determination, or questions regarding the selection of a wage determination, the contracting officer should request assistance from the agency labor advisor.

22.1008–2 [Removed]

22.1008–3 [Redesignated as 22.1008–2]

■ 17a. Remove section 22.1008–2 and redesignate 22.1008–3 as 22.1008–2.

■ 17b. In addition to the amendment above, amend the newly designated section 22.1008–2 by—

■ a. Revising the second sentence of paragraph (a);

■ b. Amending paragraphs (c)(2)(i)(A) and (B) by removing ''22.1012–3'' and adding ''22.1012–2'' in its place;

■ c. Redesignating paragraph (d) as (d)(1) and removing the last sentence of the paragraph; and adding paragraphs (d)(2) and (d)(3);

■ d. Redesignating paragraphs (e)(1) and (2) as (e)(i) and (e)(ii), respectively, and paragraph (e) as (e)(1); and adding paragraph (e)(2); and

■ e. Revising the introductory text of paragraph (g).

■ The revised text reads as follows:

22.1008–2 Section 4(c) successorship with incumbent contractor collective bargaining agreement.

(a) * * * The contracting officer shall determine whether there is a predecessor contract covered by the Act and, if so, whether the incumbent prime contractor or its subcontractors and any of their employees have a collective bargaining agreement.

* * * * *

(d)(1) * * *

(2) If the contracting officer has timely received the collective bargaining agreement, the contracting officer may use the WDOL website to prepare a wage determination referencing the agreement and incorporate that wage determination, attached to a complete copy of the collective bargaining agreement, into the successor contract action. In using the WDOL process, it is not necessary to submit a copy of the collective bargaining agreement to the Department of Labor unless requested to do so.

(3) The contracting officer may also use the e98 process on WDOL to request that the Department of Labor prepare the cover wage determination. The Department of Labor's response to the e98 may include a request for the contracting officer to submit a complete copy of the collective bargaining agreement. Any questions regarding the applicability of the Act to a collective bargaining agreement should be directed to the agency labor advisor.

(e)(1) * * *

(2) If the contracting officer's review (see 22.1013) indicates that monetary provisions of the collective bargaining agreement may be substantially at variance or may not have been reached as a result of arm's length bargaining, the contracting officer shall immediately contact the agency labor advisor to consider if further action is warranted.

* * * * *

(g) If the collective bargaining agreement does not apply to all service employees under the contract, the contracting officer shall access WDOL to obtain the prevailing wage determination for those service employee classifications that are not covered by the collective bargaining agreement. The contracting officer shall separately list in the solicitation and contract the service employee classifications—

* * * * *

22.1008–4 through 22.1008–7 [Removed]

■ 18. Remove sections 22.1008–4 through 22.1008–7.

■ 19. Revise sections 22.1009–3 and 22.1009–4 to read as follows:

22.1009–3 All possible places of performance identified.

(a) If the contracting officer can identify all the possible places or areas of performance (even though the actual place of performance will not be known until the successful offeror is chosen), the contracting officer shall obtain a wage determination for each locality where services may be performed (see 22.1008).

(b) If the contracting officer subsequently learns of any potential offerors in previously unidentified places before the closing date for submission of offers, the contracting officer shall—

(1) Obtain wage determinations for the additional places of performance and amend the solicitation to include all wage determinations. If necessary, the contracting officer shall extend the time for submission of final offers; and

(2) Follow the procedures in 22.1009–4.

22.1009–4 All possible places of performance not identified.

If the contracting officer believes that there may be offerors interested in performing in unidentified places or areas, the contracting officer may use the following procedures:

(a) Include the following information in the synopsis and solicitation:

(1) That the place of performance is unknown.

(2) The possible places or areas of performance that the contracting officer has already identified.

(3) That the contracting officer will obtain wage determinations for additional possible places of performance if asked to do so in writing.

(4) The time and date by which offerors must notify the contracting officer of additional places of performance.

(b) Include the information required by paragraphs (a)(2) and (a)(4) of this section in the clause at 52.222–49, Service Contract Act-Place of Performance Unknown (see 22.1006(f)). The closing date for receipt of offerors' requests for wage determinations for additional possible places of performance should allow reasonable time for potential offerors to review the solicitation and determine their interest in competing. Generally, 10 to 15 days from the date of issuance of the solicitation may be considered a reasonable period of time.

