

## Federal Acquisition Regulation

22.1014

when the wage determination or revision can be expected. If the Department of Labor is unable to provide the wage determination or revision by the latest date needed to maintain the acquisition schedule, the contracting officer shall use the latest wage determination or revision, if any, incorporated in the existing contract. If any new or revised wage determination is received later in response to the Notice, the contracting officer shall include it in the solicitation or contract within 30 calendar days of receipt. If the contract has been awarded, the contracting officer shall equitably adjust the contract price to reflect any changed cost of performance resulting from incorporating the wage determination or revision. The Administrator, Wage and Hour Division, may require retroactive application of the wage determination for a contractual action over \$2,500 using more than five service employees. These provisions are not intended to alter the contracting officer's responsibility to make timely submissions as required in 22.1008-7.

### **22.1012-5 Response to late submission of Notice—with collective bargaining agreement.**

If the contracting officer has not filed the Notice within the time limits in 22.1008-7, has not received a response from the Department of Labor, and a successorship/same locality/incumbent collective bargaining agreement situation exists, the contracting officer shall contact the Wage and Hour Division to determine when the wage determination or revision can be expected. If the Department of Labor is unable to provide the wage determination or revision by the latest date needed to maintain the acquisition schedule, the contracting officer shall incorporate in the solicitation the wage and fringe benefit terms of the collective bargaining agreement, or the collective bargaining agreement itself, and the clause at 52.222-47, Service Contract Act (SCA) Minimum Wages and Fringe Benefits. If the contract has been awarded, an equitable adjustment following receipt of the wage determination or revision will not be required, since the wage determination or revision

will be based on the economic terms of the collective bargaining agreement. The contracting officer may incorporate the wage and fringe benefit terms of the collective bargaining agreement, or the collective bargaining agreement itself, in other contract actions such as the exercise of options in order to facilitate price adjustments for options in fixed-price type contracts (but see 22.1008-3(e) and 22.1013(a)).

[54 FR 19816, May 8, 1989, as amended at 59 FR 67040, Dec. 28, 1994]

### **22.1013 Review of wage determination.**

(a) *Based on incumbent collective bargaining agreement.* (1) If wages, fringe benefits, or periodic increases provided for in a collective bargaining agreement vary substantially from those prevailing for similar services in the locality, the contracting officer shall immediately contact the agency labor advisor to consider instituting the procedures in 22.1021.

(2) If the contracting officer believes that an incumbent or predecessor contractor's agreement was not the result of arm's length negotiations, the contracting officer shall contact the agency labor advisor to determine appropriate action.

(b) *Based on other than incumbent collective bargaining agreement.* Upon receiving a wage determination not predicated upon a collective bargaining agreement, the contracting officer shall ascertain—

(1) If the wage determination does not conform with wages and fringe benefits prevailing for similar services in the locality; or

(2) If the wage determination contains significant errors or omissions. If either subparagraph (b)(1) or (b)(2) of this section is evident, the contracting officer shall contact the agency labor advisor to determine appropriate action.

### **22.1014 Delay of acquisition dates over 60 days.**

If any invitation for bids, request for proposals, bid opening, or commencement of negotiation for a proposed contract for which a wage determination was provided in response to a Notice has been delayed, for whatever reason,

## 22.1015

more than 60 days from such date as indicated on the submitted Notice, the contracting officer shall, in accordance with agency procedures, contact the Wage and Hour Division for the purpose of determining whether the wage determination issued under the initial submission is still current. Any revision of a wage determination received by the contracting agency as a result of that communication, or upon discovery by the Department of Labor of a delay, shall supersede the earlier response as the wage determination applicable to the particular acquisition subject to the time frames in 22.1012-2(a) and (b).

### **22.1015 Discovery of errors by the Department of Labor.**

If the Department of Labor discovers and determines, whether before or after a contract award, that a contracting officer made an erroneous determination that the Service Contract Act did not apply to a particular acquisition or failed to include an appropriate wage determination in a covered contract, the contracting officer, within 30 days of notification by the Department of Labor, shall include in the contract the clause at 52.222-41 and any applicable wage determination issued by the Administrator. If the contract is subject to section 10 of the Act (41 U.S.C. 358), the Administrator may require retroactive application of that wage determination. The contracting officer shall equitably adjust the contract price to reflect any changed cost of performance resulting from incorporating a wage determination or revision.

### **22.1016 Statement of equivalent rates for Federal hires.**

(a) The statement required under the clause at 52.222-42, Statement of Equivalent Rates for Federal Hires, (see 22.1006(b)) shall set forth those wage rates and fringe benefits that would be paid by the contracting activity to the various classes of service employees expected to be utilized under the contract if 5 U.S.C. 5332 (General Schedule—white collar) and/or 5 U.S.C. 5341 (Wage Board—blue collar) were applicable.

(b) Procedures for computation of these rates are as follows:

## 48 CFR Ch. 1 (10-1-02 Edition)

(1) Wages paid blue collar employees shall be the basic hourly rate for each class. The rate shall be Wage Board pay schedule step two for nonsupervisory service employees and step three for supervisory service employees.

(2) Wages paid white collar employees shall be an hourly rate for each class. The rate shall be obtained by dividing the general pay schedule step one biweekly rate by 80.

(3) Local civilian personnel offices can assist in determining and providing grade and salary data.

### **22.1017 Notice of award.**

Whenever an agency awards a service contract subject to the Act which may be in excess of \$25,000 and that agency does not report the award to the Federal Procurement Data System, it shall furnish an original and one copy of Standard Form 99, Notice of Award of Contract (see 53.301-99) to the Wage and Hour Division, Employment Standards Administration, Department of Labor, unless it makes other arrangements with the Wage and Hour Division for notifying it of contract awards.

### **22.1018 Notification to contractors and employees.**

The contracting officer shall take the following steps to ensure that service employees are notified of minimum wages and fringe benefits.

(a) As soon as possible after contract award, inform the contractor of the labor standards requirements of the contract relating to the Act and of the contractor's responsibilities under these requirements, unless it is clear that the contractor is fully informed.

(b) At the time of award, furnish the contractor Department of Labor Publication WH-1313, Notice to Employees Working on Government Contracts, for posting at a prominent and accessible place at the worksite before contract performance begins. The publication advises employees of the compensation (wages and fringe benefits) required to be paid or furnished under the Act and satisfies the notice requirements in paragraph (g) of the clause at 52.222-41, Service Contract Act of 1965, as amended.

(c) Attach any applicable wage determination to Publication WH-1313.