

**222.403****222.403 Statutory and regulatory requirements.****222.403-4 Department of Labor regulations.**

Direct all questions regarding Department of Labor regulations to the labor advisor.

**222.404 Davis-Bacon Act wage determinations.**

Not later than April 1 of each year, each department and agency shall furnish the Administrator, Wage and Hour Division, with a general outline of its proposed construction program for the coming fiscal year. The Department of Labor uses this information to determine where general wage determination surveys will be conducted.

(1) Indicate by individual project of \$500,000 or more—

- (i) The anticipated type of construction;
- (ii) The estimated dollar value; and
- (iii) The location in which the work is to be performed (city, town, village, county, or other civil subdivision of the state).

(2) The report format is contained in Department of Labor All Agency Memo 144, December 27, 1985.

(3) The report control number is 1671-DOL-AN.

**222.404-2 General requirements.**

(c)(5) Information concerning the proper application of wage rate schedules to the type or types of construction involved shall be obtained from the appropriate district commander, Corps of Engineers, for the Army; from the cognizant Naval Facilities Engineering Command division for the Navy; from the appropriate Regional Industrial Relations Office for the Air Force; and from the appropriate Defense Contract Management District, ATTN: Industrial Labor Relations Office, for the Defense Logistics Agency.

**222.404-3 Procedures for requesting wage determinations.**

(b) *Requests for project wage determinations.* Submit requests for project wage determinations directly to the Department of Labor.

**222.404-11 Wage determination appeals.**

Send a copy of a petition for review filed by the contracting agency to the labor advisor.

**222.406 Administration and enforcement.****222.406-1 Policy.**

(a) *General.* The program shall also include—

(i) Training appropriate contract administration, labor relations, inspection, and other labor standards enforcement personnel in their responsibilities; and

(ii) Periodic review of field enforcement activities to ensure compliance with applicable regulations and instructions.

(b) *Preconstruction letters and conferences.* (1) Promptly after award of the contract, the contracting officer shall provide a preconstruction letter to the prime contractor. This letter should accomplish the following, as appropriate—

(A) Indicate that the labor standards requirements contained in the contract are based on the following statutes and regulations—

- (1) Davis-Bacon Act;
- (2) Contract Work Hours and Safety Standards Act;
- (3) Copeland (Anti-Kickback) Act;
- (4) Parts 3 and 5 of the Secretary of Labor's Regulations (parts 3 and 5, subtitle A, title 29, CFR); and
- (5) Executive Order 11246 (Equal Employment Opportunity);

(B) Call attention to the labor standards requirements in the contract which relate to—

- (1) Employment of foremen, laborers, mechanics, and others;
- (2) Wages and fringe benefits payments, payrolls, and statements;
- (3) Differentiation between subcontractors and suppliers;
- (4) Additional classifications;
- (5) Benefits to be realized by contractors and subcontractors in keeping complete work records;
- (6) Penalties and sanctions for violations of the labor standards provisions; and
- (7) The applicable provisions of FAR 22.403; and

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(C) Ensure that the contractor sends a copy of the preconstruction letter to each subcontractor.

(2) Before construction begins, the contracting officer shall confer with the prime contractor and any subcontractor designated by the prime to emphasize their labor standards obligations under the contract when—

(A) The prime contractor has not performed previous Government contracts;

(B) The prime contractor experienced difficulty in complying with labor standards requirements on previous contracts; or

(C) It is necessary to determine whether the contractor and its subcontractors intend to pay any required fringe benefits in the manner specified in the wage determination or to elect a different method of payment. If the latter, inform the contractor of the requirements of FAR 22.406-2.

### 222.406-6 Payrolls and statements.

(a) *Submission.* Contractors who do not use Department of Labor Form WH 347 or its equivalent must submit a DD Form 879, Statement of Compliance, with each payroll report.

### 222.406-8 Investigations.

(a) The following guidance and procedures apply to investigations conducted by the contracting activity. (i) *Beginning of the investigation.* The investigator shall—

(A) Inform the contractor of the investigation in advance;

(B) Verify the exact legal name of the contractor, its address, and the names and titles of its principal officers;

(C) Outline the general scope of the investigation and that it includes examining pertinent records and interviewing employees; and

(D) Inform the contractor that the names of the employees to be interviewed will not be divulged to the contractor;

(E) When requested, provide a letter from the contracting officer verifying the investigator's authority.

(ii) *Conduct of the investigation—(A) Review of the contract.*

(1) Verify that all required labor standards and clauses and the wage de-

termination are included in the contract.

(2) Review the following items in the contract file, if applicable—

(i) List of subcontractors;

(ii) Payroll statements for the contractor and subcontractors;

(iii) Approvals of additional classifications;

(iv) Data regarding apprentices and trainees as required by FAR 22.406-4;

(v) Daily inspector's report or other inspection reports;

(vi) Employee interview statements; and

(vii) SF 1413, Statement and Acknowledgement.

(B) *Interview of the complainant.* Interview the complainant except when this is impractical. The interview shall cover all aspects of the complaint to ensure that all pertinent information is obtained. Whenever an investigation does not include an interview of the complainant, explain such omission in the investigator's report.

(C) *Interview of employees and former employees.* (1) Interview a sufficient number of employees or former employees, who represent all classifications, to develop information regarding the method and amount of payments, deductions, hours worked, and the type of work performed.

(2) Interview employees at the job site if the interviews can be conducted privately and in such a manner so as to cause the least inconvenience to the employer and employees.

(3) Former employees may be interviewed elsewhere.

(4) Do not disclose to any employee any information, finding, recommendation, or conclusion relating to the investigation except to the extent necessary to obtain required information.

(5) Do not disclose any employee's statement to anyone, except a Government representative working on the case, without the employee's written permission.

(6) Obtain information by mail when personal interviews are impractical.

(7) Use SF 1445, Labor Standards Interview, for employee interviews.

(8) Request employees to sign their statements and to initial any changes.

(9) Provide an evaluation of each employee's credibility.