(c) The procedures in 14.304 shall apply to late receipt of offerors' requests for wage determinations for additional places of performance. However, late receipt of an offeror's request for a wage determination for additional places of performance does not preclude the offeror's competing for the proposed acquisition.

(d) If the contracting officer receives any timely requests for wage determinations for additional places of performance the contracting officer shall—

(1) Obtain wage determinations for the additional places of performance; and

(2) Amend the solicitation to include all wage determinations and, if necessary, extend the time for submission of final offers.

(e) If the successful offeror did not make a timely request for a wage determination and will perform in a place of performance for which the contracting officer therefore did not request a wage determination, the contracting officer shall—

(1) Award the contract;

(2) Obtain a wage determination; and

(3) Incorporate the wage determination in the contract, retroactive to the date of contract award and with no adjustment in contract price, pursuant to the clause at 52.222–49, Service Contract—Place of Performance Unknown.

22.1010 [Amended]

■ 20. Amend section 22.1010 by removing from paragraph (b) ''22.1012–3(a)'' and adding ''22.1012–2(a)'' in its place.

22.1011 through 22.1011–2 [Removed and Reserved]

■ 21. Remove and reserve section 22.1011, which consists of 22.1011–1 and 22.1011–2.

■ 22. Revise sections 22.1012 and 22.1012–1 to read as follows:

22.1012 Applicability of revisions to wage determinations.

22.1012–1 Prevailing wage determinations.

(a)(1) The Wage and Hour Administrator may issue revisions to prevailing wage determinations periodically. The need for inclusion of a revised prevailing wage determination in a solicitation, contract or contract modification (see 22.1007) is determined by the date of receipt of the revised prevailing wage determination by the contracting agency. (Note the distinction between receipt by the agency and receipt by the contracting officer which may occur later.)

(i) For purposes of using WDOL, the time of receipt by the contracting agency shall be the first day of publication of the revised prevailing wage determination on the website.

(ii) For purposes of using the e98 process, the time of receipt by the contracting agency shall be the date the agency receives actual notice of a new or revised prevailing wage determination from the Department of Labor as an e98 response.

(2) In selecting a prevailing wage determination from the WDOL website for use in a solicitation or other contract action, the contracting officer shall monitor the WDOL website to determine whether the applicable wage determination has been revised. Revisions published on the WDOL website or otherwise communicated to the contracting officer within the timeframes prescribed at 22.1012–1(b) and (c) are effective and must be included in the resulting contract. Monitoring can be accomplished by use of the WDOL website's ''Alert Service''.

(b) The following shall apply when contracting by sealed bidding: a revised prevailing wage determination shall not be effective if it is received by the contracting agency less than 10 days before the opening of bids, and the contracting officer finds that there is not reasonable time to incorporate the revision in the solicitation.

(c) For contractual actions other than sealed bidding, a revised prevailing wage determination received by the contracting agency after award of a new contract or a modification as specified in 22.1007(b) shall not be effective provided that the start of performance is within 30 days of the award or the specified modification. If the contract does not specify a start of performance date which is within 30 days of the award or the specified modification, and if contract performance does not commence within 30 days of the award or the specified modification, any revision received by the contracting agency not less than 10 days before commencement of the work shall be effective.

(d) If the contracting officer has submitted an e98 to the Department of Labor requesting a prevailing wage determination and has not received a response within 10 days, the contracting officer shall contact the Wage and Hour Division by telephone to determine when the wage determination can be expected. (The telephone number is provided on the e98 website.)

22.1012–2 [Removed]

22.1012–3 [Redesignated as 22.1012–2]

22.1012–4 and 22.1012–5 [Removed]

■ 23a. Remove sections 22.1012–2, 22.1012–4 and 22.1012–5; and redesignate 22.1012–3 as 22.1012–2.

■ 23b. In addition to the amendment above, revise the redesignated section 22.1012–2 to read as follows:

22.1012–2 Wage determinations based on collective bargaining agreements.

(a) In sealed bidding, a new or changed collective bargaining agreement shall not be effective under section 4(c) of the Act if the contracting agency has received notice of the terms of the new or changed collective bargaining agreement less than 10 days before bid opening and the contracting officer determines that there is not reasonable time to incorporate the new or changed terms of the collective bargaining agreement in the solicitation.

