

the bid opening, if necessary, to allow a reasonable time to amend the solicitation to incorporate the modification and permit bidders to amend their bids. * * *

(4) If an effective modification of the wage determination for the primary site of the work is received by the contracting officer after bid opening, but before award, the contracting officer shall follow the procedures in 22.404–5(b)(2)(i) or (ii).

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22.404–8 [Amended]

7. Amend section 22.404–8 in paragraphs (b)(1) introductory text, (b)(2), and (c) by adding “of an improper wage determination for the primary site” after “notification”.

22.406–9 [Amended]

8. Amend section 22.406–9 by—
a. Removing from the first sentence of paragraph (c)(1) “Secretary of the Treasury” and adding “Comptroller General” in its place and removing from the last sentence of paragraph (c)(1) “Secretary of the Treasury” and adding “Comptroller General (Claims Section)” in its place; and

b. Removing from paragraph (c)(3) “Secretary of the Treasury” and adding “Comptroller General” in its place.

9. Amend section 22.407 by—
a. Revising the heading and removing from the introductory text of paragraph (a) “The contracting officer shall insert” and adding “Insert” in its place;

b. Removing from paragraphs (a)(1) through (a)(10) “The clause at”;

c. Removing from paragraph (b) “The contracting officer shall insert” and adding “Insert” in its place;

d. Removing from paragraph (c) “the contracting officer shall”;

e. Removing from paragraph (d) “The contracting shall insert” and adding “Insert” in its place; and

f. Adding paragraph (h) to read as follows:

22.407 Solicitation Provision and Contract clauses.

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(h) Insert the provision at 52.222–XX, Davis Bacon Act—Secondary Site of the Work, in solicitations in excess of \$2,000 for construction within the United States.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Amend section 52.222–4 by revising the date of the clause and paragraph (e) to read as follows:

52.222–4 Contract Work Hours and Safety Standards Act— Overtime Compensation.

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Contract Work Hours and Safety Standards Act—Overtime Compensation (Date)

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(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics including watchmen and guards and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

11. Amend section 52.222–6 by—

a. Revising the date of the clause;
b. Redesignating paragraphs (a) through (d) as paragraphs (b) through (e);

c. Adding a new paragraph (a);
d. Revising the newly designated paragraph (b); and

e. Removing from the newly designated paragraph (c)(4) “(b)(2)” and “(b)(3)” and adding “(c)(2)” and “(c)(3)” in their places, respectively.

The revised and added text reads as follows:

52.222–6 Davis-Bacon Act.

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Davis-Bacon Act (Date)

(a) *Definition—Site of the work—*(1) Means—

(i) The physical place or places where the construction called for in the contract will remain when work on it is completed (primary site of the work);

(ii) Any secondary site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project; and

(iii) Except as provided in paragraph (2) of this definition, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and provided they are adjacent or virtually adjacent to the “site of the work” as defined in paragraph (1)(i) or (ii) of this definition;

(2) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal Contractor project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial material supplier which are established by a supplier of materials for the project before opening of bids and not on the site are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be subsequently incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination subsequently incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination applicable to the respective site of the work (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

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12. Amend section 52.222–9 by revising the date of the clause and paragraph (a) to read as follows:

52.222–9 Apprentices and Trainees.

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