(b) For contractual actions other than sealed bidding, a new or changed collective bargaining agreement shall not be effective under section 4(c) of the Act if notice of the terms of the new or changed collective bargaining agreement is received by the contracting agency after award of a successor contract or a modification as specified in 22.1007(b), provided that the contract start of performance is within 30 days of the award of the contract or of the specified modification. If the contract does not specify a start of performance date which is within 30 days of the award of the contract or of the specified modification, or if contract performance does not commence within 30 days of the award of the contract or of the specified modification, any notice of the terms of a new or changed collective bargaining agreement received by the agency not less than 10 days before commencement of the work shall be effective for purposes of the successor contract under section 4(c) of the Act.

(c) The limitations in paragraphs (a) and (b) of this subsection shall apply only if timely notification required in 22.1010 has been given.

(d) If the contracting officer has submitted an e98 to Department of Labor requesting a wage determination based on a collective bargaining agreement and has not received a response from the Department of Labor within 10 days, the contracting officer shall contact the Wage and Hour Division by telephone to determine when the wage determination can be expected. (The telephone number is provided on the e98 website.) If the Department of Labor is unable to provide the wage determination by the latest date needed to maintain the acquisition schedule, the contracting officer shall incorporate the collective bargaining agreement itself in a solicitation or other contract action (*e.g.*, exercise of option) and include a wage determination referencing that collective bargaining agreement created by use of the WDOL website (see 22.1008–2(d)(2)).

■ 24. Revise section 22.1014 to read as follows:

22.1014 Delay over 60 days in bid opening or commencement of work.

If a wage determination was obtained through the e98 process, and bid opening, or commencement of work under a negotiated contract has been delayed, for whatever reason, more than 60 days from the date indicated on the previously submitted e98, the contracting officer shall submit a new e98. Any revision of a wage determination received by the contracting agency as a result of that communication shall supersede the earlier response as the wage determination applicable to the particular acquisition subject to the time frames in 22.1012–1(b) and (c).

22.1017 [Removed and Reserved]

■ 25. Remove and reserve section 22.1017.

PART 47—TRANSPORTATION

■ 26. Amend section 47.202 by revising paragraph (a) to read as follows:

47.202 Presolicitation planning.

* * * * *

(a) The Service Contract Act of 1965 (SCA) requirement to obtain a wage determination by accessing the Wage Determination OnLine website (*http://www.wdol.gov*) using the WDOL process or by submitting a request directly to the Department of Labor on this website using the e98 process before the issuance of an invitation for bid, request for proposal, or commencement of negotiations for any contract exceeding $2,500 that may be subject to the SCA (see Subpart 22.10);

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–5 [Amended]

■ 27. Amend section 52.212–5 by revising the date of the clause to read ''(JUN 2006)''; and by removing paragraph (c)(5).

52.222–47 [Removed and Reserved]

■ 28. Remove and reserve section 52.222–47.

■ 29. Amend section 52.222–48 by revising the section and clause headings as set forth below.

52.222–48 Exemption from Application of Service Contract Act Provisions—Contractor Certification.

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EXEMPTION FROM APPLICATION OF SERVICE CONTRACT ACT PROVISIONS—CONTRACTOR CERTIFICATION (JUN 2006)

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52.222–49 [Amended]

■ 30. Amend section 52.222–49 by removing from the introductory text ''and 22.1009–4(c)''.

PART 53—FORMS

53.222 [Amended]

■ 31. Amend section 53.222 by removing ''99,'' from the section heading; and removing and reserving paragraph (b).

53.301 [Amended]

■ 32. Remove sections 53.301–98, 53.301–98a, and 53.301–99.

[REMOVE SF'S 98, 98A AND 99]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 2005–10; FAR Case 2006–006; Item V; Docket 2006–0020, Sequence 10]

RIN 9000–AK49

Federal Acquisition Regulation; FAR Case 2006–006, Free Trade Agreements—El Salvador, Honduras, and Nicaragua

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Dominican Republic-Central America-United States Free Trade Agreement with respect to El Salvador, Honduras, and Nicaragua.